

**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 Committee on Community Affairs

BILL: SB 514

INTRODUCER: Senator Sobel

SUBJECT: Public School Safety

DATE: April 11, 2013

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | Hand    | Klebacha       | ED        | <b>Favorable</b> |
| 2. | Toman   | Yeatman        | CA        | <b>Favorable</b> |
| 3. |         |                | AFT       |                  |
| 4. |         |                | AP        |                  |
| 5. |         |                |           |                  |
| 6. |         |                |           |                  |

**I. Summary:**

SB 514 creates the School Safety Act to authorize a county to create an independent special district by ordinance to identify and assess the security and mental health referral needs of all schools served by the school board.

Funding would be through an annual ad valorem tax of up to 0.5 mills, if approved by a majority of the electors in the county voting in a referendum held for that purpose. Funds collected are intended to be used to support improvements in services for county schools and students, rather than a substitute for existing resources or resources that would otherwise be available for security and mental health referral needs.

The effective date of the bill is July 1, 2013.

This bill creates an undesignated section of law.

**II. Present Situation:**

**School Safety and Security**

There are numerous provisions of law relating to school safety and security for public schools, including the following:

## **Emergency Preparedness**

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies and procedures include responding to fires, natural disasters, bomb threats, weapon-use and hostage situations, hazardous materials or toxic chemical spills, and weather emergencies.<sup>1</sup>

School district cooperation with emergency response agencies is incorporated into the Safety and Security Best Practices, a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies.<sup>2</sup>

## **School Safety Zones**

A “school safety zone” is defined as being in, on, or within 500 feet of real property owned by or leased to any public or private elementary, middle, or high school or school board which is used for elementary, middle, or high school education.<sup>3</sup> Principals are required to notify law enforcement to prohibit persons who have no legitimate business or any other authorization from loitering in a school safety zone.<sup>4</sup>

## **School Resource Officers and School Safety Officers; Mutual Aid Agreements**

School districts may establish school resource officer (SRO) programs through a cooperative agreement with law enforcement agencies.<sup>5</sup> SROs are certified law enforcement officers, who are employed by a law enforcement agency.<sup>6</sup> The powers and duties of a law enforcement officer continue throughout the employee’s tenure as a SRO.<sup>7</sup> School safety officers (SSOs) are law enforcement officers who are employed by either a law enforcement agency or by a school district.<sup>8</sup>

A school district may enter into mutual aid agreements with one or more law enforcement agencies as provided in chapter 23, F.S. A SSO’s salary may be paid jointly by the school district and a law enforcement agency, as mutually agreed to.

## **Zero Tolerance Policies**

School districts are required to have zero tolerance policies.<sup>9</sup> However, cooperative agreements between the school district and local law enforcement do not require school districts to report petty misconduct and misdemeanors to law enforcement.<sup>10</sup>

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<sup>1</sup> Section 1006.07(4), F.S.

<sup>2</sup> Section 1006.07(6), F.S.

<sup>3</sup> Section 810.0975(1), F.S.

<sup>4</sup> Section 810.0975(2)(a), F.S.

<sup>5</sup> Section 1006.12(1), F.S.

<sup>6</sup> *Id.* SROs abide by school district policies and coordinate activities with the school principal. They are responsible to the law enforcement agency in employment matters unless agreements are otherwise made with the school district.

<sup>7</sup> *Id.*

<sup>8</sup> Section 1006.12(2), F.S. A SSO has the power to make arrests on school district property and to arrest persons under the same conditions that deputy sheriffs are authorized to make arrests.

<sup>9</sup> Section 1006.13(1), F.S.

## **Mental Health Referrals**

Some components relating to mental health referrals and associated services include the following:

### **School Health Services**

The Department of Health, in conjunction with the Department of Education, supervises the administration of the school health services program.<sup>11</sup> Each county health department develops a school health services plan in conjunction with the school board and health advisory committee. The district school board must include health services and health education as part of the comprehensive plan for the school district, make physical facilities available for health services, and provide to parents information concerning ways to help children be physically active and practice healthy eating.<sup>12</sup>

### **Exceptional Education**

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, including children with disabilities who have been suspended or expelled from school.<sup>13</sup> District school boards are responsible for ensuring mental health services are provided for those exceptional education students who require such services to benefit from education.<sup>14</sup>

### **Medicaid School Funding**

Each school district is authorized to certify funds provided for a category of required Medicaid “school-based services,” which are reimbursable under the federal Medicaid program. Such services must include physical, occupational, and speech therapy services, behavioral health services, mental health services, transportation services, and Early Periodic Screening, Diagnosis, and Treatment (EPSDT) administrative outreach and services.<sup>15</sup>

The Agency for Health Care Administration is responsible for monitoring compliance of each participating school district with Medicaid provider agreements. In addition, the Agency for Health Care Administration must develop standardized recordkeeping procedures for the school districts that meet Medicaid requirements for audit purposes.<sup>16</sup>

### **Multiagency Services for Severely Emotionally Disturbed Students**

Students who are severely emotionally disturbed are eligible for an intensive, integrated educational program, a continuum of mental health treatment services, and, when needed, residential services necessary to enable students to develop appropriate behaviors and

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<sup>10</sup> Section 1006.13(4)(c), F.S.

<sup>11</sup> Section 381.0056(3), F.S.

<sup>12</sup> Section 381.0056(6), F.S.

<sup>13</sup> 20 U.S.C. § 1400 et. seq., as amended by P.L. 108-446.

<sup>14</sup> Section 1001.42(8), F.S.

<sup>15</sup> Section 1011.70(1), F.S.

<sup>16</sup> Section 1011.70(2), F.S.

demonstrate academic and career education skills.<sup>17</sup> Multiagency programs are required to provide access to appropriate services for all students with a severe emotional disturbance.<sup>18</sup> District school boards are responsible for providing educational programs, while state agencies administering children's mental health funds provide mental health treatment and residential services when needed.<sup>19</sup>

### **Special Districts**

Special Districts are governed by the Uniform Special District Accountability Act of 1989 in Chapter 189, F.S.<sup>20</sup> Section 189.403(1), F.S., defines a "special district" as a confined local government unit established for a special purpose.<sup>21</sup> The public policy intent of special districts is to provide private and public sectors an alternative governing method to "manage, own, operate, construct and finance basic capital infrastructure, facilities and services."<sup>22</sup> A special district can be created by general law, special act, local ordinance, or by Governor or Cabinet rule.<sup>23</sup> A special district does not include:

- a school district,
- a community college district,
- a special improvement district (Seminole and Miccosukee Tribes under s. 285.17, F.S.),
- a municipal service taxing or benefit unit (MSTU/MSBU), or
- a political subdivision board of a municipality providing electrical service.<sup>24</sup>

While special districts have similar governing powers and restrictions as counties and municipalities, they do not have "local home rule" power that has been granted to general-purpose governments. Special districts have only the explicit authority granted by statute.<sup>25</sup> Special districts are held accountable to the public and are therefore subject to public sunshine laws and financial reporting requirements.<sup>26</sup>

### **Ad valorem Tax and Special Districts**

Local governments may levy ad valorem taxes subject to the following limitations:

- ten mills for county purposes,
- ten mills for municipal purposes,
- ten mills for school purposes,
- a millage fixed by law for a county furnishing municipal services,

<sup>17</sup> Section 1006.04(1)(a), F.S.

<sup>18</sup> *Id.* See s. 394.495, F.S., which requires that the local child and adolescent mental health system of care include the local educational multiagency network under s. 1006.04, F.S.

<sup>19</sup> *Id.*

<sup>20</sup> Chapter 189, F.S.; see s. 189.401, F.S.

<sup>21</sup> Section 189.403(1), F.S.

<sup>22</sup> Section 189.402(4), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See *Roach v. Loxahatchee Groves Water Control District*, 417 So. 2d 814 (Fla. 4<sup>th</sup> DCA 1982).

<sup>26</sup> Presentation by Jack Gaskins Jr., from the Division of Community Development in the Department of Economic Opportunity, SPECIAL DISTRICT BASICS PRESENTATION (October 4, 2011) (on file with the Senate Committee on Community Affairs). See also ss. 189.417 and 189.418, F.S.

- a millage authorized by law and approved by voters for special districts.<sup>27</sup>

County government millages are composed of four categories of millage rates:<sup>28</sup>

- the nonvoted county millage rate set by the county's governing body,
- county debt service millage,
- county voted millage, and
- county dependent special district millage as set by the county's governing body.

### III. Effect of Proposed Changes:

#### Creation and Funding of District

The bill authorizes counties to create an independent special district to provide countywide school security and mental health referral services. Upon county adoption of the ordinance creating the district, the county would place on the ballot the question of levying ad valorem taxes at a rate of up to 0.5 mills to fund the district. The tax must be approved by a majority of the electors of the county voting in a referendum held for such purpose.

Depending on the size of the county, the district would be governed by a council consisting of a statutorily prescribed number of: county commissioners (appointed by the board of county commissioners); school board members (appointed by the county school board); an elected member of the governing body of the largest municipality within the county (appointed by the municipality mayor); and elected members of the county legislative delegation (appointed by the chair of the delegation, with assent of the delegation) serving as ex officio members.

#### Transparency and Accountability

The district is required to:

- Provide an annual written report to the school board and board of county commissioners;
- Prepare and file with the county governing body a financial report within ten days after the expiration of each annual quarter; and
- Prepare a tentative annual budget and compute a proposed millage rate (up to 0.5 mills) as necessary.

The bill also specifies the following governing requirements:

- After the budget is certified and delivered to the county governing body, the budget may not be changed or modified by the governing body or any other authority;
- Withdrawal of moneys received by the district may only be by checks signed by the chair of the council and countersigned by one other council member or by a chief executive officer authorized by the council;
- The chair and other member of the council or chief executive officer authorized to sign checks must each file a surety bond conditioned upon the faithful discharge of his or her office. The premium on the bond may be paid by the district as part of the expenses of the council;

<sup>27</sup> See Section 9, Article VII, Florida Constitution, Chapters 192-197 and 200, Florida Statutes.

<sup>28</sup> Section 200.001(1), F.S.

- Governing members serve without compensation, but are entitled to reimbursement for per diem and travel expenses;
- The council may not require any service provider to provide additional matching funds as a condition of providing district services or programs to schools and students; and
- Two or more districts may enter into a cooperative agreement to share administrative costs and seek grants, accept donations, or jointly fund programs serving multicounty areas.

### **Security and Mental Health Related Duties and Responsibilities**

The bill requires the council to identify and assess the security and mental health referral needs of all schools served by the school board, including the following:

- Collecting information and statistical data to use in determining the needs of security and mental health referral services within schools operated by the school board;
- Determining the funding sources; and
- Developing a strategy for interagency coordination that maximizes existing human and fiscal resources.

Additionally, the bill authorizes the council to:

- Seek grants from state, federal, and local agencies and accept donations of monies or properties from public and private sources;
- Consult with other agencies that provide security and mental health referral services to schools operated by the school board; and
- Collect information, conduct research, and provide and maintain services needed for the safety of the schools and students.

## **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:

The bill establishes authority for an annual ad valorem tax of up to 0.5 mills if approved by a majority of the electors in the county voting in a referendum held for that purpose.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**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.)

None.

B. Amendments:

None.