

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 127 District School Boards
SPONSOR(S): Education Committee, K-12 Subcommittee, Stark and others
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---------------------|---------|--|
| 1) K-12 Subcommittee | 12 Y, 0 N, As CS | Beagle | Ahearn |
| 2) Rulemaking Oversight & Repeal Subcommittee | 10 Y, 1 N | Miller | Rubottom |
| 3) Education Appropriations Subcommittee | 12 Y, 0 N | Seifert | Heflin |
| 4) Education Committee | 18 Y, 0 N, As CS | Beagle | Mizereck |

SUMMARY ANALYSIS

Florida law requires each district school board to hold at least one regular meeting each month for the transaction of business according to a schedule arranged by the board. The law does not address when monthly meetings must be held, e.g., meeting days and times. Currently, policy issues considered by a school board must first be recommended to the board by the district school superintendent. Individual board members do not have authority to make such recommendations.

The bill requires each school board to convene at least one regular meeting per quarter which begins no earlier than 5:00 p.m. These quarterly meetings must coincide with the school year. The bill also provides that policy issues for consideration by the board may be recommended by a board member.

The law authorizes school boards to employ an internal auditor to perform ongoing verification of the financial records of the school district. The law is silent regarding whether an internal auditor may perform other types of audits.

The bill adds authorization for internal auditors to provide audits and reviews as the school board directs for the purpose of overseeing school district resources and determining compliance with applicable laws and school board-approved policies, procedures, and contracts.

The law requires each school board to adopt enrollment plans and assign students to schools within the school district. The law does not specifically require boards to allow a public school student whose parent has died to continue in the school he or she was attending at the time of the parent's death.

The bill requires each school board to allow a public school student whose parent has died to continue in the school he or she was attending at the time of the parent's death. This option remains in effect until the student is promoted from elementary school to middle school, middle school to high school, or upon graduation from high school, as applicable. However, this option is unavailable to a student who has been suspended in school, more than once; expelled; or suspended out of school, from that school.

The law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats.

The bill specifies that policies and procedures for emergency drills must encompass both "emergency lock down drills" and "emergency evacuation drills." Emergency lockdown drills must be conducted at least as often as emergency evacuation drills. School staff must complete an after-drill report detailing each drill conducted.

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

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The State Constitution provides that each county constitutes a school district and charges district school boards with the operation, control, and supervision of all free public schools within a school district.¹ The Florida statutes authorize each district school board to exercise any power not expressly prohibited by the State Constitution or law and require each board to perform all duties assigned to it by law or State Board of Education rule.² Among other things, the law specifies requirements regarding school board meetings,³ the employment of internal auditors,⁴ student school assignments,⁵ and school district emergency drills and procedures.⁶

District School Board Meetings

Current Law

Florida law requires each district school board to hold at least one regular meeting each month for the transaction of business according to a schedule arranged by the board.⁷ School board meetings must be held in the office of the district school superintendent or a room convenient to that office and regularly designated as the board meeting room. Meetings may be held at other public locations if at least 48 hours public notice is given.⁸ The law does not address when monthly meetings must be held, e.g., meeting days and times.

Florida law charges district school superintendents with recommending to the school board policies and rules he or she considers necessary for the efficient operation of the district school system. Such policies and rules may only be enacted with the advice and counsel of the school board at a publicly noticed board meeting.⁹ Thus, policy issues considered by a school board must first be recommended to the board by the superintendent. Individual board members may suggest issues for consideration, but the superintendent is not required to include such suggestions in his or her recommendations.¹⁰

Effect of Bill

The bill requires each school board to convene at least one regular meeting per quarter which begins no earlier than 5:00 p.m. These quarterly meetings must coincide with the school year. This change would provide increased opportunity for parent and public participation in board meetings.

¹ Section 4, Art. IX of the State Constitution.

² Sections 1001.32(2) and 1001.41(5), F.S.

³ Section 1001.372, F.S.

⁴ Section 1001.42(12)(l), F.S.

⁵ Sections 1001.41(6) and 1001.42(4)(a), F.S.

⁶ Section 1006.07(4) and (6), F.S.

⁷ Section 1001.372(1), F.S.

⁸ Section 1001.372(2)(a)-(b), F.S. School board meetings must be noticed in a newspaper of general circulation in the county. If there is no newspaper of general circulation in the county, the meeting may be noticed by announcements over at least one radio station whose signal is generally received in the county or notice posted on the courthouse door. Section 1001.372(2)(c), F.S. A special meeting may be convened when called by the superintendent, acting individually or on the request of the board chair or a majority of the board members. If the superintendent does not call a board meeting when requested by the chair or a majority of board members, the chair or a majority of members may call such meeting by providing two days' written notice to all members and the superintendent. Section 1001.372(1), F.S.

⁹ Sections 1001.372, 1001.41, 1001.49, and 286.011, F.S.

¹⁰ Section 1001.41, F.S.; Op. Att'y Gen. Fla. 96-13 (1996); Op. Att'y Gen. Fla. 2002-08 (2002).

The bill also provides that policy issues for consideration by the school board may be recommended by a board member. This change allows both school board members and the superintendent to recommend issues for consideration by the board.

Internal Auditors

Current Law

District school boards may employ an internal auditor to perform ongoing verification of the financial records of the school district. The internal auditor reports directly to the district school board or its designee.¹¹ The law is silent regarding whether an internal auditor may perform other types of audits.

Effect of Bill

The bill adds authorization for internal auditors to provide audits and reviews as the school board directs for the purpose of overseeing school district resources and determining compliance with applicable laws and district school board-approved policies, procedures, and contracts. In clarifying that internal auditors are authorized to perform audits beyond those relating to the district's financial records, the bill strengthens the ability of school boards to monitor school district affairs.

Student School Assignments

Current Law

The law requires each district school board to adopt enrollment plans and assign students to schools within the school district.¹² School boards are authorized, but not required, to adopt controlled open enrollment policies which enable parents to enroll their child in a district school outside their assigned attendance area.¹³ The law does not specifically require boards to allow a public school student whose parent has died to continue in the school he or she was attending at the time of the parent's death.

Effect of Bill

The bill requires each district school board to allow a public school student whose parent has died the option to continue in the school he or she was attending at the time of the parent's death. This option remains in effect until the student is promoted from elementary school to middle school, middle school to high school, or upon graduation from high school, as applicable. However, this option is unavailable to a student who has been suspended in school, more than once; expelled; or suspended out of school, from that school. This change would enable a student to stay in that school if, for example, the student's surviving parent chooses to move outside the school's attendance area because he or she can no longer afford to live there.

Emergency Drills and Procedures

Current Law

Florida law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.¹⁴

¹¹ Section 1001.42(12)(l), F.S.

¹² Sections 1001.41(6) and 1001.42(4)(a), F.S.

¹³ Section 1002.31, F.S.

¹⁴ Section 1006.07(4)(a), F.S. Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies. Section 1006.07(4)(b), F.S.

The *Safety and Security Best Practices* (Best Practices) is a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies. The self-assessment is developed by the Office of Program Policy Analysis and Government Accountability. Among other “best practices,” the self-assessment suggests that school districts:

- Implement procedures for emergency drills including procedures for verifying that regular drills are conducted and varying the time and conditions for such drills to prepare for a range of scenarios.
- Develop a checklist with step-by-step emergency procedures for use in every classroom which includes evacuation, lockdown, and shelter-in-place procedures developed in collaboration with local law enforcement, fire, and emergency response personnel.
- Share emergency plans, policies, procedures, and educational facilities floor plans with local law enforcement agencies and fire departments.¹⁵

Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the self-assessment results. The self-assessment results and superintendent’s recommendations must be addressed in a publicly noticed school board meeting.¹⁶

Effect of Bill

The bill adds “weapons and hostage situations” to the existing list of emergencies that each school board must address in its policies and procedures for emergency drills and actual emergencies. Additionally, the bill specifies that policies and procedures for emergency drills must encompass both “emergency lock down drills” and “emergency evacuation drills.” The bill defines:

- "Evacuation drill" as an “activity in which students and faculty practice the safest and quickest way to evacuate a school facility in case of an emergency in which evacuation is generally the safest option.”
- "Lockdown drill" as an “activity in which students and faculty practice securing a school facility or rooms within the facility in case of an emergency in which hiding from a hostile danger is generally deemed safer than evacuating the building.”

Emergency policies and procedures must require that emergency lockdown drills be conducted at least as often as emergency evacuation drills. However, the bill states that school districts are not required to increase the annual number of emergency drills conducted at a school. The bill encourages local law enforcement or fire personnel to participate annually in at least one emergency lockdown drill per school, review its execution, and submit recommendations to the school for improving lockdown procedures.

The bill requires each school to designate the school principal or a staff member as the person responsible for overseeing the school's emergency drills. After a drill is completed, the designated staff member must electronically submit to the school district an after-drill report that details the specific drill that was conducted. Such report must include any feedback and recommendations for improvement offered by the school or participating law enforcement or fire personnel. The most recent after-drill reports must be reviewed by the designated staff member before each drill.

Current law provides a public record exemption for a security system plan or portion thereof for any property owned by or leased to the state or any of its political subdivisions, or for any privately owned or leased property held by an agency. Security system plans include, in part, threat assessments conducted by any agency or any private entity, threat response plans, and emergency evacuation

¹⁵ Section 1006.07(6), F.S.; Florida Department of Education, *District Safety and Security Best Practices*, <http://www.fldoe.org/EM/security-practices.asp> (last visited March 12, 2013).

¹⁶ Section 1006.07(6), F.S. The results of the self-assessment and any school board action on the superintendent’s recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting. *Id.*

plans.¹⁷ This public records exemption would also protect a school's after-drill report and recommendations from participating law enforcement or fire personnel.

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.372, F.S., relating to District school board meetings; requires school boards to convene one meeting per quarter within the school year no earlier than 5:00 p.m.; provides that policy issues for consideration at a board meeting may be proposed by the superintendent or a board member.

Section 2. Amends s. 1001.41, F.S., relating to General powers of district school boards; authorizes individual school board members to make recommendations regarding policy issues for consideration by the board; requires boards to allow a public school student whose parent has died to remain enrolled in the school he or she was attending at the time of the parent's death, with exceptions.

Section 3. Amends s. 1001.42, F.S., relating to Powers and duties of district school boards; authorizes additional duties for school board internal auditors.

Section 4. Amends s. 1006.07, F.S., relating to District school board duties regarding student discipline and school safety; requires policies and procedures for certain emergency drills; prescribes requirements for after-drill reporting.

Section 5. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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:

¹⁷ Section 119.071(3)(a)2., F.S.
STORAGE NAME: h0127f.EDC
DATE: 4/10/2013

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires district school boards to create written criteria for convening a quarterly meeting no earlier than 5:00 p.m. As generally-applicable statements implementing the law within the school district, these criteria meet the statutory definition of rules.¹⁸ School boards are subject to the Administrative Procedure Act¹⁹ and are required to adopt these criteria through the statutory rulemaking process.²⁰ In addition, the bill's changes to school board emergency policies and procedures and student school assignments may require revisions to existing rules, policies, and procedures.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 13, 2013, the K-12 Subcommittee adopted one amendment and reported HB 127 favorably as a committee substitute. The committee substitute states that the quarterly meeting required by the bill must be convened during "evening hours" rather than during "after school or evening hours." In addition, the term "hold," as in "hold a meeting," is changed to "convene." These changes were made to increase the likelihood that the quarterly meeting is held during hours accessible to working parents and the public.

On April 9, 2013, the Education Committee adopted a proposed committee substitute (PCS) and reported CS/HB 127 favorably as a committee substitute. The PCS revises CS/HB 127 to require each school board to convene at least one meeting per quarter no earlier than 5:00 p.m., rather than "during the evening hours."

In addition, the PCS adds provisions:

- Providing that policy issues for consideration by a school board may be recommended by a board member.
- Authorizing internal auditors to provide audits and reviews regarding oversight of school district resources and compliance with applicable laws, policies, and contracts.
- Requiring each school board to allow a public school student whose parent has died the option to continue in the school he or she was attending at the time of the parent's death, with exceptions.
- Specifying that school board policies and procedures for emergency drills must encompass both "emergency lock down drills" and "emergency evacuation drills" and requiring school staff to complete an after-drill report detailing each drill conducted.

¹⁸ Section 120.52(16), F.S.

¹⁹ Chapter 120, F.S. As an "educational unit," a district school board meets the definition of an "agency" under the Administrative Procedure Act. Section 120.52(1), F.S.

²⁰ Section 120.54, F.S. Some school boards have adopted existing meeting criteria by rule. School Board of Broward County Policy 1100A, "Scheduling of Meetings," available at <http://www.broward.k12.fl.us/sbbcpolicies/index.asp>; The School Board of Leon County, Policy 0160 – Meetings, available at <http://www.neola.com/leon-fl/>.