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LEGISLATIVE ACTION

Senate

House

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Floor: 1/AD/2R

04/26/2013 12:09 PM

Senator Gardiner moved the following:

Senate Amendment (with title amendment)

Between lines 430 and 431

insert:

Section 8. Section 1008.212, Florida Statutes, is created
to read:

1008.212 Students with disabilities; extraordinary
exemption.—

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

(a) "Circumstance" means a situation in which
accommodations allowable for use on the statewide standardized
assessment, a statewide standardized end-of-course assessment,



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13 or an alternate assessment pursuant to s. 1008.22(3)(c)13. are
14 not offered to a student during the current year's assessment
15 administration due to technological limitations in the testing
16 administration program which lead to results that reflect the
17 student's impaired sensory, manual, or speaking skills rather
18 than the student's achievement of the benchmarks assessed by the
19 statewide standardized assessment, a statewide standardized end-
20 of-course assessment, or an alternate assessment.

21 (b) "Condition" means an impairment, whether recently
22 acquired or longstanding, which affects a student's ability to
23 communicate in modes deemed acceptable for statewide
24 assessments, even if appropriate accommodations are provided,
25 and creates a situation in which the results of administration
26 of the statewide standardized assessment, an end-of-course
27 assessment, or an alternate assessment would reflect the
28 student's impaired sensory, manual, or speaking skills rather
29 than the student's achievement of the benchmarks assessed by the
30 statewide standardized assessment, a statewide standardized end-
31 of-course assessment, or an alternate assessment.

32 (2) A student with a disability for whom the individual
33 education plan (IEP) team determines is prevented by a
34 circumstance or condition from physically demonstrating the
35 mastery of skills that have been acquired and are measured by
36 the statewide standardized assessment, a statewide standardized
37 end-of-course assessment, or an alternate assessment pursuant to
38 s. 1008.22(3)(c)13. shall be granted an extraordinary exemption
39 from the administration of the assessment. A learning,
40 emotional, behavioral, or significant cognitive disability, or
41 the receipt of services through the homebound or hospitalized



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42 program in accordance with rule 6A-6.03020, Florida
43 Administrative Code, is not, in and of itself, an adequate
44 criterion for the granting of an extraordinary exemption.

45 (3) The IEP team, which must include the parent, may submit
46 to the district school superintendent a written request for an
47 extraordinary exemption at any time during the school year, but
48 not later than 60 days before the current year's assessment
49 administration for which the request is made. A request must
50 include all of the following:

51 (a) A written description of the student's disabilities,
52 including a specific description of the student's impaired
53 sensory, manual, or speaking skills.

54 (b) Written documentation of the most recent evaluation
55 data.

56 (c) Written documentation, if available, of the most recent
57 administration of the statewide standardized assessment, an end-
58 of-course assessment, or an alternate assessment.

59 (d) A written description of the condition's effect on the
60 student's participation in the statewide standardized
61 assessment, an end-of-course assessment, or an alternate
62 assessment.

63 (e) Written evidence that the student has had the
64 opportunity to learn the skills being tested.

65 (f) Written evidence that the student has been provided
66 appropriate instructional accommodations.

67 (g) Written evidence as to whether the student has had the
68 opportunity to be assessed using the instructional
69 accommodations on the student's IEP which are allowable in the
70 administration of the statewide standardized assessment, an end-



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71 of-course assessment, or an alternate assessment in prior
72 assessments.

73 (h) Written evidence of the circumstance or condition as
74 defined in subsection (1).

75 (4) Based upon the documentation provided by the IEP team,
76 the school district superintendent shall recommend to the
77 Commissioner of Education whether an extraordinary exemption for
78 a given assessment administration window should be granted or
79 denied. A copy of the school district's procedural safeguards as
80 required in rule 6A-6.03311, Florida Administrative Code, shall
81 be provided to the parent. If the parent disagrees with the IEP
82 team's recommendation, the dispute resolution methods described
83 in the procedural safeguards shall be made available to the
84 parent. Upon receipt of the request, documentation, and
85 recommendation, the commissioner shall verify the information
86 documented, make a determination, and notify the parent and the
87 district school superintendent in writing within 30 days after
88 the receipt of the request whether the exemption has been
89 granted or denied. If the commissioner grants the exemption, the
90 student's progress must be assessed in accordance with the goals
91 established in the student's individual education plan. If the
92 commissioner denies the exemption, the notification must state
93 the reasons for the denial.

94 (5) The parent of a student with a disability who disagrees
95 with the commissioner's denial of an extraordinary exemption may
96 request an expedited hearing. If the parent requests the
97 expedited hearing, the Department of Education shall inform the
98 parent of any free or low-cost legal services and other relevant
99 services available in the area. The Department of Education



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100 shall arrange a hearing with the Division of Administrative
101 Hearings, which must be commenced within 20 school days after
102 the parent's request for the expedited hearing. The
103 administrative law judge at the division shall make a
104 determination within 10 school days after the expedited hearing.
105 The standard of review for the expedited hearing is de novo, and
106 the department has the burden of proof.

107 (6) Beginning June 30, 2014, and each June 30 thereafter,
108 the commissioner shall annually submit to the Governor, the
109 President of the Senate, and the Speaker of the House of
110 Representatives the number of extraordinary exemptions requested
111 under this section, the number of extraordinary exemptions
112 granted under this section, and the criteria by which all
113 decisions were made. The commissioner shall regularly inform
114 district testing and special education administrators of the
115 procedures established in this section.

116 (7) The State Board of Education shall adopt rules to
117 administer this section.

118
119 ===== T I T L E A M E N D M E N T =====

120 And the title is amended as follows:

121 Delete line 38

122 and insert:

123 conforming a cross-reference; creating s. 1008.212,
124 F.S.; providing definitions; providing that a student
125 with a disability be granted an extraordinary
126 exemption from the administration of certain
127 assessments under certain circumstances; providing
128 that certain disabilities or the receipt of services



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129 through a homebound or hospitalized program is not an
130 adequate criterion for the granting of an
131 extraordinary exemption; authorizing a written request
132 for an extraordinary exemption; providing requirements
133 for the request; providing a procedure for granting or
134 denying an extraordinary exemption; providing a
135 procedure for appealing a denial of an extraordinary
136 exemption; requiring the Commissioner of Education to
137 annually submit by a specified date to the Governor
138 and the Legislature a report and regularly inform
139 district testing and special education administrators
140 of the procedures regarding extraordinary exemptions;
141 requiring the State Board of Education to adopt rules;
142 creating s. 1008.3415,