

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

**BILL:** CS/SB 1704

**INTRODUCER:** Education Pre-K - 12 Committee and Senator Wise

**SUBJECT:** High School Athletics

**DATE:** January 30, 2012      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	deMarsh-Mathues	ED	<b>Fav/CS</b>
2.			BC	
3.				
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

The bill establishes the Sunshine Independent Athletic Association (SIAA) as an independent governing nonprofit organization of school athletics. The Florida High School Athletic Association (FHSAA) continues its designation as the governing nonprofit organization of athletics in public schools. Private schools can apply for membership with either organization. Charter schools would be limited to membership with the SIAA.

This bill enables students that attend non-member private schools to participate in sports where the school does not offer an athletic program or does not offer a specific sport.

Students who transfer schools would not be subject to a waiting period regarding participation in sports. If a determination is made that a private school has recruited a participant, the private school can pay the fine and participate in a higher competitive division for the sport.

Both organizations must adopt bylaws that regulate investigators, addressing such issues as requiring background checks, carrying of photo identification, times for interviews, and specific requirements prior to searches.

The organizations are also required to adopt bylaws allowing coaches of member schools to provide coaching or volunteer services outside of the school.

The bill prohibits the FHSAA from denying interscholastic competition between its members and SIAA members. The two associations are required to conduct annual state interscholastic competitions for each sport and level of competition that their schools offer.

Appeals would now be heard by the district school board, which will have binding authority to reverse the decision of the lower committee on appeals. The bill requires that appeals be expedited to finish before the end of the sports season, if possible.

The bill provides for the SIAA appeals commission to be made of up three members appointed by the Governor, three members appointed by the Senate President, three members appointed by the House Speaker, and the Commissioner or his or her designee to serve as a nonvoting member. No date is provided for appointments.

This bill organizes the SIAA through a 16-member board of directors. The bill provides for appointments, a quorum and staggered terms.

All fines collected are to be deposited according to the following allocation:

- 40 percent into the Educational Enhancement Trust Fund;
- 30 percent into the school district's education foundation; and
- 30 percent into the association that levies the fine.

This bill substantially amends sections 1006.15, 1006.165, 1006.18, 1006.20, 1012.467, and 1012.55 of the Florida Statutes.

## II. Present Situation:

The FHSAA is designated in law as the governing nonprofit organization of athletics in public schools.<sup>1</sup> The FHSAA also has, as its members, qualifying private schools.<sup>2</sup> FHSAA bylaws constitute the rules by which member schools and students are governed in high school athletic programs, which covers grades 6 through 12.<sup>3</sup> Included in the organization's bylaws are eligibility requirements for member schools and their participants.<sup>4</sup>

Section 1006.15, F.S., imposes general eligibility requirements for participating students, based on academic thresholds and satisfactory conduct, and also addresses participation by private, charter, and home education students.

The FHSAA is organized by a 16-person board of directors, as follows:

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<sup>1</sup> s. 1006.20(1), F.S.

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

<sup>3</sup> *Id.*

<sup>4</sup> s. 1006.20(2)(a), F.S.

- Four public school representatives, one elected by public school members within each of the four administrative regions;
- Four nonpublic school representatives, one elected by nonpublic school members within each of the four administrative regions;
- Three representatives appointed by the Commissioner of Education, including one from the two northernmost administrative regions and one from the two southernmost administrative regions;
- Two district school superintendents, one elected from the two northernmost administrative regions by the members of those regions and one from the two southernmost administrative regions elected by members of those regions;
- Two district school board members, one from the two northernmost administrative regions elected by the members of those regions and one from the two southernmost administrative regions elected by members of those regions; and
- The commissioner or designee from the Department of Education executive staff.

Diversity in representation is to be considered in the selective process.

A quorum of the board of directors is considered to be nine members. A president and vice president are elected by the board. Staggered terms are provided.<sup>5</sup>

Florida law provides for the creation of a Representative Assembly within the FHSAA, which constitutes the legislative, or lawmaking authority of the organization. The purpose of the representative assembly is to consider and vote, by two-thirds majority, changes to bylaws on an annual basis.<sup>6</sup>

Bylaws must require member schools to adopt rules for sports which have been established by a nationally recognized sanctioning body, unless waived by the board of directors through a minimum two-thirds vote.<sup>7</sup>

Regarding appeals, the initial appeal is to be made to a committee on appeals, whose organization is to be established through bylaw. The initial appeal is to be made within the student's home administrative region.

The FHSAA indicates on its website that it was established in 1920 by a group of students at the University of Florida.<sup>8</sup> The Florida Legislature placed the FHSAA in law in 1997.<sup>9</sup> FHSAA has grown in member schools to almost 800 schools today. The FHSAA's Representative Assembly is now composed of more than 60 members, which include member school representatives, district school superintendents, and district school board members.<sup>10</sup>

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<sup>5</sup> s. 1006.20(4), F.S.

<sup>6</sup> s. 1006.20(5), F.S.

<sup>7</sup> s. 1006.20(9), F.S.

<sup>8</sup> [www.fhsaa.org](http://www.fhsaa.org); Last checked January 27, 2012.

<sup>9</sup> ch. 97-53, L.O.F.

<sup>10</sup> See: <http://www.fhsaa.org/about>; Last checked January 25, 2012.

Membership dues range from \$220 to \$1100 annually, contingent upon size and type of school, whether the school is a first-year member and the grades served by the school.<sup>11</sup>

### **III. Effect of Proposed Changes:**

The SIAA is designated the governing nonprofit organization of athletics in private schools. The FHSAA and the SIAA are each designated as the governing nonprofit organization of public schools. Private schools and charter schools have the option of belonging to either organization. Public schools, other than charter schools, must be members of the FHSAA. However, lines 153 through 155 refer to the SIAA as a governing nonprofit organization of public schools, which creates an inconsistency in the bill.

This bill enables students who attend non-member private schools to participate in sports where the school does not offer an athletic program or does not offer a specific sport. This expands the pool of potential students, as current law only authorizes participation for those students attending a school that does not have any athletic program. The number of students who will participate in sports under this provision is unknown.

Students who transfer schools would not be subject to a waiting period regarding participation in sports. If a determination is made that a private school has recruited a student, the private school can opt to pay the fine and participate in a higher competitive division for the sport, which would appear to be counter to current practice.

This bill requires both organizations to adopt bylaws that regulate investigators, addressing such issues as requiring background checks, carrying of photo identification, times for interviews and specific requirements prior to searches. An attorney may be present during questioning.

Both organizations are also required to adopt bylaws allowing coaches of member schools to provide coaching or volunteer services outside of the school.

The bill prohibits the FHSAA from denying interscholastic competition between its members and SIAA members and from acting in a retributory or discriminatory capacity against its members who compete with SIAA members. It is unclear what is meant by the terms “retributory” and “discriminatory.”

The two associations are required to conduct annual state interscholastic competitions for each sport and level of competition that their schools offer.

Appeals that currently take place before the board of directors would now be heard by the district school board, which will have binding authority to reverse the decision of the lower committee on appeals. The bill requires that appeals be expedited so that it can finish before the end of the applicable sports season, if possible.

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<sup>11</sup> <http://www.fhsaa.org/departments/membership>; Last checked January 25, 2012.

The bill provides for the SIAA appeals commission to be made of up three members appointed by the Governor, three members appointed by the Senate President, three members appointed by the House Speaker, and the Commissioner or designee to serve as a nonvoting member. No date is provided for appointments.

This bill organizes the SIAA through a 16-member board of directors which comprise:

- Four charter school representatives, one elected by the public school members within each of the four administrative regions;
- Four private member school representatives, one from each of the four administrative regions for public schools, elected by private school members;
- Three commissioner-appointed representatives, including one from the two northernmost administrative regions, one from the two southernmost administrative regions, and one from the public schools for demographic purposes;
- Two school headmasters, one from the two northernmost administrative regions and one from the two southernmost administrative regions, elected by private school members from those regions;
- Two private school governing board members, one from the two northernmost administrative regions and one from the two southernmost administrative regions, elected by the private school members from those regions; and
- The Commissioner or designee from the DOE executive staff.

A president and vice-president are to be selected by the board. A quorum is defined as nine members. Staggered terms are provided. Initial board member appointments are to be made by October 1, 2012.

The structure and terms of governance of the SIAA board of directors are nearly identical to that of the FHSAA.

This bill provides that membership in the SIAA is voluntary. However, if a charter school does not apply through the SIAA, it will not be permitted to participate.

All fines collected are to be deposited according to the following allocation:

- 40 percent into the Educational Enhancement Trust Fund;
- 30 percent into the school district's education foundation; and
- 30 percent into the association that levies the fine.

FHSAA fines are not currently paid into the fund.

Membership is limited to one organization at a time.

Also, as is already provided to the FHSAA, the SIAA is given great latitude in developing its own bylaws. The two systems could potentially operate under very different sets of bylaws, guidelines and policies, which may, at minimum, be viewed as unequal.

At the other end of the continuum, in applying the changes to s. 1006.20(9), F.S., each association would be required to address in their bylaws a requirement for member schools to adopt rules for sports which have been established by a nationally recognized sanctioning body, unless waived by the board of directors through a minimum two-thirds vote. In the case of the FHSAA, that national body is the National Federation of State High School Associations (NFSHSA). In the case of the SIAA, it is unclear whether the board would select the NFSHSA, another entity, or waive the requirement and substitute its own rules. If the choice is anything other than the NFSHSA, competitive sports between an FHSAA member school and an SIAA member school could be rendered untenable.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

It is unknown what member dues will be for private schools, including virtual schools, and home education cooperatives that become members of the SIAA.

C. Government Sector Impact:

Revenue would be generated from fines collected and deposited into the Educational Enhancement Trust Fund. The local school district would benefit from the amount deposited into the district's education foundation. The fiscal impact is unknown at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by the Committee on Education Pre-K – 12 on January 30, 2012:**

This bill:

- Provides private schools with a choice of membership between the FHSAA or the SIAA;
- Clarifies that charter schools are limited to membership with the SIAA;
- Authorizes participation, without a waiting period, for transfer students;
- Applies current statutory requirements on the FHSAA to the SIAA, such as for automated external defibrillators, cheerleader safety standards, background screening and athletic coaching certification;
- Provides that where a determination of a recruiting violation is made, the school can opt to pay the fine and play in a higher competitive division;
- Extends the times allowed for investigation interviews to be conducted;
- Provides for four charter school representatives to serve on the board of directors of the SIAA, with initial appointments to be made by October 1, 2012;
- Clarifies that a high school may be a member of only one organization at a time and dues are not owed until current membership expires; and
- Provides for the distribution of fines under a percentage allocation of 40 percent into the Educational Enhancement Trust Fund; 30 percent into the local district's education foundation; and 30 percent to the association.

- B. **Amendments:**

None.