

CS/HB 1037

2012

1 A bill to be entitled
2 An act relating to coordination between schools and
3 local governments; amending s. 1002.36, F.S.;
4 authorizing the Board of Trustees of the Florida
5 School for the Deaf and the Blind to exercise the
6 power of eminent domain after receiving approval from
7 the Administration Commission; requiring the board of
8 trustees to provide student housing in compliance with
9 specified law; amending s. 1013.351, F.S.; deleting a
10 requirement that the Florida School for the Deaf and
11 the Blind and the local government submit an
12 interlocal agreement to the state land planning agency
13 and the Office of Educational Facilities for review;
14 providing for the vesting of Florida School for the
15 Deaf and the Blind facilities; requiring local
16 government cooperation in the restoration of school
17 facilities; requiring school facilities to comply with
18 specified law; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Paragraphs (e) and (f) of subsection (4) of
23 section 1002.36, Florida Statutes, are amended to read:

24 1002.36 Florida School for the Deaf and the Blind.—

25 (4) BOARD OF TRUSTEES.—

26 (e) The board of trustees is invested with full power and
27 authority to:

28 1. Appoint a president, faculty, teachers, and other

29 employees and remove the same as in its judgment may be best and
30 fix their compensation.

31 2. Procure professional services, such as medical, mental
32 health, architectural, and engineering.

33 3. Procure legal services without the prior written
34 approval of the Attorney General.

35 4. Determine eligibility of students and procedure for
36 admission.

37 5. Provide for the students of the school necessary
38 bedding, clothing, food, and medical attendance and such other
39 things as may be proper for the health and comfort of the
40 students without cost to their parents, except that the board of
41 trustees may set tuition and other fees for nonresidents.

42 6. Provide for the proper keeping of accounts and records
43 and for budgeting of funds.

44 7. Enter into contracts.

45 8. Sue and be sued.

46 9. Secure public liability insurance.

47 10. Do and perform every other matter or thing requisite
48 to the proper management, maintenance, support, and control of
49 the school at the highest efficiency economically possible, the
50 board of trustees taking into consideration the purposes of the
51 establishment.

52 11. Receive gifts, donations, and bequests of money or
53 property, real or personal, tangible or intangible, from any
54 person, firm, corporation, or other legal entity. However, the
55 board of trustees may not obligate the state to any expenditure
56 or policy that is not specifically authorized by law. If the

57 | bill of sale, will, trust indenture, deed, or other legal
 58 | conveyance specifies terms and conditions concerning the use of
 59 | such money or property, the board of trustees shall observe such
 60 | terms and conditions.

61 | 12. Deposit outside the State Treasury such moneys as are
 62 | received as gifts, donations, or bequests and may disburse and
 63 | expend such moneys, upon its own warrant, for the use and
 64 | benefit of the Florida School for the Deaf and the Blind and its
 65 | students, as the board of trustees deems to be in the best
 66 | interest of the school and its students. Such money or property
 67 | does not ~~shall~~ not constitute and may not ~~or~~ be considered a
 68 | part of any legislative appropriation.

69 | 13. Sell or convey by bill of sale, deed, or other legal
 70 | instrument any property, real or personal, received as a gift,
 71 | donation, or bequest, upon such terms and conditions as the
 72 | board of trustees deems to be in the best interest of the school
 73 | and its students.

74 | 14. Invest such moneys in securities enumerated under s.
 75 | 215.47(1), (2)(c), (3), (4), and (10), and in The Common Fund,
 76 | an Investment Management Fund exclusively for nonprofit
 77 | educational institutions.

78 | 15. After receiving approval from the Administration
 79 | Commission, exercise the power of eminent domain in the manner
 80 | provided in chapter 73 or chapter 74.

81 | (f) The board of trustees shall:

82 | 1. Prepare and submit legislative budget requests for
 83 | operations and fixed capital outlay, in accordance with chapter
 84 | 216 and ss. 1011.56 and 1013.60, to the Department of Education

85 for review and approval. The department must ~~analyze the amount~~
86 ~~requested for fixed capital outlay to~~ determine if the requested
87 amount for fixed capital outlay ~~request~~ is consistent with the
88 school's campus master plan, educational plant survey, and
89 facilities master plan. Projections of facility space needs may
90 exceed the norm space and occupant design criteria established
91 in the State Requirements for Educational Facilities.

92 2. Approve and administer an annual operating budget in
93 accordance with ss. 1011.56 and 1011.57.

94 3. Require all funds received other than gifts, donations,
95 bequests, funds raised by or belonging to student clubs or
96 student organizations, and funds held for specific students or
97 in accounts for individual students to be deposited in the State
98 Treasury and expended as authorized in the General
99 Appropriations Act.

100 4. Require all purchases to be in accordance with the
101 provisions of chapter 287 except for purchases made with funds
102 received as gifts, donations, or bequests; funds raised by or
103 belonging to student clubs or student organizations; or funds
104 held for specific students or in accounts for individual
105 students.

106 5. Administer and maintain personnel programs for all
107 employees of the board of trustees and the Florida School for
108 the Deaf and the Blind who shall be state employees, including
109 the personnel classification and pay plan established in
110 accordance with ss. 110.205(2)(d) and 216.251(2)(a)2. for
111 academic and academic administrative personnel, the provisions
112 of chapter 110, and the provisions of law that grant authority

CS/HB 1037

2012

113 to the Department of Management Services over such programs for
114 state employees.

115 6. Give preference in appointment and retention in
116 positions of employment as provided within s. 295.07(1).

117 ~~7. Ensure that the Florida School for the Deaf and the~~
118 ~~Blind complies with s. 1013.351 concerning the coordination of~~
119 ~~planning between the Florida School for the Deaf and the Blind~~
120 ~~and local governing bodies.~~

121 7.8. ~~Comply~~ ~~Ensure that the Florida School for the Deaf~~
122 ~~and the Blind complies~~ with s. 112.061 concerning per diem and
123 travel expenses of public officers, employees, and authorized
124 persons with respect to all funds other than funds received as
125 gifts, donations, or bequests; funds raised by or belonging to
126 student clubs or student organizations; or funds held for
127 specific students or in accounts for individual students.

128 8.9. Adopt a master plan which specifies the mission and
129 objectives of the Florida School for the Deaf and the Blind. The
130 plan shall include, but not be limited to, procedures for
131 systematically measuring the school's progress toward meeting
132 its objectives, analyzing changes in the student population, and
133 modifying school programs and services to respond to such
134 changes. The plan shall be for a period of 5 years and shall be
135 reviewed for needed modifications every 2 years. The board of
136 trustees shall submit the initial plan and subsequent
137 modifications to the Speaker of the House of Representatives and
138 the President of the Senate.

139 ~~9.10.~~ Designate a portion of the school as "The Verle
140 Allyn Pope Complex for the Deaf," in tribute to the late Senator

141 Verle Allyn Pope.

142 10. Provide safe and appropriate housing for all
 143 residential students at the Florida School for the Deaf and the
 144 Blind, in compliance with the state Fair Housing Act, the
 145 federal Fair Housing Act, and the Americans with Disabilities
 146 Act of 1990.

147 Section 2. Section 1013.351, Florida Statutes, is amended
 148 to read:

149 1013.351 Coordination of planning between the Florida
 150 School for the Deaf and the Blind and local governing bodies.—

151 (1) As used in this section, the term:

152 (a) "Board of Trustees" means the Board of Trustees of the
 153 Florida School for the Deaf and the Blind.

154 (b) "Local government" means the municipality or county in
 155 which the school is located.

156 (c) "School" means the Florida School for the Deaf and the
 157 Blind.

158 (2) It is the policy of this state to require the board of
 159 trustees to coordinate planning for new facilities with local
 160 governments to ensure that plans for site acquisition,
 161 construction, and opening of new facilities of the school are
 162 facilitated, concurrent with other necessary services. The
 163 planning shall include the integration of the educational plant
 164 survey for the school and applicable policies and procedures of
 165 the board of trustees with the local comprehensive plan and land
 166 development regulations of the local governments. The planning
 167 must consider the effect of the location of new facilities to be
 168 located on property acquired on or after January 1, 1998,

169 including the efficient use of local infrastructure, the
170 proximity of the proposed new facilities to the school's
171 existing campus, and the effect and impact of any property
172 proposed to be acquired by the school after the effective date
173 of this act. In addition, all parties to the planning process
174 must consult with state and local road departments to assist in
175 implementing the Safe Paths to Schools Program administered by
176 the Department of Transportation.

177 (3) The board of trustees and the municipality in which
178 the school is located may enter into an interlocal agreement to
179 establish the specific ways in which the plans and processes of
180 the board of trustees and the local government are to be
181 coordinated. ~~If the school and local government enter into an~~
182 ~~interlocal agreement, the agreement must be submitted to the~~
183 ~~state land planning agency and the Office of Educational~~
184 ~~Facilities.~~

185 (4) At a minimum, an interlocal agreement must address the
186 following issues:

187 (a) The process by which each local government and the
188 board of trustees will agree and base their plans on consistent
189 projections of the growth and needs of the school's student
190 enrollment.

191 (b) A process to coordinate and share information relating
192 to planned expansions of the school's facilities.

193 (c) Participation by affected local governments when the
194 board of trustees is evaluating potential land acquisitions
195 before the land acquisition occurs and when the board of
196 trustees proposes uses for property acquired by the board of

CS/HB 1037

2012

197 trustees on or after January 1, 1998. The local governments
198 shall advise the board of trustees as to the consistency of any
199 future land acquisitions and the uses proposed by the school for
200 lands acquired on or after January 1, 1998, including
201 appropriate circumstances and criteria under which the board of
202 trustees may request an amendment to the comprehensive plan for
203 the expansion of the school's campus or for school facilities to
204 be located on property acquired by the board of trustees on or
205 after January 1, 1998.

206 (d) A process for determining the need for and timing of
207 onsite and offsite improvements to support new facilities that
208 are to be located on property acquired by the board of trustees
209 on or after January 1, 1998, except new facilities for which a
210 construction contract was entered on or before the effective
211 date of this act. The process shall address identification of
212 the party or parties responsible for the improvements.

213 (e) A process for the board of trustees to inform local
214 governments of the school's enrollment demographics and its
215 capacity to meet it. The capacity reporting must identify how
216 the board of trustees will meet the demands for enrollment at
217 the school, based on the educational plant survey required by s.
218 1013.31.

219 (f) A process for determining where and how joint use of
220 the school or local government facilities can be shared for
221 mutual benefit and efficiency.

222 (g) A procedure for resolving disputes between the board
223 of trustees and local governments, which may include the dispute
224 resolution processes contained in chapters 164 and 186.

225
226 The board of trustees and the local governments may choose not
227 to include a provision meeting the requirements of paragraph
228 (e). However, this decision may be made only after a public
229 hearing on the proposed decision, which may include the public
230 hearing at which the board of trustees or the local governments
231 adopt the interlocal agreements. An interlocal agreement entered
232 into under this section must be consistent with the adopted
233 comprehensive plan and land development regulations of the local
234 governments.

235 ~~(5) (a) The Office of Educational Facilities shall submit~~
236 ~~any comments or concerns regarding the executed interlocal~~
237 ~~agreements to the state land planning agency no later than 30~~
238 ~~days after receipt of the executed interlocal agreements. The~~
239 ~~state land planning agency shall review the executed interlocal~~
240 ~~agreements to determine whether they are consistent with the~~
241 ~~requirements of subsection (4), the adopted local government~~
242 ~~comprehensive plans, and other requirements of law. Not later~~
243 ~~than 60 days after receipt of an executed interlocal agreement,~~
244 ~~the state land planning agency shall publish a notice of intent~~
245 ~~in the Florida Administrative Weekly. The notice of intent must~~
246 ~~state that the interlocal agreement is consistent or~~
247 ~~inconsistent with the requirements of subsection (4) and this~~
248 ~~subsection as appropriate.~~

249 ~~(b)1. The state land planning agency's notice is subject~~
250 ~~to challenge under chapter 120. However, an affected person, as~~
251 ~~defined in s. 163.3184, has standing to initiate the~~
252 ~~administrative proceeding, and this proceeding is the sole means~~

253 ~~available to challenge the consistency of an interlocal~~
254 ~~agreement with the criteria contained in subsection (4) and this~~
255 ~~subsection. In order to have standing, a person must have~~
256 ~~submitted oral or written comments, recommendations, or~~
257 ~~objections to the appropriate local government or the board of~~
258 ~~trustees before the adoption of the interlocal agreement by the~~
259 ~~board of trustees and local government. The board of trustees~~
260 ~~and the appropriate local government are parties to any such~~
261 ~~proceeding.~~

262 ~~2. In the administrative proceeding, if the state land~~
263 ~~planning agency finds the interlocal agreement to be consistent~~
264 ~~with the criteria in subsection (4) and this subsection, the~~
265 ~~interlocal agreement must be determined to be consistent with~~
266 ~~subsection (4) and this subsection if the local government and~~
267 ~~board of trustees is fairly debatable.~~

268 ~~3. If the state land planning agency finds the interlocal~~
269 ~~agreement to be inconsistent with the requirements of subsection~~
270 ~~(4) and this subsection, the determination of consistency by the~~
271 ~~local government and board of trustees shall be sustained unless~~
272 ~~it is shown by a preponderance of the evidence that the~~
273 ~~interlocal agreement is inconsistent.~~

274 ~~(c) If the state land planning agency enters a final order~~
275 ~~that finds that the interlocal agreement is inconsistent with~~
276 ~~the requirements of subsection (4) or this subsection, the state~~
277 ~~land planning agency shall identify the issues in dispute and~~
278 ~~submit the matter to the Administration Commission for final~~
279 ~~action. The report to the Administration Commission must list~~
280 ~~each issue in dispute, describe the nature and basis for each~~

281 ~~dispute, identify alternative resolutions of each dispute, and~~
 282 ~~make recommendations. After receiving the report from the state~~
 283 ~~land planning agency, the Administration Commission shall take~~
 284 ~~action to resolve the issues. In deciding upon a proper~~
 285 ~~resolution, the Administration Commission shall consider the~~
 286 ~~nature of the issues in dispute, the compliance of the parties~~
 287 ~~with this section, the extent of the conflict between the~~
 288 ~~parties, the comparative hardships, and the public interest~~
 289 ~~involved. In resolving the matter, the Administration Commission~~
 290 ~~may prescribe, by order, the contents of the interlocal~~
 291 ~~agreement which shall be executed by the board of trustees and~~
 292 ~~the local government.~~

293 (5)~~(6)~~ An interlocal agreement may be amended under
 294 subsections (2)-(4) ~~(2)-(5)~~:

295 (a) In conjunction with updates to the school's
 296 educational plant survey prepared under s. 1013.31; or

297 (b) If either party delays by more than 12 months the
 298 construction of a capital improvement identified in the
 299 agreement.

300 (6)~~(7)~~ This section does not prohibit a local governing
 301 body and the board of trustees from agreeing and establishing an
 302 alternative process for reviewing proposed expansions to the
 303 school's campus and offsite impacts, under the interlocal
 304 agreement adopted in accordance with subsections (2)-(5) ~~(2)-~~
 305 ~~(6)~~.

306 (7)~~(8)~~ School facilities within the geographic area or the
 307 campus of the school as it existed on or before January 1, 1998,
 308 are consistent with the local government's comprehensive plan

CS/HB 1037

2012

309 developed under part II of chapter 163 and consistent with the
310 plan's implementing land development regulations. School
311 facilities, and all uses, structures, fences, enclosures, and
312 walls that exist on school facilities as of July 1, 2012, are
313 vested. The local government shall cooperate with the school to
314 allow for restoration of school facilities, and all uses,
315 structures, fences, enclosures, and walls that exist on school
316 facilities. School facilities, and all uses, structures, fences,
317 enclosures, and walls that exist on school facilities, shall
318 comply with the state Fair Housing Act, the federal Fair Housing
319 Act, and the Americans with Disabilities Act of 1990.

320 (8)~~(9)~~ To improve coordination relative to potential
321 educational facility sites, the board of trustees shall provide
322 written notice to the local governments consistent with the
323 interlocal agreements entered under subsections (2)-(5) ~~(2)-(6)~~
324 at least 60 days before the board of trustees acquires any
325 additional property. The local government shall notify the board
326 of trustees no later than 45 days after receipt of this notice
327 if the site proposed for acquisition is consistent with the land
328 use categories and policies of the local government's
329 comprehensive plan. This preliminary notice does not constitute
330 the local government's determination of consistency under
331 subsection (9) ~~(10)~~.

332 (9)~~(10)~~ As early in the design phase as feasible, but no
333 later than 90 days before commencing construction, the board of
334 trustees shall request in writing a determination of consistency
335 with the local government's comprehensive plan and local
336 development regulations for the proposed use of any property

CS/HB 1037

2012

337 acquired by the board of trustees on or after January 1, 1998.
338 The local governing body that regulates the use of land shall
339 determine, in writing, no later than 45 days after receiving the
340 necessary information and a school board's request for a
341 determination, whether a proposed use of the property is
342 consistent with the local comprehensive plan and consistent with
343 local land development regulations. If the local governing body
344 determines the proposed use is consistent, construction may
345 commence and additional local government approvals are not
346 required, except as provided in this section. Failure of the
347 local governing body to make a determination in writing within
348 90 days after receiving the board of trustees' request for a
349 determination of consistency shall be considered an approval of
350 the board of trustees' application. This subsection does not
351 apply to facilities to be located on the property if a contract
352 for construction of the facilities was entered on or before the
353 effective date of this act.

354 (10) ~~(11)~~ Disputes that arise in the implementation of an
355 executed interlocal agreement or in the determinations required
356 pursuant to subsection (8) ~~(9)~~ or subsection (9) ~~(10)~~ must be
357 resolved in accordance with chapter 164.

358 Section 3. This act shall take effect July 1, 2012.