

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 Appropriations

BILL: CS/CS/SB 1804

INTRODUCER: Appropriations Committee; Education Committee; and Senator Stargel

SUBJECT: School District Accountability

DATE: February 28, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Olenick, Bouck</u>	<u>Graf</u>	<u>ED</u>	Fav/CS
2.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1804 increases fiscal accountability and expands fiscal transparency requirements for district school boards. Specifically, the bill:

- Increases fiscal accountability requirements by:
 - Adding to the Auditor General’s (AG’s) duties, the requirement to contact each district school board with findings and recommendations contained within the AG’s previous operational audit report; and specifying compliance requirements for the district school boards.
 - Requiring the Department of Education’s (DOE’s) Inspector General to investigate allegations and reports of possible fraud or abuse against a district school board made by specified entities.
 - Requiring school districts receiving annual federal, state, and local funds in excess of \$500 million to employ an internal auditor.
- Expands fiscal transparency by:
 - Requiring district school boards to provide a full explanation of any budget amendments at the boards’ next scheduled public meeting.
 - Modifying the information that each district school board must post on its website to add graphical representations, for each public school within the district and for the school district, of summary financial efficiency data and 3-year fiscal trend information.
 - Specifying additional information that each school district must report to the DOE including the total operating costs and expenditures for classroom instruction.

- Requiring the DOE to calculate specified expenditure information for each public school, school district, and the state; and develop a web-based fiscal transparency tool that identifies public schools and districts that produce high academic achievement based on the ratio of classroom instruction expenditures to total expenditures.
- Requiring the DOE to contract with an independent third party to conduct an investigation of all accounts and records when the conditions of a financial emergency exist.
- Requiring the withholding of each district school board member's and district school superintendent's salary, with some exceptions, if any of the conditions of a financial emergency exist, until such conditions are corrected.
- Requires prior approval by the district school board for reimbursement of out-of-district travel expenses that exceed \$500, and requires a detailed itemized list of all anticipated travel expenses for any travel outside the state.

Additionally, the bill applies the restriction on lobbying for 2 years after vacating office to appointed school district superintendents, which currently applies to locally elected school district officers; and prohibits a district superintendent from appointing or employing a relative to work under his or her direct supervision.

The bill appropriates \$850,000 in nonrecurring funds from the General Revenue Fund to the DOE to implement this act.

The bill takes effect July 1, 2018.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed in the Effect of Proposed Changes section of this bill analysis.

III. Effect of Proposed Changes:

Florida law specifies audit and oversight requirements for district school boards.

Fiscal Accountability

Auditor General (Sections 1 and 9)

Present Situation

The Auditor General (AG) or a Certified Public Accountant (CPA) is required to perform annual financial audits of district school boards.¹ If the AG does not perform a financial audit of a district school board, the school board must have a financial audit completed within nine months of its fiscal year end by an independent CPA.² The scope of financial audits includes an examination of the financial statements, the issuance of a report on compliance and internal

¹ State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, (June, 2016), at 1, available at https://flauditor.gov/pages/pdf_files/2018-030.pdf. Section 11.45(2), F.S. and s. 218.39(1), F.S.

² Section 218.39(1), F.S.

control in accordance with generally accepted government auditing standards, and the issuance of a report on compliance and internal control for each major Federal program.³

The AG also conducts operational audits of district school boards in accordance with Government Auditing Standards at least every 3 years.⁴ Operational audits must include an evaluation of management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities.⁵

The AG is required to report material weaknesses in internal control and significant control deficiencies that are disclosed during the course of a financial audit.⁶ A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the financial statements would not be prevented or detected and corrected on a timely basis.⁷ A significant deficiency is a deficiency, or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention.⁸ The AG must report material noncompliance or abuse that has a material effect on a financial statement audit.⁹

The AG must annually compile and transmit a summary of significant findings and financial trends to the Senate President, the Speaker of the House of Representatives, and the Legislative Auditing Committee (LAC).¹⁰ If an audit contains any significant findings, district school boards must conduct an audit overview during a public meeting.¹¹

The AG has authority to perform follow-up procedures necessary to determine a district school board's progress in addressing the findings and recommendations in the previous audit report.¹² The AG must also notify the LAC of any financial or operational audit report that indicates that a district school board failed to take full corrective action in response to a finding included in the two preceding financial or operational audits.¹³

Upon notification, the LAC may direct a school board to provide a written statement explaining the reason the school board failed to take corrective action or, if the school board intends to take full corrective action, describing the corrective action and state when it will occur.¹⁴ If the LAC determines that the written statement is not sufficient, it may require the chair of the school

³ State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, (June 2016), at 1, available at https://flauditor.gov/pages/pdf_files/2018-030.pdf. Section 11.45(1)(c), F.S.

⁴ Section 11.45(2)(f), F.S.

⁵ *Id.* at (1)(g).

⁶ State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, (June 2016), at 2, available at https://flauditor.gov/pages/pdf_files/2018-030.pdf.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 11.45(7)(f), F.S. *See also* s. 11.40, F.S.

¹¹ Section 1010.30(2), F.S.

¹² Section 11.45(2)(j), F.S.

¹³ *Id.* at (7)(j)1.

¹⁴ *Id.*

board to appear before the committee.¹⁵ The LAC must refer the matter to the State Board of Education (state board) to proceed in accordance with its oversight enforcement authority if it determines that the school board has failed to take full corrective action for which there is no justifiable reason or has failed to comply with the LAC requests.¹⁶

Effect of Proposed Changes

Section 1 amends s. 11.45, F.S., to add to the AG's duties, the requirement for the AG to contact each district school board with findings and recommendations contained within the AG's previous operational audit report. Additionally, this section:

- Requires the district school board to provide the Auditor General with evidence of the initiation of corrective action within 45 days after the date it is requested by the AG and evidence of completion of corrective action within 180 days after the date it is requested by the AG.
- Specifies that if the district school board fails to comply with the AG's request or is unable to take corrective action within the required timeframe, the AG must notify the LAC.

Section 9 amends s. 1010.30, F.S., to specify that, if an AG audit contains a significant deficiency or material weakness, the district school board, the Florida College System institution board of trustees, or the university board of trustees, as applicable, must conduct an audit overview during a public meeting. The audit overview must describe the corrective action to be taken and a timeline for the completion of the corrective action.

Inspector General (Section 4)

Present Situation

Each state agency, including the DOE, is required to have an Inspector General (IG)¹⁷ to provide a central point for the coordination of activities that promote accountability, integrity, and efficiency in government.¹⁸ The Office of the Chief Inspector General (CIG), within the Executive Office of the Governor,¹⁹ monitors the activities of the agency inspectors general under the Governor's jurisdiction.²⁰

The DOE's IG is responsible for promoting accountability, efficiency, and effectiveness and detecting fraud and abuse within school districts.²¹ If the commissioner determines that the district school board is unwilling or unable to address substantiated allegations made by any person relating to waste, fraud, or financial mismanagement, the office must conduct, coordinate, or request investigations into such substantiated allegations.²²

¹⁵ *Id* at (7)(j)2.

¹⁶ Sections 11.45(7)(j)3, and 1008.32, F.S.

¹⁷ Section 20.055(2), F.S.

¹⁸ *Id.*

¹⁹ Section 14.32(1), F.S.

²⁰ *Id.*

²¹ Section 1001.20(4)(e), F.S.

²² Section 1001.20(4)(e), F.S.

Effect of Proposed Changes

Section 4 amends s. 1001.20, F.S., to require the DOE's IG to investigate allegations and reports of possible fraud or abuse against a district school board made by:

- Any member of the Cabinet;
- Any presiding officer of the Senate or the House;
- A chair of a substantive or appropriations committee with appropriate jurisdiction; or
- A member of the board for which investigation is sought.

Internal Auditor (Section 7)Present Situation

District school boards may employ an internal auditor to perform ongoing financial verification of the financial records of the school district.²³ The internal auditor must report directly to the district school board or its designee.²⁴

Bay, Brevard, Broward, Clay, Duval, Escambia, Hillsborough, Lake, Lee, Leon, Marion, Martin, Miami Dade, Orange, Palm Beach, Pasco, Pinellas, and Polk district school boards employ internal auditors.²⁵

On February 2, 2014, as part of its presentation to the LAC, the AG's office recommended that school districts of a specified size employ internal auditors to periodically report on the effectiveness of budgetary control procedures.²⁶

Effect of Proposed Changes

Section 7 amends s. 1001.42, F.S, to require school districts receiving annual federal, state, and local funds in excess of \$500 million to employ an internal auditor. The scope of the internal auditor must not be restricted and must include every functional and program area of the school system.

Additionally, this section requires the internal auditor to perform a comprehensive risk assessment of all areas of the school system every 5 years, and conduct other audits and reviews as the district school board directs to determine:

- The adequacy of internal controls designed to prevent and detect fraud, waste, and abuse.
- Compliance with applicable laws, rules, contracts, grant agreements, district school board-approved policies, and best practices.
- The efficiency of operations.
- The reliability of financial records and reports.
- The safeguarding of assets.
- Financial solvency.
- Projected revenues and expenditures.

²³ Section 1001.42(12)(l), F.S.

²⁴ *Id.*

²⁵ Phone Interview with the Florida Office of Auditor General staff (Feb. 19, 2018).

²⁶ Joint Legislative Auditing Committee, *Meeting Packet, February 10, 2014 (Feb. 2014)*, at 110 and 114, available at <http://www.leg.state.fl.us/Data/Committees/Joint/JCLA/Meetingpackets/021014.pdf>.

- The rate of change in the general fund balance.

This section requires the internal auditor to prepare audit reports of his or her findings and establishes penalties for failure to produce financial records to the internal auditor.²⁷

Cost Accounting and Reporting (Section 8)

Present Situation

Each school district must account for expenditures of all state, local, and federal funds on a school-by-school and a district-aggregate basis in accordance with the manual developed by the DOE or as provided by law.²⁸ Each district must report on a district-aggregate basis expenditures for inservice training and categorical programs; and on a school-by school basis and aggregate district basis for each program funded by the state for the operation of schools.²⁹ The commissioner must present to the Legislature a district-by-district report of the expenditures reported.³⁰

Each district must expend at least the percent of the funds generated by each of the programs listed on the aggregate total school costs for such programs, as follows:³¹

- Ninety percent for kindergarten and grades 1, 2, and 3.
- Eighty percent for grades 4, 5, 6, 7, and 8.
- Eighty percent for grades 9, 10, 11, and 12.
- Ninety percent for programs for exceptional students, on an aggregate program basis.
- Eighty percent for grades 7 through 12 career education programs, on an aggregate program basis.
- Eighty percent for students-at-risk programs, on an aggregate program basis.
- Ninety percent for juvenile justice programs, on an aggregate program basis.

Effect of Proposed Changes

Section 8 amends s. 1010.20, F.S., to modify the expenditure reporting requirements for the school districts to specify that such expenditures must be reported to the DOE and must include total operating costs and expenditures for instruction and instructional support services.

This section requires the DOE to:

- Categorize all public schools and districts into appropriate groups based primarily on average full-time equivalent (FTE) student enrollment as reported on the most recent student membership survey and in the state board rule to determine groups of peer schools and districts.
- Annually calculate the percentage of classroom expenditures to total operating cost expenditures for *each* public school, district, and for the entire state.

²⁷ Section 11.47(3), F.S. Any person who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper audit or examination which the Auditor General or the Office of Program Policy Analysis and Government Accountability is by law authorized to perform is guilty of a misdemeanor of the first degree. Section 11.47(4), F.S.

²⁸ Section 1010.20(1), F.S.

²⁹ *Id.* at (2)(a)-(b).

³⁰ *Id.* at (2)(c), F.S.

³¹ Section 1010.20(1)-(3), F.S.

- Annually calculate the *average* percentage of classroom expenditures to total operating cost and expenditures for *all* public schools, districts, and the state.
- Develop a web-based fiscal transparency tool that identifies public schools and districts that produce high academic achievement based on the ratio of classroom instruction expenditures to total expenditures. The fiscal transparency tool must combine this financial data with the student performance measurements calculated as part of Florida's value-added models³² to determine the financial efficiency of each public school and district. The results must be displayed in an easy-to-use format that enables the user to compare performance among public schools and districts.

Fiscal Transparency

School districts are required to account for expenditures for all state, local, and federal funds on a school-by-school and a district aggregate basis.³³

District School Board Budget Transparency (Sections 7, 12, and 14)

Present Situation

Each district school board must prepare, adopt, and submit an annual operating budget to the commissioner.³⁴ Estimated expenditures in a school district's tentative budget cannot exceed estimated income.³⁵ District expenditures must be limited to amount budgeted under the classification of accounts provided for each fund and to the total amount of the budget after the same have been amended as prescribed by law and rules of the state board.³⁶ However, a district school board may establish policies that allow expenditures to exceed the amount budgeted by function and object, provided that the district school board approves the expenditure and amends the budget within timelines established by school board policies.³⁷

Each district school board must post on its website a plain language version of each proposed, tentative, and official budget that describes each budget item in terms that are easily understandable to the public.³⁸ This information must be prominently posted on the school district's website in a manner that is readily accessible to the public.³⁹

Effect of Proposed Changes

Section 14 amends s. 1011.06, F.S., to require district school boards to approve budget amendments at the district school board's next scheduled public meeting. The district school board must provide a full explanation of the budget amendments at the public meeting.

³² Florida's value-added models are used to measure the contribution of a teacher or school to student learning growth. Florida Department of Education, *Florida's Value Added Models (VAM) Frequently Asked Questions*, available at <http://www.fldoe.org/teaching/performance-evaluation/>.

³³ Section 1010.20(1), F.S.

³⁴ Section 1011.01(3)(a), F.S.

³⁵ Section 1011.02(4), F.S.

³⁶ Section 1011.06(1), F.S.

³⁷ *Id.* at (2).

³⁸ Section 1011.035(2), F.S.

³⁹ *Id.*

Section 12 amends s. 1011.035, F.S., to expand the information that each district school board must prominently post on its website to add graphical representations, for each public school within the district and for the school district, of the following:

- Summary of financial efficiency data.
- Three-year fiscal trend information on:
 - The ratio of FTE students to FTE instructional personnel.
 - The ratio of FTE students to FTE administrative personnel.
 - The total operating expenditures per FTE student.
 - The total instructional expenditures per FTE student.
 - The general administrative expenditures as a percentage of total budget.
 - The rate of change in the general fund's ending fund balance not classified as restricted.

Section 7 amends s. 1001.42, F.S., to authorize an individual school board member to request and receive proposed, tentative, and official budget documents, including all supporting and background information.

General Funds Guidelines (Section 13 and 15)

Present Situation

The district school board must maintain a general fund ending fund balance that is sufficient to address normal contingencies.⁴⁰ If at any time the portion of the general fund's ending fund balance not classified as restricted, committed, or nonspendable in the district's approved operating budget is projected to fall below 3 percent of projected general fund revenues during the current fiscal year, the district school superintendent must provide written notification to the district school board and the Commissioner of Education.⁴¹

Effect of Proposed Changes

Section 13 amends s. 1011.051, F.S., to require the superintendent of a district school board that has an ending fund balance that falls below the 3 percent threshold for 2 consecutive years to reduce the district school board's administrative expenditures in proportion to the reduction in the general fund's ending balance or the reduction in student enrollment, whichever is greater. Section 15 amends s. 1011.09, F.S., to prohibit any district school board with an ending fund balance below the 3 percent threshold from making expenditures for travel outside of the district and other expenses enumerated in law, while the financial conditions exist.

Financial Emergency (Section 13 and 16)

Present Situation

District school boards are subject to review and oversight by the commissioner when the district is unable to timely pay current debts and liabilities.⁴² A district school board is in a state of financial emergency when the district is unable to timely pay current debts and liabilities and

⁴⁰ Section 1011.051, F.S.

⁴¹ *Id.* at (1).

⁴² Section 218.503(1), F.S.

state assistance is needed for corrective action.⁴³ While in a state of financial emergency, the Governor or the commissioner may implement measures which:⁴⁴

- Require commissioner approval of the district school board's budget;
- Prohibit a district school board from issuing debt;
- Require inspections and reviews of district school board records, reports and information;
- Establish a financial emergency board to oversee the activities of the district school board; and
- Require a plan of action that will cause the district school board to no longer be in a financial emergency.

Effect of Proposed Changes

Section 13 amends s. 1011.051, F.S., to require the DOE to contract with an independent third party to conduct an investigation of all accounts and records when the conditions of a financial emergency exist within a school district. The investigation must examine all accounts and records to determine the cause of the deficit, what efforts, if any, were made to avoid the deficit, and whether any of the conditions for malfeasance or misfeasance, as specified in law,⁴⁵ have occurred. The investigation must include a detailed review and analysis of documents and records, including, but not limited to, budget reports, journal entries, budget methodologies, staff e-mails, hard copy records, monthly financial statements, quarterly revenue and expenditure reports, finance staff job descriptions, and minutes from meetings. The results of the investigation must include recommendations for corrective action and controls to avoid a reoccurrence of a future budget shortfall. A final report must be provided to the district school board, the department, the Legislative Auditing Committee, and the district's financial emergency board, if applicable.

Section 16 amends s. 1011.10, F.S., to require the withholding of each district school board member's and district school superintendent's salaries if any of the financial emergency conditions specified in law exist, until such conditions are corrected. However, the salary withholding provision do not apply to a district school board member or district superintendent elected or appointed within 1 year after the identification of the financial emergency conditions if he or she did not participate in the approval or preparation of the final school district budget adopted before the identification of such conditions.

School District Minimum Classroom Expenditure Requirements (Section 18)

Present Situation

The Legislature may require any school district that fails to meet minimum academic performance standards to increase emphasis on classroom instruction activities from operating

⁴³ *Id.* at (1) and (3).

⁴⁴ *Id.* at (3)(a)-(h)1.

⁴⁵ Section 1011.10, F.S. Each member of any district school board voting to incur an indebtedness against the district school funds in excess of the expenditure allowed by law, or in excess of any appropriation as adopted in the original official budget or amendments thereto, or to approve or pay any illegal charge against the funds, and any chair of a district school board or district school superintendent who signs a warrant for payment of any such claim or bill of indebtedness against any of the funds shall be personally liable for the amount, and shall be guilty of malfeasance in office and subject to removal by the Governor.

funds, including, but not limited to, those provided for the operation of schools.⁴⁶ In determining the classroom expenditure requirement, the DOE is required to calculate the total K-12 operating and classroom instruction expenditures for each district and the percentage of classroom expenditures to total operating expenditures for each district and the state.⁴⁷ School districts required to increase emphasis on classroom activities must submit a final report to the DOE explaining proposed budget actions and the district's level of compliance with spending requirements.⁴⁸

Effect of Proposed Changes

Section 18 repeals s. 1011.64, F.S., regarding school district minimum classroom expenditure requirements. However, sections 8 and 12 require school districts to report additional classroom expenditures information.

Sections 10, 11, and 17 making conforming and cross-reference changes to correspond to the repeal of s. 1011.64, F.S.

Ethical and Other Fiscal Issues

Lobbying (Section 2)

Present Situation

A person who has been elected to any county, municipal, special district, or school district office may not personally represent another person or entity for compensation before the government body or agency of which the person was an officer for a period of 2 years after vacating that office.⁴⁹

Effect of Proposed Changes

Section 2 amends s. 112.313, F.S., to apply the restriction on lobbying for 2 years after vacating office to appointed school district superintendents,⁵⁰ which currently applies to locally elected school district officers.

District School Board Member Salary (Section 6)

Present Situation

Each member of the district school board must receive a base salary based on the population of the county the district school board member serves, as specified in law.⁵¹ In addition, compensation must be made for population increments over the minimum for each population

⁴⁶ Section 1011.64(1), F.S.

⁴⁷ *Id.* at 3(b)1.

⁴⁸ *Id.* at (4).

⁴⁹ Section 112.313(14), F.S.

⁵⁰ Currently, there are 26 appointed district school superintendents and 41 elected district school superintendents. Florida Department of Education, *Florida Public School Superintendents*, <http://www.fl DOE.org/accountability/data-sys/school-dis-data/superintendents.html> (last visited Feb. 18, 2018).

⁵¹ Section 1001.395(1), F.S.

group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate.⁵²

Effect of Proposed Changes

Section 6 amends s. 1001.395, F.S., to align school board member salaries with the beginning teacher salaries or the amount calculated by statute, whichever is less. In fiscal year 2016-17, the average salary for district school board member exceeded the beginning average salary for teachers in the following 12 of the 67 school districts in the state: Alachua (\$782), Broward (\$739), Dade (\$850), Duval (\$1,810), Hillsborough (\$3,554), Lee (\$1,525), Leon (\$434), Marion (\$528), Orange (\$1,091), Palm Beach (\$747), Pinellas (\$544), and Volusia (\$416).⁵³

District School Board Member Travel Expenses (Section 5)

Present Situation

Each district school board member is reimbursed for authorized travel expenses. Any travel outside the district must also be governed by the rules of the state board.⁵⁴

Effect of Proposed Changes

Section 5 amends s. 1001.39, F.S., to require prior approval by the district school board for reimbursement of out-of-district travel expenses that exceed \$500. The district school board must confirm that such travel is for official business of the school district and complies with the rules of the state board.

This section also requires the district school board to include a detailed itemized list of all anticipated travel expenses for any request for travel outside the state. The public must be provided an opportunity to speak on the specific travel agenda item.

Financial Disclosure Fines (Section 3)

Present Situation

The Commission on Ethics (COE) determines whether a person owing a public financial disclosure fine is a public officer or public employee.⁵⁵ If the COE determines that the person is a current public officer or public employee, the commission may notify the Chief Financial Officer or governing body of the amount owed.⁵⁶

Effect of Proposed Changes

Section 3 amends s. 112.31455, F.S., to:

- Add district school boards to the entities whom the COE may contact regarding owed fines.
- Require district school boards to withhold a specified amount of funding from employee salaries for fines for failure to timely file disclosure of financial interest.

⁵² *Id.*

⁵³ Email, Florida Department of Education (Feb. 19, 2018).

⁵⁴ Section 1001.39, F.S.

⁵⁵ Sections 112.3144(5) and (7), and 112.3145(7), F.S.

⁵⁶ Section 112.31455(1), F.S.

- Authorize district school boards to retain a portion of the withheld funds to cover administrative costs.

School District Personnel Policies (Section 19)

Present Situation

Except as otherwise provided by law or the State Constitution, district school boards may adopt rules governing personnel matters, including the assignment of duties and responsibilities for all district employees.⁵⁷ However, a district school board member may not employ or appoint a relative to work under the direct supervision of the district school board member.⁵⁸

Effect of Proposed Changes

Section 19 amends a. 1012.23, F.S., to specify that a district superintendent is prohibited from appointing or employing a relative, as specified in law, to work under his or her direct supervision. This section clarifies that this prohibition does not apply to employees appointed or employed before the election or appointment of a school board member or district school superintendent. The COE must accept and investigate any alleged violations of the prohibition against appointing or employing a relative.

Standards of Ethical Conduct (Section 7)

Present Situation

District school boards are required to adopt policies establishing standards of ethical conduct for instructional personnel and school administrators.⁵⁹ The policies must require all instructional personnel and school administrators to complete specific training, establish the duty of instructional personnel and school administrators to report, and procedures for reporting misconduct that affects the health, safety, or welfare of a student.⁶⁰ Current law prohibits district school boards, instructors, and administrators from entering into confidentiality agreements regarding termination, dismissal, or resignation based on specified misconduct.⁶¹ District school boards are prohibited from providing employment references or discussing the performance of instructors or administrators with prospective employers in another educational setting without disclosing misconduct.⁶² Any part of an agreement that conceals instructor or administrator misconduct is void.⁶³

Effect of Proposed Changes

Section 7 amends s. 1001.42, F.S., to extend the standards of ethical conduct to apply to administrative personnel and school officers. This section clarifies that such personnel and

⁵⁷ Section 1012.23(1), F.S.

⁵⁸ *Id.* at (2). The term “relative” includes father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister. Section 112.3135(1)(d), F.S.

⁵⁹ Section 1001.42(6), F.S.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

officers are subject to ethics standards, including training, reporting procedures, reference requirements and contract requirements.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 16 requires the salaries of school board members and the superintendent to be withheld if any of the conditions specified in s. 218.503(1), F.S. exists. The salary suspension continues until these conditions are corrected. The conditions specified in s. 218.503(1), F.S., are:

- Failure pay a short term loan or failure to make a bond debt service payment or other long-term debt payment during the fiscal year the payment is due, as a result of a lack of funds;
- Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of a lack of funds;
- Failure to transfer at the appropriate time, due to a lack of funds:
 - Taxes withheld on the income of employees or
 - Employer and employee contributions for social security or any retirement or benefit plan of an employee.
- Failure for one pay period to pay, due to lack of funds.

As constitutional officers, the school board members and the superintendent have legal rights to receive salary as long as they hold those offices and perform the requisite duties.^{64, 65}

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁶⁴ Section 111.045, F.S.

⁶⁵see *Flack v. Graham*, 453 So. 2d 819 (Fla. 1984).

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill appropriates \$850,000 in nonrecurring funds from the General Revenue Fund to the Department of Education (DOE) to implement this act. According to the DOE, the state costs of implementing the bill will require approximately \$250,000 in additional nonrecurring funds above the appropriation in the bill, and \$300,000 in additional recurring funds. Furthermore, the fiscal transparency provisions of the bill may impose significant costs to the school districts.⁶⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 112.313, 112.31455, 1001.20, 1001.39, 1001.395, 1001.42, 1010.20, 1010.30, 1011.01, 1011.03, 1011.035, 1011.051, 1011.06, 1011.09, 1011.10, 1011.60, and 1012.23.

This bill repeals section 1011.64 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on February 27, 2018:

The committee substitute specifies that the scope of the internal auditor must not be restricted and must include every functional and program area of the school system.

CS by Education on February 20, 2018:

The committee substitute maintains the substance of the bill with modifications to:

- Fiscal accountability requirements by:
 - Adding to the Auditor General’s (AG’s) duties, the requirement for the AG to contact each district school board with findings and recommendations contained within the AG’s previous operational audit report; and specifies compliance requirements for the district school boards.

⁶⁶ Email, Florida Department of Education (Feb 22, 2018).

- Requiring the Department of Education to contract with an independent third party to conduct an investigation, which must include specified review and analysis of documents and records.
- Fiscal transparency requirements by:
 - Authorizing an individual school board member to request proposed, tentative, and official budget documents, including all supporting and background information; and requiring such documents to be provided to such board member.
 - Providing that the salary withholding provision does not apply to a district school board member or district superintendent elected or appointed within 1 year after the identification of the specified financial conditions if he or she did not participate in the approval or preparation of the final school district budget adopted before the identification of such conditions.
 - Specifying prior approval by the district school board for reimbursement of out-of-district travel expenses that exceed \$500; and requiring a detailed itemized list of all anticipated travel expenses for any travel outside the state and additionally, requiring the public to be provided an opportunity to speak on the specific travel agenda item.
- Appropriates \$850,000 in nonrecurring funds from the General Revenue Fund to the DOE to implement this act.

B. Amendments:

None.