

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 307 District School Board Membership

SPONSOR(S): Government Operations Subcommittee; K-20 Innovation Subcommittee; Logan

TIED BILLS: **IDEN./SIM. BILLS:** SB 778

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	9 Y, 4 N, As CS	Fudge	Sherry
2) Government Operations Subcommittee	8 Y, 4 N, As CS	Thompson	Williamson
3) Education Committee			

SUMMARY ANALYSIS

The bill requires school districts, in counties with a population that exceeds 2 million people, to consist of nine members. Seven of the members must be elected from single-member residence areas, which must be as nearly equal in population as practicable, according to the most recent decennial census. Two school board members must be elected from the district at large as chair and vice chair. The bill also requires staggering of the terms of the members.

The bill does not have a fiscal impact on state or local governments.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Article IX, section 4 of the Florida Constitution, provides that a school board shall be composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law. Current law requires that school districts be divided into at least five district school board member residence areas.¹ District school board members are elected in the November general election for terms of four years.² However, the “terms shall be staggered, so that alternately, one more or one less than half of the members elected from residence areas and, if applicable, one of the members elected at large from the entire district are elected every 2 years.”³

For those school districts with seven district school board members, the district may be divided into five residence areas, with two district school board members elected at large; or the district may be divided into seven residence areas. Residence areas must be determined by resolution passed by a majority vote of the school board.⁴ However, any changes to residence areas shall only occur in “odd-numbered years and no change that would affect the residence qualifications of any incumbent member shall disqualify such incumbent during the term for which he or she is elected.”⁵

The chair of the school board is selected by the members on the third Tuesday after the first Monday in November of each year. The board may also elect a vice chair.⁶

Dade County Consent Decree

In 1991, two separate and distinct classes filed a vote dilution case. The first class consisted of all of the Black registered voters in Dade County. The second class consisted of all the Hispanic registered voters in Dade County. Each Plaintiff class alleged that the existing at large electoral system for electing members of the school board resulted in an impermissible dilution of the voting strength of both Black and Hispanic Dade County voters. The Plaintiffs sought:

“(1) a declaration that the use of at-large elections for nominating and electing members of the school board violated the Voting Rights Act; (2) a preliminary injunction enjoining Defendants from conducting or implementing the results of any further at-large elections to the school board; (3) an order directing the school board to implement a method of nominating and electing members of the school board which enables the fair opportunity to elect representatives of their choosing and which does not dilute minority strengths; and (4) an award of attorney’s fees.”⁷

On April 27, 1994, the school board adopted a redistricting plan that increased the number of school board members from seven to nine, and provided for the election of all members from single member districts beginning in 1996. On November 18, 1994, the United States District Court for the Southern District of Florida approved of the consent decree entered into between the parties.⁸

¹ Section 1001.34, F.S.

² Section 1001.35, F.S.

³ Section 1001.362(2)(c), F.S.

⁴ Section 1001.36(1)(b), F.S.

⁵ Section 1001.36(2), F.S.

⁶ Section 1001.371, F.S.

⁷ *Memorandum Opinion and Order Approving Class Action Settlement and Granting Motion to Adopt Consent Decree*, p. 2, November 18, 1994. *Suarez v. School Bd. of Dade County*, Case No. 91-0457-CIV-NESBITT

⁸ *Id.*

Effect of Proposed Changes

To prevent inconsistencies with current law, the bill notwithstanding specified provisions of law⁹ that primarily govern election of school boards with five or seven members. However, to the extent that those provisions also should apply to the election of school board members governed by the bill, those provisions were incorporated into the bill.

The bill provides that school districts in counties with a population that exceeds 2 million people shall consist of nine members. Currently, only Miami-Dade County exceeds 2 million people at a population of approximately 2.4 million people.¹⁰

Members must be elected in a nonpartisan election as provided in Chapter 105, F.S. The candidate who receives the highest number of votes in the general election is elected to the office for which the candidate has qualified. Seven of the members must be elected from single-member residence areas, which must be as nearly equal in population as practicable, according to the most recent decennial census. Two school board members must be elected from the district at large to serve as chair and vice chair, as determined by vote of the electors. The ballot for the office of chair must state: "Chair of the School Board" followed by a list of candidates who have qualified for that office. The ballot for the office of vice chair must state: "Vice Chair of the School Board" followed by a list of candidates who have qualified for that office.

Currently, the Miami-Dade County school board consists of nine single-member residence areas. Reducing the number of residence areas from nine to seven may affect residence area boundaries. The bill authorizes the district school board to make any changes it deems necessary to the boundaries of any district school board residence area in odd-numbered years. Any change to residence areas that would affect the residence qualifications of any incumbent member must not disqualify that member during the term for which they were elected. Changes to residence area boundaries must be shown by resolution in the minutes of the district school board; recorded in the office of the clerk of the circuit court; published at least once in a newspaper in the district within 30 days after the adoption of the resolution or, if there is no newspaper, published in the district, posted at the county courthouse door for 4 weeks after the adoption of the resolution; with a certified copy of the resolution transmitted to the Department of State.

The bill also provides that the terms of the members must be staggered so that one more or one less than half of members elected from residence areas and one of the members elected at large are elected every 2 years. Initial terms of less than 4 years are authorized if necessary to achieve or maintain the staggered term system.

B. SECTION DIRECTORY:

Section 1: creates 1001.3615, F.S., to require that certain school districts consist of nine members, with seven elected by single-member residence areas, and two elected at-large; to require nonpartisan elections; to provide for the election of a chair and vice chair of the school board; to provide for 4-year terms of office and staggered terms; and to authorize changes in district school board residence area boundaries.

Section 2: provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

⁹ The bill notwithstanding s. 1001.36, F.S., governing district school board member residence areas, s. 1001.361, F.S., governing election of board by district wide vote, and s. 1001.362, F.S., governing alternate procedures for the election of district school board members to provide for single-member representation.

¹⁰ The counties with the next highest population are: Broward County - 1.7 million, Palm Beach County - 1.3 million, Hillsborough County - 1.2 million, and Orange County - 1 million.

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds. The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate. The bill does not reduce the percentage of a state tax sharing with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The ballot language for the election of the Chair of the School Board and the Vice Chair of the School Board is unclear due to use of the phrase "or, when appropriate". For clarity, the ballot style language for each office should be stated separately. The language does not change when those offices are up for election. That process continues to be governed by the provisions outlined in the bill. In addition, subcommittee staff spoke with staff of the Division of Elections of the Department of State concerning the language. Division staff concurred with the need for clarification. As such, lines 33 – 36 of the bill should be amended to provide that clarification.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 15, 2011, the K-20 Innovation Subcommittee amended HB 307 and reported it favorably as a committee substitute (CS). The CS identifies the ballot language for the "Chair of the School Board" and "Vice Chair of the School Board", and describes procedures for staggering the terms of members of the

school board, as well as the procedures for changing the boundaries of residence areas. The CS also provides that a change in residence area that affects the residence qualifications of an incumbent member does not disqualify the incumbent member during the term for which he or she is elected.

On March 23, 2011, the Government Operations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute clarifies the ballot language for the election of the Chair and Vice Chair of the School Board, stating each requirement separately.