

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 443 Interscholastic and Intrасcholastic Activities

SPONSOR(S): Secondary Education & Career Development Subcommittee, Beltran

TIED BILLS: None **IDEN./SIM. BILLS:** SB 738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Secondary Education & Career Development Subcommittee	10 Y, 3 N, As CS	Wolff	Sanchez
2) Education & Employment Committee			

SUMMARY ANALYSIS

While maintaining the designation of the Florida High School Athletic Association (FHSAA) as the state's governing nonprofit athletic association for Florida public schools, the bill authorizes the Commissioner of Education (commissioner), with the approval of the State Board of Education (SBE), to approve other nonprofit athletic associations that public schools may join for interscholastic athletic competition. The bill defines "approved athletic association" as the FHSAA and other nonprofit athletic associations approved by the commissioner and the SBE. The bill requires nonprofit athletic associations to operate under a contract with the SBE. Prior to entering into a contract with an association, the SBE must annually review the associations bylaws, policies, and dues and fees for compliance with the law.

The bill requires approved athletic associations to comply with current law regarding organizational governance, student eligibility, and health and wellness for student extracurricular activities and athletics. The bill establishes that the bylaws of each approved athletic association in the state are the rules by which high school athletic programs and member schools are governed, unless statute provides otherwise. The bill establishes requirements relating to organizational governance, representation, and governance committees for select athletic associations.

The bill provides that any high school in the state, including private schools, traditional public schools, charter schools, virtual schools, and home education cooperatives, may become a member of an approved athletic association. Current law prohibits the FHSAA from denying or discouraging interscholastic competition between member and non-member schools and prohibits retributory or discriminatory action against member schools that participate in competition with non-FHSAA member schools. The bill applies these prohibitions to all approved athletic associations as well as allowing schools or home education cooperatives the option of full membership or by individual sport participation in the FHSAA and other approved athletic associations.

The bill expands the ability of home education program, Florida Virtual School full-time students, and private school students to participate in interscholastic and intrасcholastic activities and athletics. The bill also requires that students who transfer between schools during the school year be permitted to complete the interscholastic and intrасcholastic activities in which they participated at the school from which they transferred.

This bill does not appear to have a fiscal impact.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida High School Athletic Association

The Florida High School Athletic Association (FHSAA) is statutorily designated as the governing nonprofit organization for interscholastic athletics for grades 6 through 12 in Florida public schools.¹ Any high school, middle school, or combination school,² including charter schools, virtual schools, private schools, and home education cooperatives,³ may become a member of the FHSAA.⁴ However, membership in the FHSAA is not mandatory and the FHSAA must allow private schools the option of maintaining full membership or membership by sport.⁵ The FHSAA may not deny or discourage a private school from simultaneously maintaining membership in another athletic association.⁶ The FHSAA may allow public schools the option of applying for consideration to join another athletic association.⁷ The FHSAA is prohibited from denying or discouraging interscholastic competition between its member schools and non-FHSAA member schools in Florida and may not take discriminatory or retributory action against a member school that engages in interscholastic competition with non-FHSAA member schools.⁸

The FHSAA is required to adopt bylaws regulating student eligibility, recruiting, and member schools' interscholastic competition in accordance with applicable law.⁹ If the FHSAA fails to meet its obligations and responsibilities, the Commissioner of Education (commissioner) is directed to designate a nonprofit organization to manage interscholastic athletics with the approval of the State Board of Education (SBE).¹⁰

FHSAA Membership in the National Federation of State High School Associations

The FHSAA is a member of the National Federation of State High School Associations (NFHS).¹¹ NFHS is a nonprofit organization that provides leadership for the administration of high school athletics and activities by writing rules, publishing guidance materials, and offering educational courses for coaches, officials, student-athletes, parents, and school administrators.¹² The FHSAA requires that interscholastic athletic competitions involving its member schools adhere to the rules published by or approved by the NFHS.¹³ NFHS educational materials are available as resources and standards for individuals involved in interscholastic athletics. In particular, NFHS Learn Courses cover many topics, ranging from "Sudden Cardiac Arrest" to "Engaging Effectively with Parents" to "Student Mental Health and Suicide

¹ Section 1006.20(1), F.S.

² A "combination school" is any school that provides instruction to students in high school and the middle school grades; elementary, middle or high school grades combined; or elementary and middle grades combined (e.g. K-12; K-8; 6-12; or 7-12). Bylaw 3.2.2.3, FHSAA.

³ A "home education cooperative" is a parent-directed group of individual home education students that provides opportunities for interscholastic athletic competition to those students and may include students in grades 6-12. Bylaw 3.2.2.4, FHSAA.

⁴ Section 1006.20(1), F.S.

⁵ Section 1006.20(1), F.S.; Bylaws 3.2.1.4-5, FHSAA.

⁶ Section 1006.20(1), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ Section 1006.20(2), F.S.

¹⁰ Section 1006.20(1), F.S.

¹¹ Nate Perry, *State High School Associations Come in All Shapes and Sizes*, National Federation of State High School Associations (Jan. 14, 2020), <https://www.nfhs.org/articles/state-high-school-associations-come-in-all-shapes-and-sizes/> (last visited Jan. 24, 2022); National Federation of State High School Associations, *State Association Listing*, <https://www.nfhs.org/resources/state-association-listing> (last visited Jan. 24, 2022)

¹² National Federation of State High School Associations, *About Us*, <https://www.nfhs.org/who-we-are/aboutus> (last visited Jan. 24, 2022).

¹³ Bylaw 8.2.1, FHSAA. A two-thirds vote by the FHSAA Board of Directors may waive the requirement to utilize NFHS rules for a sport.

Prevention.”¹⁴ The FHSAA requires student-athletes and coaches to complete the following NFHS Learn courses: “Concussion in Sports,” “Concussion for Students,” “Heat Illness Prevention,” and “Sudden Cardiac Arrest.”¹⁵

Currently, no other Florida athletic associations are affiliate members of the NFHS.¹⁶ Florida law prohibits the FHSAA from unreasonably withholding its approval of an application submitted by another organization governing interscholastic athletic competition in the state that seeks to become an affiliate member of the NFHS.¹⁷

School Membership in the FHSAA

Qualifications, contained in the FHSAA bylaws, for an accredited Florida secondary school, registered with the DOE, to attain membership in the FHSAA include, but are not limited to:¹⁸

- The school’s governing body approving the school’s membership in the FHSAA and adopting the FHSAA bylaws each year as the rules governing interscholastic athletic programs;
- Paying dues and fees required of member schools;
- Maintaining the insurance coverage required of member schools; and
- Being elected by the FHSAA Board of Directors for FHSAA membership.

The FHSAA Board of Directors approves schools or home education cooperatives for initial and continuing membership in the Association, adopts and amends administrative regulations for FHSAA programs, and serves as the Association’s highest appellate authority.¹⁹

The FHSAA lists the privileges of full membership as including competing in FHSAA championships, voting in Association elections, seeking election to positions in FHSAA governance, and applying and serving as hosts of multi-school events.²⁰ Participation in the Florida High School State Championship Series is limited to senior high schools, combination schools, and home education cooperatives with full membership in the FHSAA.²¹ Participation is voluntary in the Florida High School State Championship, however, the FHSAA Board of Directors’ preference is that all eligible schools participate.²² The FHSAA does provide an option for member schools to exercise independent status for “legitimate reasons”²³ but expressly states that this status is not intended as a vehicle for schools to organize in protest of the FHSAA’s policies or establish a postseason championship separate from the Florida High School State Championship Series.²⁴ The FHSAA requires any independent status member schools to receive the FHSAA Board of Directors’ approval for any championship playoff occurring after the conclusion of the FHSAA-approved regular season.²⁵

Student Extracurricular Activities and Athletics

¹⁴ National Federation of State High School Associations Learning Center, *Courses*, <https://nfhslearn.com/courses> (last visited Jan. 24, 2022).

¹⁵ Florida High School Athletic Association, *NFHS Resources*, https://fhsaa.com/sports/2020/5/1/NFHS_Resources.aspx (last visited Jan. 24, 2022); Policies 40.1.1, 41.1.1 and 42.1.1, FHSAA.

¹⁶ The largest, most comprehensive organization governing high school sports in a state is a “member” of NFHS and other state associations may join NFHS as “affiliate associations.” Nate Perry, *State High School Associations Come in All Shapes and Sizes*, National Federation of State High School Associations (Jan. 14, 2020), <https://www.nfhs.org/articles/state-high-school-associations-come-in-all-shapes-and-sizes/> (last visited Jan. 24, 2022); National Federation of State High School Associations, *State Association Listing*, <https://www.nfhs.org/resources/state-association-listing> (last visited Jan. 24, 2022) (Click “NFHS Affiliate Associations”).

¹⁷ Section 1006.20(1), F.S.

¹⁸ Bylaw 3.3.1, FHSAA. Similar qualifications and conditions apply to home education cooperatives seeking to become members in the FHSAA. Bylaw 3.3.2, FHSAA.

¹⁹ Section 1006.20(4)(e), F.S.; Bylaws 3.7 and 4.3.2, FHSAA.

²⁰ Bylaw 3.9.1, FHSAA.

²¹ Bylaws 8.7.1.1, FHSAA; Policy 10.1.1, FHSAA.

²² Policy 10.1.2, FHSAA.

²³ The FHSAA policies outline legitimate reasons as including, but not limited to, a newly opened school, consistent inability to compete in the assigned FHSAA classification, geographic isolation that creates financial burdens for participation, educational philosophies that prohibit extended athletic participation, and religious reasons preventing competition. Policy 10.1.3, FHSAA.

²⁴ Policy 10.1.3, FHSAA.

²⁵ *Id.*

Florida law outlines numerous standards and requirements relating to student extracurricular activities and athletics.²⁶ Current law provides that “eligible to participate,” for purposes of extracurricular activities and athletics, includes a student participating in tryouts, off-season conditioning, summer workouts, preseason conditioning, in-season practice, or contests.²⁷ Additionally, a student must satisfy the following requirements to be deemed eligible to participate:²⁸

- Maintain a grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the previous semester or a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required for a standard high school diploma.
- Execute and fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student’s parents, if the student’s cumulative grade point average falls below 2.0, or its equivalent, on a 4.0 scale in the courses required for a standard high school diploma.²⁹
- Have a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required for a standard high school diploma during their junior or senior year.
- Maintain satisfactory conduct, including adherence to appropriate dress and other codes of student conduct.³⁰

Any student who is exempt from attending a full school day based on rules adopted by the district school board must maintain the grade point average required of full school day students and pass each class for which he or she is enrolled.³¹

Any entity that governs interscholastic extracurricular activities of public schools is prohibited from discriminating against any eligible student based on their education choice of public, private or home education.³² No public school may join an organization that regulates interscholastic activities and discriminates against otherwise eligible students in public, private, or home education.³³

Home Education Student’s Participation in Extracurricular Activities

Students participating in a home education program may be eligible to participate in extracurricular activities at a Florida’s public school or a private school.³⁴ Current law permits a home education program student to participate at the public school to which the student would be assigned according to district school board attendance area policies, any public school that the student could choose to attend pursuant to Florida’s controlled open enrollment processes, or a private school, subject to an agreement with that private school.³⁵ A home education program student’s participation is subject to following conditions:³⁶

- The home education student satisfies the requirements of Florida’s home education program.
- During the period of participation at a school, the home education student demonstrates educational progress.
- The home education student meets the same residency requirements as other students in the school at which he or she participates.

²⁶ See Chapter 1006, Part 1, Section D, F.S.

²⁷ Section 1006.15(3)(a), F.S.

²⁸ *Id.*

²⁹ Any such academic performance contract must, at a minimum, require that the student attend summer school between grades 9 and 10 or grades 10 and 11, as appropriate. Section 1006.15(3)(a)2., F.S.

³⁰ Continued participation in extracurricular activities by a student convicted of felony or a delinquent act that would be a felony if committed by an adult, regardless of whether adjudication is withheld, shall be governed by published school district policies. Section 1006.15(3)(a)4., F.S.

³¹ Section 1006.15(3)(b), F.S. Examples of such programs include double session schools or programs, experimental schools, or schools operating under emergency conditions.

³² Section 1006.15(5), F.S.

³³ Section 1006.15(6), F.S.

³⁴ Section 1006.15(3)(c), F.S.

³⁵ *Id.*

³⁶ *Id.*

- The home education student meets the same standards of acceptance, behavior, and performance as required of other students in extracurricular activities.
- The student registers with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation.³⁷

Florida Virtual School Student's Participation in Extracurricular Activities

A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to Florida's controlled open enrollment processes, if the student:³⁸

- During the period of participation at the school, meets the grade point average and student conduct requirements generally required for students to be "eligible to participate."
- Meets any requirements established by the board of trustees of the Florida Virtual School.
- Meets the same residency requirements as other students in the school at which he or she participates.
- Meets the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.
- Registers his or her intent to participate in interscholastic extracurricular activities with the school before participation.³⁹

Transfer Student's Participation in Extracurricular Activities

A student who transfers to a school during the school year may seek to immediately participate in an extracurricular activity if the roster for the activity has not reached its maximum size and if the coach or sponsor for the activity determines that the student has the requisite skill and ability to participate. The FHSAA and school district or charter school may not declare such a student ineligible because the student did not have the opportunity to comply with established qualifying requirements.⁴⁰

With regard to eligibility for participation in sports, a transfer student may not participate in a sport if he or she participated in that same sport at another school during that school year, except when the student is:⁴¹

- A dependent child of active duty military personnel whose move resulted from military orders.
- A child who was relocated due to a foster care placement in a different school zone.
- A child who moved due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent.
- Authorized to participate for good cause in district or charter school policy.

Private School Student Participation in Interscholastic Athletics

The FHSAA and member school districts are required to establish a program through which private school students may participate in interscholastic sports at public schools.⁴² A private school student shall be eligible to participate in interscholastic athletics at the public middle school, public high school or public 6-12 school for which they would be assigned by the local school district or at any public school that the student could attend pursuant to Florida's controlled open enrollment processes if the private school that he or she attends is not a member of the FHSAA and he or she meets the guidelines for such participation established by the FHSAA and the district school board.⁴³ Each academic year, a

³⁷ The school at which the home education program student participates in an extracurricular activity must permit the student to participate in any curricular activities necessary for full participation in the extracurricular activity. Section 1006.15(3)(c)5., F.S.

³⁸ Section 1006.15(3)(e), F.S.

³⁹ The school at which the Florida Virtual School student participates in an extracurricular activity must permit the student to participate in any curricular activities necessary for full participation in the extracurricular activity. Section 1006.15(3)(e)5., F.S.

⁴⁰ Section 1006.15(9)(a), F.S.

⁴¹ Section 1006.15(9)(b), F.S.

⁴² Section 1006.15(8), F.S.

⁴³ Section 1006.15(8)(a), F.S.

student participating in this program may only participate at the public school where the student first registers or makes himself or herself a candidate for an athletic team by engaging in a practice.⁴⁴

The private school the participating student attends is required to share any of the participating student's education records necessary for the operation of the program with the FHSAA, upon request.⁴⁵ The athletic director at the public school where the private school student participates is required to maintain any necessary education records.⁴⁶

Only students attending private schools that are not members of the FHSAA and that have 125 or fewer students are authorized to participate in this program.⁴⁷ Eligible students must apply using the FHSAA application process.⁴⁸ The parents of a participating student are responsible for transporting the student to and from the public school at which he or she participates.⁴⁹

Responsibilities of the FHSAA

Among the provisions relating to student extracurricular activities and athletics, there are student eligibility, governance, transparency, and student-athlete health requirements specifically for the FHSAA. Florida law establishes that the FHSAA retains jurisdiction over school membership in the FHSAA; recruiting prohibitions and violations; student medical evaluations; investigations; sanctions for coaches; school eligibility and forfeiture of competitions; student concussions and head injuries; the sports medical advisory committee; and the general operational provisions of the FHSAA.⁵⁰ However, the FHSAA's implementation of these provisions may not contradict statutory requirements regarding district school boards' and charter schools' responsibilities in determining student eligibility for extracurricular participation.⁵¹

Regarding governance, the FHSAA is required to adopt bylaws outlining requirements for student eligibility, recruiting violations, investigations, and appeals.⁵² The FHSAA is also required to establish two committees: the Sports Medicine Advisory Committee (SMAC) and the Public Liaison Advisory Committee, which acts as a conduit for the general public to provide input in the FHSAA's decisions and conducts annual evaluations of the FHSAA.⁵³

Student-Athlete Health & Wellness

Florida law requires the FHSAA to adopt bylaws mandating that all students planning to participate or who are participating in interscholastic athletic competition pass a medical evaluation each year before engaging in any physical activity related to interscholastic athletics (including conditioning, tryouts, practices, and competition).⁵⁴ The medical evaluation, administered by a licensed practitioner⁵⁵ in good standing, must collect information on the student-athlete's medical history and include a physical assessment.⁵⁶ The medical evaluation form must incorporate recommendations from the American Heart

⁴⁴ Section 1006.15(8)(c), F.S.

⁴⁵ Section 1006.15(8)(e), F.S.

⁴⁶ Section 1006.15(8)(d), F.S.

⁴⁷ Section 1006.15(8)(g), F.S.

⁴⁸ Section 1006.15(8)(f), F.S.

⁴⁹ Section 1006.15(8)(b), F.S. Additionally, this provision shields the FHSAA, the public school at which the student is participating, district school board operating the school, and the private school the student attends from civil liability for any injuries that occur during such transportation.

⁵⁰ Section 1006.195(2)(a), F.S.

⁵¹ *Id.*

⁵² Section 1006.20(2) and (7), F.S.

⁵³ Section 1006.20(2)(m) and (6), F.S.

⁵⁴ Section 1006.20(2)(c), F.S.

⁵⁵ Licensed practitioners include medical practitioners licensed pursuant to Chapter 458, F.S., osteopathic practitioners licensed pursuant to Chapter 459, F.S., chiropractic practitioners licensed pursuant to Chapter 460, F.S., and advanced registered nurse practitioners licensed pursuant to s. 464.012, F.S. or s. 464.0123, F.S. Section 1006.20(2)(c), F.S.

⁵⁶ Section 1006.20(2)(c), F.S.

Association about participation in cardiovascular screening.⁵⁷ A student is not eligible to participate in any physical activity relating to interscholastic athletics until the school has received and approved the medical evaluation results.⁵⁸

In recognition of potential risks for student-athletes engaging in athletic competition, the FHSAA is also required to provide various educational guidelines and to implement safeguards to promote the safety and well-being of student-athletes. The FHSAA must adopt guidelines to educate coaches, officials, administrators, student-athletes, and parents about concussions and head injuries and provide protocols for the immediate removal of student-athletes suspected of sustaining a head injury or concussion from the activity or competition.⁵⁹ The law prohibits a student-athlete who is removed from an activity for a suspected or sustained concussion from returning to practice or competition until the student provides the school with written medical clearance from an appropriate health care practitioner.⁶⁰ Florida law requires the FHSAA, or its successor organization, to adopt the NFHS “Official High School Spirit Rules” as the statewide uniform safety standards for student cheerleaders and spirit groups.⁶¹

Given concerns regarding student-athlete health and high Florida temperatures and humidity, the FHSAA must provide member schools with a number of safety guidelines and requirements including training and materials for effective monitoring of heat stress, guidelines for when a cooling zone is required,⁶² and hydration guidelines for student-athletes.⁶³ Florida law also requires all FHSAA member public schools to have an operational automated external defibrillator (AED) available in a clearly marked, publicized location for all athletic contests, practices, workouts, and conditioning sessions.⁶⁴ Beginning June 1, 2021, a school employee or volunteer trained in cardiopulmonary resuscitation and use of an AED must be present at athletic activities, including competitions, practices, workouts, and conditioning sessions.⁶⁵

The FHSAA is also required to establish SMAC, comprised of physicians, other medical professionals, athletic trainers, and a current or retired coach.⁶⁶ SMAC is funded and provided staff support by the FHSAA.⁶⁷ Committee members are appointed by the FHSAA Executive Director and SMAC is required to meet at least once annually.⁶⁸ SMAC reviews the FHSAA’s interscholastic athletic program and makes recommendations on student-athlete safety and other health-related issues.⁶⁹

Other Florida Athletic Associations

Although FHSAA is the largest school athletic association in Florida, other associations are in operation and oversee their respective member schools’ athletics and interscholastic competitions.⁷⁰ These associations primarily serve private and independent schools but some of the associations’ school memberships are growing to include more public schools and sanctioned sports that may overlap or differ

⁵⁷ *Id.*

⁵⁸ *Id.* If a parent objects, in writing, to the medical evaluation based on it being contrary to their religious tenets or practices, then a student may participate in athletics despite not undergoing the medical evaluation. Section 1006.20(2)(d), F.S.

⁵⁹ Section 1006.20(2)(j)-(k), F.S.

⁶⁰ Section 1006.20(2)(l), F.S. Medical clearance must be authorized by a health care practitioner trained in the diagnosis, evaluation, and management of concussions as defined by the FHSAA Sports Medicine Advisory Committee. Section 1006.20(2)(l), F.S.

⁶¹ Section 1006.18, F.S.

⁶² At minimum, cooling zones must provide immediate availability of cold-water immersion tubs or an equivalent means of rapidly cooling internal body temperature under the supervision of a trained employee or volunteer. Section 1006.165(2)(a)5., F.S.

⁶³ Section 1006.165(2), F.S.

⁶⁴ Section 1006.165(1)(a), F.S.

⁶⁵ Section 1006.165(1)(b), F.S.

⁶⁶ Section 1006.20(2)(m), F.S.

⁶⁷ *Id.*; Policy 19.7.1, FHSAA.

⁶⁸ Policy 19.7.1-2, FHSAA.

⁶⁹ Policy 19.7.2, FHSAA.

⁷⁰ See Sunshine State Athletic Conference, *Our Members*, <https://www.sunshinestateathletics.com/page/show/5114535-our-members> (last visited Jan. 24, 2022); Florida Independent Christian Athletic Association, *Regions & Members*, <https://fcaa.org/members> (last visited Jan. 24, 2022); Florida Independent High School Athletic Association, *School Links*, <https://fihxaa.org/schools/> (last visited Jan. 24, 2022); Sunshine Independent Athletic Association, <https://www.siaa1.com/> (last visited Jan 24, 2022) (click “Member Schools” in menu).

from the FHSAA.⁷¹ The overlap between the FHSAA sanctioned sports and the sports offered by other associations, as well as the sanctioning of new sports formerly unique to a particular association, can cause membership and oversight questions for schools and athletic associations.⁷² For example, prior to 2020, the Sunshine State Athletic Commission (SSAC) was the primary association sanctioning women's sand volleyball and running an official league.⁷³ In June 2020, the FHSAA Board of Directors voted to recognize⁷⁴ sand volleyball as a spring sport beginning in the 2021-2022 school year.⁷⁵ This presents potential conflicts for schools formerly participating in the SSAC sand volleyball league and their simultaneous memberships in the FHSAA as it relates to eligibility to continue playing in alternative leagues and retaining FHSAA championship eligibility in other sports.

Because Florida law recognizes the FHSAA as the governing nonprofit organization of athletics in Florida public schools,⁷⁶ other associations operating in Florida may voluntarily implement student-athlete safety, fair play and governance transparency provisions. However, these other associations are not required to do so nor is there a statutorily designated mechanism monitoring other associations' compliance with the provisions specifically required of the FHSAA. There appears to be some variation among other athletic associations regarding the provisions regarding student-athlete health and wellness requirements for their respective member schools and student-athletes.⁷⁷ These associations are subject to statutory provisions pertaining to all athletic associations in the state, such as permitting athletic associations to purchase insurance or self-insure to cover student athletes engaging in extracurricular activities.⁷⁸

Other States' Multi-Association Formats

Other states have a variety of structures and formats for athletic associations and the governance of interscholastic athletic competition. At least 12 states have more than one state-based association for governing high school sports and activities.⁷⁹ The rationales for division in governance vary but most are based on different oversight bodies for athletic competitions in independent schools, private schools, and public schools.⁸⁰ Notably, California and New York employ a federation format, in which sections retain some autonomy in regulation but still must comply with overarching federation rules and standards.⁸¹

⁷¹ See Sunshine State Athletic Conference, *About Us*, <https://www.sunshinestateathletics.com/page/show/5084878-about-us> (last visited Jan. 24, 2022).

⁷² See Florida High School Athletic Association, <https://fhsaa.com/index.aspx> (last visited Jan. 24, 2022) (Click "Sports" in menu); Sunshine State Athletic Conference, *Sports*, <https://www.sunshinestateathletics.com/page/show/5084880-sports> (last visited Jan. 24, 2022); Florida Independent Christian Athletic Association, *Sports*, <https://fcaa.org/sports> (last visited Jan. 24, 2022); Florida Independent High School Athletic Association, *Sports Offered*, <https://fihhsaa.org/sports/> (last visited Jan. 24, 2022).

⁷³ See Adam Regan, *FHSAA approves girls wrestling, sand volleyball as varsity sports for 2021-2022 school year*, Fort Meyers News-Press, June 9, 2020, <https://www.news-press.com/story/sports/high-school/2020/06/09/fhsaa-approves-girls-wrestling-sand-volleyball-start-2021-2022-school-year/5327586002/> (last visited Jan. 24, 2022).

⁷⁴ The FHSAA defines "recognized sports" as those that must abide by Association bylaws, rules, and contest regulations in regards to student eligibility and sportsmanship. Bylaw 8.5.1.1, FHSAA. "Sanctioned sports" may be subject to stricter guidelines. Bylaw 8.5.1.2, FHSAA. FHSAA recognized and sanctioned sports may be eligible for Florida High School State Championship Series dependent upon the FHSAA Board of Directors' determination. Bylaw 8.7.1, FHSAA.

⁷⁵ Adam Regan, *FHSAA approves girls wrestling, sand volleyball as varsity sports for 2021-2022 school year*, Fort Meyers News-Press, June 9, 2020, <https://www.news-press.com/story/sports/high-school/2020/06/09/fhsaa-approves-girls-wrestling-sand-volleyball-start-2021-2022-school-year/5327586002/> (last visited Jan. 24, 2022).

⁷⁶ Section 1006.20(1), F.S.

⁷⁷ See Sunshine State Athletic Association, *Athletic Participation Form (AP-1) 2020-2021*, available at https://cdn3.sportngin.com/attachments/document/008a-2485169/2021-2022_AP-1_form.pdf#_ga=2.245701956.1992349238.1642018198-977287549.1642018197 (last visited Jan. 24, 2022); Florida Independent High School Athletic Association, *Florida Independent High School Athletic Association Manual 2020-2021*, at 11-16, available at <https://fihhsaa.files.wordpress.com/2020/03/fihhsaa2.pdf> (last visited Jan. 24, 2022); Bylaws 6.1.3.1, 8.1-5, 9.7 and 9.8.1, Sunshine Independent Athletic Association, available at <https://drive.google.com/file/d/1O03uZ7621B932jXiVO966O6oDagXakQA/view> (last visited Jan. 24, 2022); Florida Independent Christian Athletic Association, *2019-2020 School Year Athletic Manual*, at 7, 14-16, available at <https://fcaa.org/manual> (last visited Jan. 24, 2022).

⁷⁸ See Section 1006.16, F.S.

⁷⁹ Nate Perry, *State High School Associations Come in All Shapes and Sizes*, National Federation of State High School Associations (Jan. 14, 2020), <https://www.nfhs.org/articles/state-high-school-associations-come-in-all-shapes-and-sizes/> (last visited Jan. 24, 2022).

⁸⁰ *Id.*

⁸¹ *Id.*

Texas has four organizations governing private schools' interscholastic athletics and the University Interscholastic League, which is primarily comprised of public schools and open enrollment charter schools.⁸²

Effect of Proposed Changes

Florida Athletic Associations

The bill authorizes the commissioner, with the approval of the SBE, to approve other nonprofit athletic associations that public schools may join for interscholastic athletic competition. The bill defines "approved athletic association" as the FHSAA and other nonprofit athletic associations approved by the commissioner and the SBE. The bill requires nonprofit athletic associations to operate under a contract with the SBE. Prior to entering into a contract with an association, the SBE must annually review the associations bylaws, policies, and dues and fees for compliance with the law.

The bill requires all approved athletic associations and their member schools to meet governance, fair play, and student health and wellness requirements, outlined in ss. 1006.15-1006.19, F.S., which formerly applied just to the FHSAA. However, no public school may maintain membership in or pay dues or fees to any athletic association that is not operated in accordance with a contract with the SBE. The bill provides that the FHSAA and other approved athletic associations are not state agencies as defined in s. 120.52, F.S. The bill establishes that the bylaws of each approved athletic association in the state are the rules by which high school athletic programs and member schools are governed, unless statute specifically provides otherwise.

The bill prohibits the FHSAA from unreasonably withholding its approval of an approved athletic association's application to become an affiliate member of the NFHS.

School Membership in Approved Athletic Associations

The bill provides that any high school in the state, including private schools, traditional public schools, charter schools, virtual schools, and home education cooperatives, may become a member of an approved athletic association. The bill establishes that membership in an association is not mandatory for any school. The bill requires approved athletic associations to allow any school or cooperative the option of maintaining full membership or joining by sport. The bill prohibits approved athletic associations from discouraging any school or cooperative from simultaneously maintaining membership in another approved athletic association.

The bill also prohibits an approved athletic association from denying or discouraging interscholastic competition between its member schools and nonmember Florida schools, including the member schools of another approved athletic association. Approved athletic associations may not take retributory or discriminatory action against its member schools that participate in competition with nonmember Florida schools.

Governance & Student Eligibility of Approved Athletic Associations

The bill requires all approved athletic associations to adopt bylaws establishing eligibility for student participation, prohibiting recruitment of students for athletics purposes, and outlining an appeals process for athletic recruitment violations and eligibility rulings. Approved athletic associations must also adopt bylaws regulating investigations on behalf of the association and establishing sanctions for coaches who have committed major violations of the association's bylaws and policies.

The bill provides that approved athletic associations retain jurisdiction over school membership; recruiting prohibitions and violations; student medical evaluations; investigations; sanctions for coaches; school eligibility and forfeiture of competitions; student concussions and head injuries; and the general operational provisions of the association. However, the associations' implementation of these provisions

⁸² *Id.*

may not contradict statutory requirements regarding district school boards' and charter schools' responsibilities in determining student eligibility for extracurricular participation.

The bill preserves the following statutorily designated membership structures as solely requirements for the FHSAA: specified representative composition of the board of directors; establishing and supporting a public liaison advisory committee; and establishing and supporting a sports medicine advisory committee. Other approved athletic associations are not required to comply with these statutorily designated membership structures.

Student Extracurricular Activities and Athletics

The bill authorizes an otherwise eligible home education student to participate in interscholastic or interscholastic activities at any public school in the school district in which the student resides or at any school they could attend through controlled open enrollment. Similarly, the bill authorizes an otherwise eligible Florida Virtual School full-time student to participate in interscholastic or interscholastic activities at any public school in the school district in which the student resides or at any school they could attend through controlled open enrollment. However, in both cases, the student's participation is contingent on the roster for the activity not having reached its maximum size and the coach or sponsor of the activity determining that the student has the requisite skill and ability to participate.

The bill expands the program governing a private school student's participation in interscholastic sports. Any approved athletics association's program must be designed to permit an otherwise eligible private school student to participate in sports at any member public school or member private school, as appropriate for the student's grade level. The student's participation is contingent on the roster for the sport not having reached its maximum size and the coach determining that the student has the requisite skill and ability to participate. The bill retains the requirement that the student attend a private school with 125 or fewer students to be eligible for the program.

The bill protects a transfer student's ability to complete the activities in which they participated prior to transferring from a public school. When a student participating in an interscholastic or interscholastic activity transfers from a public school, he or she must be permitted to continue participating in that activity, at the school from which they transferred, until the end of the school year if:

- During the period of participation, the student continues to meet all of the general eligibility requirements related to grade point average, academic progress, and compliance with codes of student conduct.
- The student continues to meet the same standards of acceptance, behavior, and performance that are required of other participants, except for enrollment requirements at the school at which the student participates.
- The parents of the student provide transportation to and from the school at which the student participates.

Student Health and Wellness

The bill requires all approved athletic associations to adopt bylaws adhering to statutory requirements for pre-participation medical evaluations: mandating that all students planning to participate or participating in interscholastic athletic competition must pass a medical evaluation each year before engaging in any physical activity related to interscholastic athletics (including conditioning, tryouts, practices, and competition). Approved athletic associations must implement an evaluation and school approval process that adheres to processes set out in current law.

In recognition of potential risks for student-athletes engaging in athletic competition, the bill requires approved athletic associations to provide various educational guidelines and to implement safeguards to promote the safety and well-being of student-athletes. Approved athletic associations must adopt guidelines and policies to educate coaches, officials, administrators, student-athletes, and parents about concussions and head injuries and provide protocols governing the removal and re-entry of student-athletes suspected of sustaining a head injury or concussion from the activity or competition.

The bill requires all approved athletic associations to adopt the NFHS “Official High School Spirit Rules” as the statewide uniform safety standards for student cheerleaders and spirit groups, if applicable.

All approved athletic associations must also provide member schools with a number of safety guidelines and requirements including training and materials for effective monitoring of heat stress, guidelines and requirements for implementing cooling zones, requiring member schools to monitor heat stress and modify activities accordingly, providing hydration guidelines for student-athletes, and requiring member schools’ emergency action plans to include student-athlete cooling procedures.

The bill requires all public schools that are members of an approved athletic association to have an operational automated external defibrillator (AED) available in a clearly marked, publicized location for all athletic contests, practices, workouts, and conditioning sessions.

B. SECTION DIRECTORY:

Section 1. Amends s. 1006.20, F.S., providing for the approval of athletic associations that meet certain requirements; providing a definition; requiring certain athletic associations to operate under a contract with the State Board of Education; requiring the State Board of Education to annually review specified information of such athletic associations; providing that private schools and traditional public schools are considered high schools for specified purposes; prohibiting public schools from maintaining memberships in or paying dues or fees to certain athletic associations; providing that approved athletic associations are subject to certain requirements; requiring approved athletic associations to adopt certain bylaws; requiring approved athletic associations to establish a certain appeals process.

Section 2. Amends s. 1006.15, F.S., authorizing home education students, Florida Virtual School students, and private school students to participate in interscholastic and intrascholastic activities at certain schools; revising the requirements for such students to participate in such activities; providing for the continued participation in such activities by certain students who transfer from a public school; conforming cross-references and provisions to changes made by the act.

Section 3. Amends s. 768.135, F.S., conforming cross-references and provisions to changes made by the act.

Section 4. Amends s. 1002.20, F.S., conforming cross-references and provisions to changes made by the act.

Section 5. Amends s. 1002.42, F.S., conforming cross-references and provisions to changes made by the act.

Section 6. Amends s. 1006.165, F.S., conforming cross-references and provisions to changes made by the act.

Section 7. Amends s. 1006.18, F.S., conforming cross-references and provisions to changes made by the act.

Section 8. Amends s. 1006.195, F.S., conforming cross-references and provisions to changes made by the act.

Section 9. Amends s. 1012.468, F.S., conforming cross-references and provisions to changes made by the act.

Section 10. Amends s. 1012.795, F.S., conforming cross-references and provisions to changes made by the act.

Section 11. Amends s. 1012.796, F.S., conforming cross-references and provisions to changes made by the act.

Section 12. Provides an effective date.

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:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 27, 2022, the Secondary Education & Career Development Subcommittee adopted a proposed committee substitute (PCS) as amended and reported the bill favorably as a committee substitute. The PCS differs from HB 443 by:

- Authorizing a home school and Florida Virtual School student to participate in interscholastic and interscholastic activities at any school in the school district in which he or she resides or at any school he or she could attend through controlled open enrollment.
- Clarifying that a private school student is authorized to participate in athletics at another private school that is a member of an association.
- Requiring that transfer students be permitted to participate, for the remainder of the school year, in the activities in which they participated prior to transfer.
- Requiring the State Board of Education (SBE) to enter into a contract with each approved athletic association after reviewing, at least annually, the bylaws, policies, and dues and fees of the association for compliance with the law.
- Prohibiting any public school from maintaining membership in or paying dues or fees to any athletic association that is not operated under a contract with the SBE.

The bill analysis is drafted to the committee substitute adopted by the Secondary Education & Career Development Subcommittee.