

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 Fiscal Policy

BILL: CS/SB 1386

INTRODUCER: Appropriations Committee on Education; Senator Perry; and others

SUBJECT: Florida School for Competitive Academics

DATE: April 19, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Gray</u>	<u>Elwell</u>	<u>AED</u>	Fav/CS
3.	<u>Bouck</u>	<u>Yeatman</u>	<u>FP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1386 establishes the Florida School for Competitive Academics (FSCA) as a public school in Alachua County for students in grades 6-12, to be admitted starting in the 2024-2025 school year. The school is intended to provide a rigorous academic curriculum, and to prepare students for regional, state, and national academic competitions in all areas of study, including, but not limited to, science, technology, engineering, and mathematics.

The bill establishes a board of trustees to govern the FSCA, appointed by the Governor and confirmed by the Senate. The board of trustees is authorized to manage, maintain, support, and control the FSCA. Specific authority includes, but is not limited to, admissions, personnel, purchasing, school safety, budgets, and records.

The FSCA is exempted from Florida Statutes in the same manner as charter schools, and is subject to financial and operational audits by the Auditor General in the same manner as other public educational institutions.

Funding for the FSCA will be as specified in the General Appropriations Act.

The bill takes effect on July 1, 2023.

II. Present Situation:

Buchholz High School (BHS) in Alachua County has won 14 national championship in 15 years at the National Mu Alpha Theta Competition. The Mu Alpha Theta currently has more than 100,000 members across 2,420 schools in the United States and in 23 Foreign Countries.¹ The BHS team broke records by winning a total of 304 trophies, with many of the team members earning first-place awards. The team has taken first place in 32 out of 39 national competitions.²

Walt Frazer, the coach of the BHS team, believes in competition. He refuses to call the Buchholz math students a club because he wants them to think of themselves as a team. “A club is a social organization,” he said. “A team comes together to win.” And he was out to win. He believes the pipeline for the high school’s math team must begin long before students reach high school, so Mr. Frazer searches for prospects in elementary school and steers them to accelerated math classes in middle school. The mathletes who try out for the team and make the cut are combined into one class section and fly through competitive algebra, geometry and calculus during the school day. “I cover everything the state wants me to cover,” he said. “But there is no restriction on covering extra material.”³

Advanced Academic Public Schools

Florida offers a number of public school options for academically talented students, for example:

- The **Pine View School**, established in 1969 in Sarasota County, serves intellectually gifted students in grades 2-12. Its mission is to provide a qualitatively different learning environment that nurtures a passion for intellectual curiosity, encourages risk taking, independence and innovation, and is committed to a tradition of academic excellence and social responsibility. Children are admitted based on a series of tests, recommendations and other pertinent admissions data. These are reviewed by a committee of teachers and other personnel. The basic curriculum conforms to local and state requirements as expressed in accreditation standards and the officially approved programs of studies.⁴
- **Stanton College Preparatory School** opened in 1981 in Duval County as the district’s first magnet school. The school serves grades 9-12, with a mission to provide a rigorous academic program of all advanced academic courses supplemented by philanthropic, artistic, and forensic activities. Stanton consistently ranks first in the county and in the top three in the state for the number of National Merit Semi-Finalists.⁵
- **The School for Advanced Studies (SAS)** is a nationally recognized collegiate high school of excellence, a combined effort between Miami-Dade County Public Schools and Miami

¹ Mu Alpha Theta, the National High School and Two-Year College Mathematics Honor Society is dedicated to inspiring a keen interest in mathematics, developing strong scholarship in the subject, and promoting the enjoyment of mathematics 2 Mu Alpha Theta, *About Us*, <https://mualphatheta.org/about-us> (last visited Mar. 16, 2023).

² The Gainesville Sun, *Buchholz High School takes home 14th national math championship win in 15-year span*, <https://www.gainesville.com/story/news/2022/07/19/buchholz-high-school-wins-14th-national-championship/10089688002/> (last visited Mar. 22 2023).

³ The Wall Street Journal, *How a Public School in Florida Built America’s Greatest Math Team*, <https://www.wsj.com/articles/the-secrets-of-americas-greatest-high-school-math-team-11657791000> (last visited Mar. 16, 2023).

⁴ Pine View School, *About Pine View School*, <https://www.sarasotacountyschools.net/domain/1447> (last visited Mar. 16, 2023).

⁵ Stanton College Preparatory School, *About Us*, <https://dcps.duvalschools.org/Page/10562> (last visited March 22, 2023).

Dade College. Students attending SAS complete their last two years of high school while they obtain a two-year Associate in Arts degree from Miami Dade College. The opportunity for acceleration and enrichment attracts motivated and academically talented students. SAS provides its students with a rich and rigorous liberal arts education with many of its students specializing in STEM. SAS was recently recognized by U.S. News and World Report and the "Best High School in Florida" and the "Fifth Best High School in the United States."⁶ Admissions is based on a variety of factors including GPA, attendance record, and college placement test scores.⁷

The Present Situation is presented in the Effect of Proposed Changes section of the analysis.

III. Effect of Proposed Changes:

Florida's Early Learning-20 Education System

Present Situation

Florida's Early Learning-20 education system includes publicly supported and controlled K-12 schools, Florida College System institutions, state universities and other postsecondary educational institutions, other educational institutions, and other educational services as provided or authorized by the Constitution and laws of the state. These include:

- The Voluntary Prekindergarten Education Program and the school readiness program.
- Public K-12 schools, which include charter schools and consist of kindergarten classes; elementary, middle, and high school grades and special classes; virtual instruction programs; workforce education; career centers; adult, part-time, and evening schools, courses, or classes, as authorized by law to be operated under the control of district school boards; and lab schools operated under the control of state universities.
- Public postsecondary educational institutions, which include workforce education; Florida College System institutions; state universities; and all other state-supported postsecondary educational institutions that are authorized and established by law.
- The Florida School for the Deaf and the Blind.
- The Florida Virtual School.⁸

Effect of Proposed Changes

The bill modifies s. 1000.04, F.S., to create the Florida School for Competitive Academics (FSCA) as an additional component of Florida's Early Learning-20 public education system.

The bill creates s. 1002.351, F.S., to establish the FSCA in Alachua County as a state-supported public school for Florida residents in grades 6-12. The primary purpose of the school is to provide a rigorous academic curriculum, and the secondary purpose is to prepare students for regional, state, and national academic competitions in all areas of study, including, but not

⁶ School for Advanced Studies, *About Us*, https://sasdreamfactory.org/apps/pages/index.jsp?uREC_ID=473938&type=d (last visited Mar. 22, 2023).

⁷ School for Advanced Studies, *Eligibility*, https://sasdreamfactory.org/apps/pages/index.jsp?uREC_ID=473950&type=d (last visited Mar. 22, 2023).

⁸ Section 1000.04, F.S.

limited to, science, technology, engineering, and mathematics. The school may admit students in grades 6-12 beginning in the 2024-2025 school year.

The bill also establishes the mission of the FSCA to provide students who meet selective admissions requirements an environment that will foster high academic engagement and advanced understanding of subject areas, develop productive work habits, build resiliency, connect students with industry leaders, and promote civic leadership.

To assist in the recruitment of students to the FSCA, the bill requires each district school board to ensure that all eligible students are informed of the FSCA. The district school board must inform parents of public school students that they may provide their child's student records to the FSCA's board of trustees for recruitment purposes.

Board of Trustees

The governance of the FSCA is very similar to that of the Florida School for the Deaf and the Blind,⁹ which is governed by a seven-member board of trustees.

The bill establishes the FSCA board of trustees composed of seven members appointed by the Governor to 4-year terms and confirmed by the Senate. For purposes of staggering terms, four members, including the chair as designated by the Governor, will be appointed to 4-year terms beginning July 1, 2023, and three members will be appointed to 2-year terms beginning July 1, 2023. After the initial 4-year term, the chair will be elected by the board. The bill specifies that no more than one employee of the school may serve on the board of trustees as a member or as chairman. The members of the board of trustees serve without compensation, but may be reimbursed for per diem and travel expenses.

The board of trustees is established as a public agency entitled to sovereign immunity, and the members as public officers who bear fiduciary responsibility for the FSCA. As a corporation, the board of trustees is authorized by the bill to operate and manage the FSCA. Gifts, donations, or bequests to the FSCA are under the jurisdiction of the board of trustees; all other property and assets are under the jurisdiction of the State Board of Education (SBE).

The bill establishes the powers and authority of the board of trustees that include:

- Adopting rules that comply with state law, which must be submitted to the SBE for approval.
- Appointing and removing a principal, administrators, teachers, and other employees.
- Determining eligibility of students and procedures for admission.
- Providing for the proper keeping of accounts and records and for budgeting of funds.
- Receiving gifts, donations, and bequests of money or property, real or personal, tangible or intangible, from any person, firm, corporation, or other legal entity for the use and benefit of the school.
- Recommending to the Legislature for the school to become a residential public school.
- Performing every other matter or thing requisite to the proper management, maintenance, support, and control of the school at the highest efficiency economically possible.

⁹ Section 1002.36, F.S.

The bill also requires the board of trustees to:

- Prepare and submit legislative budget requests for operations and fixed capital outlay to the Department of Education (DOE) for review and approval. The DOE will analyze the request to determine if the request is consistent with the school's campus master plan, educational plant survey, and facilities master plan.
- Approve and administer an annual operating budget in accordance with law.
- Require all purchases to be in accordance requirements in law, except for purchases made with funds received as gifts, donations, or bequests or funds raised by or belonging to student clubs or student organizations.
- Administer and maintain personnel programs for all employees of the board of trustees and the FSCA, who shall be school employees, including the personnel.
- Ensure that the FSCA complies with laws concerning the coordination of planning between the FSCA and local governing bodies.
- Ensure that the FSCA complies with laws concerning per diem and travel expenses.
- Adopt a master plan that specifies the objectives of the FSCA. The plan must be for a period of 5 years and must be reviewed for needed modifications every 2 years. The board of trustees must submit the initial plan and subsequent modifications to the President of the Senate and the Speaker of the House of Representatives.

Student and Employee Records

The bill requires the board of trustees to provide for the content and custody of student records subject to the law regarding education records in accordance with the Family Educational Rights and Privacy Act (FERPA).¹⁰ The board of trustees must maintain employee records subject to the law regarding public school personnel files, which include all records, information, data, or materials uniquely applicable to that employee whether maintained in one or more locations.¹¹

Personnel

The FSCA board of trustees and all employees and applicants for employment must undergo a Level 2 background screening¹² similar to the requirement for all public school personnel who seek an educator certificate. The bill specifies that an individual may not be employed as an employee or contract personnel of the FSCA or serve as a member of the board of trustees if the individual is on the disqualification list maintained by the Department of Education.

The bill requires the FSCA board of trustees to administer and maintain personnel programs for all employees, which must include:

- Rules, policies, and procedures related to the appointment, employment, and removal of personnel.
- Compensation, including salaries and fringe benefits, and other conditions of employment for such personnel.
- A requirement that classroom teachers employed by the school must be certified.

¹⁰ Section 1002.22, F.S.

¹¹ Section 1012.31, F.S.

¹² Section 435.04(1)(a), F.S.

- A requirement that each person employed by the board of trustees in an academic administrative or instructional capacity with the FSCA is entitled to a contract as provided by rules of the board of trustees.
- A requirement that all employees except temporary, seasonal, and student employees may be provided Florida Retirement System benefits from the school through operational costs.

The bill makes the following conforming changes to other statutes regarding personnel authority by the FSCA board of trustees.

The bill modifies s. 110.205, F.S., to include the Florida School for Competitive Academics (FSCA) in the selected exempt class for academic and administrative personnel, and specifies that, like the FSDB, salaries are set not by the Department of Management Services (DMS) but by FSCA board of trustees, subject to approval by the State Board of Education (SBE).

Currently, DMS maintains a classification and compensation program addressing Career Service, Selected Exempt Service, and Senior Management Service positions.¹³ The list of members who are exempted from career service are specified in law, and include all officers and employees of the state universities and the academic personnel and academic administrative personnel of the Florida School for the Deaf and the Blind (FSDB). The salaries for academic personnel and academic administrative personnel of the FSDB are set by the board of trustees for the FSDB, subject only to the approval of the State Board of Education.¹⁴

The bill modifies s. 216.251, F.S., to specify that FSCA salaries are provided within the classification and pay plans established by the board of trustees for the FSCA and approved by the SBE for academic and academic administrative personnel.

Salary rates are currently provided in the General Appropriations Act (GAA).¹⁵ Those salary rates not listed in the GAA are provided in DMS classification programs, in a classification plan by the board of trustees of the FSDB and approved by the SBE, with the Board of Governors of the State University System, with the Legislature, or with the judicial branch.¹⁶

The bill modifies s. 447.203, F.S., to specify that the board of trustees of the FSCA is deemed to be the public employer with respect to the academic and academic administrative personnel of the FSCA.

The Florida Constitution deems collective bargaining is a constitutional right afforded to public employees¹⁷ in Florida.¹⁸ Through collective bargaining, public employees collectively negotiate with their public employer in the determination of the terms and conditions of their employment.¹⁹ Educational institution public employers include:

¹³ Section 110.2035(1), F.S.

¹⁴ Section 110.205(2)(d), F.S.

¹⁵ Section 216.251(1), F.S.

¹⁶ Section 216.251(2), F.S.

¹⁷ Section 447.203(3), F.S.

¹⁸ FLA. CONST. Art. I, s. 6.

¹⁹ Section 447.301(2), F.S.

- The Board of Governors of the State University System for all public employees of each constituent state university.
- The board of trustees of a community college for all employees of the community college.
- The district school board for all employees of the school district.
- The Board of Trustees of the Florida School for the Deaf and the Blind for the academic and academic administrative personnel of the Florida School for the Deaf and the Blind.
- The Governor for all employees in the Correctional Education Program of the Department of Corrections.²⁰

Funding

The bill specifies that the FSCA must receive state funds for operating purposes as provided in the General Appropriations Act (GAA). The bill does not establish the FSCA as a special school district, so it is likely the FSCA will receive funds similar to the Florida School for the Deaf and the Blind rather than as an allocation through the Florida Education Finance Program based on the full-time enrollment of its students. In addition to the funds provided in the GAA, the bill authorizes the FSCA to receive other funds from grants and donations.

Budget

The bill creates s. 1011.58, F.S., to require and establish procedures for the FSCA to prepare and submit legislative budget requests (LBRs). The requirement is similar to the requirement for the Florida School for the Deaf and the Blind (FSDB).

The bill requires that the LBR of the FSCA must be prepared using the same format, procedures, and timelines required for the submission of the legislative budget of the DOE. The FSCA must submit its LBR and an implementation plan to the DOE for review and approval. Once approved, the Commissioner of Education must include the FSCA in the DOE's LBR to the SBE, the Governor, and the Legislature. The LBR for the FSCA must be a separate identifiable sum in the DOE LBR.

The bill requires the annual appropriation for the FSCA to be distributed monthly, without using the Florida Education Finance Program, in payments as nearly equal as possible. Appropriations for textbooks, instructional technology, and school buses may be released and distributed as necessary to serve the instructional program for the students.

The bill also requires the FSCA to submit its fixed capital outlay request to the DOE for review and approval in the same manner as the FSDB. Subsequent to the department's approval, the FSCA's request must be included within the DOE's public education capital outlay LBR.

The bill creates s. 1011.59, F.S., which creates flexibility in managing FSCA funds. The bill authorizes that, notwithstanding specified sections of law, and subject to the GAA, funds for the operation of the FSCA must be requested and appropriated within budget entities, program components, program categories, lump sums, or special categories, but may be transferred to traditional categories for expenditure by the board of trustees of the FSCA. The board of trustees

²⁰ Section 447.203(2), F.S.

must develop an annual operating budget that allocates funds by program component and traditional expenditure category.

The bill exempts the FSCA from preparing a lump-sum plan to implement the special categories, program categories, or lump-sum appropriations, subject to the GAA. Upon request of the board of trustees, the Chief Financial Officer must transfer or reallocate funds to or among accounts established for disbursement purposes. The board of trustees must maintain records to account for the original appropriation.

The bill authorizes the FSCA board of trustees, subject to the GAA, to establish the number of positions at the school, but may amend such positions within the total funds authorized annually in the GAA.

Finally, the bill authorizes all unexpended funds appropriated for the FSCA to be carried forward and included as the balance forward for that fund in the approved operating budget for the following year. For the 2023-2024 through 2027-2028 fiscal years, the FSCA's board of trustees may expend, reserve, or carry forward balances from prior year operational and programmatic appropriations for fixed capital outlay projects needed for the establishment of the school.

Audits and Investigations

The bill requires the Auditor General (AG)²¹ to conduct audits of the accounts and records of the FSCA as provided in law. Currently, the AG is required to conduct annual financial audits²² of the accounts and records of all district school boards in counties with populations of fewer than 150,000 and the Florida School for the Deaf and the Blind. In addition, every three years the AG must conduct operational audits²³ of the accounts and records of state agencies, state universities, state colleges, district school boards, the Florida Clerks of Court Operations Corporation, water management districts, and the Florida School for the Deaf and the Blind.²⁴

The bill also modifies s. 11.45, F.S., as a conforming provision to require the AG to conduct an annual financial audit of the FSCA, and at least every three years conduct an operational audit of the FSCA.

The bill also authorizes the Department of Education's (DOE's) Inspector General²⁵ to conduct investigations according to law. Currently, the OIG is authorized to conduct, coordinate, or request investigations into substantiated allegations of waste, fraud, or financial mismanagement

²¹ The Auditor General (AG) is a constitutional officer appointed by the Legislative Auditing Committee and confirmed by both houses of the Legislature. The AG provides unbiased, timely, and relevant information used to promote government accountability and stewardship and improve government operations.

Florida Auditor General, *Welcome*, <https://flauditor.gov/> (last visited Mar. 22, 2023).

²² "Financial audits must be conducted in accordance with auditing standards generally accepted in the United States and government auditing standards. Section 11.45(1)(d), F.S.

²³ Such audits examine internal controls that are designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets, and identify weaknesses in those internal controls. Section 11.45(1)(i), F.S.

²⁴ Section 11.45(2), F.S.

²⁵ The Office of Inspector General in the Florida Department of Education is responsible for promoting accountability, efficiency, and effectiveness and detecting fraud and abuse within school districts, the Florida School for the Deaf and the Blind (FSDB), and Florida College System (FCS) institutions in Florida. Section 1001.20(4)(e), F.S.

under certain conditions. The office must also investigate allegations or reports of possible fraud or abuse against a district school board made by any member of the Cabinet; the presiding officer of either house of the Legislature; a chair of a substantive or appropriations committee with jurisdiction; or a member of the board for which an investigation is sought.²⁶

Accordingly, the bill modifies s. 1001.20, F.S., to add the FSCA to those institutions under the authorized investigatory activities of the DOE Office of Inspector General.

Exemption from Statutes

In order to provide maximum flexibility to the FSCA, the bill provides exemptions from statute in the same manner as provided to charter schools.²⁷

The bill specifies that the FSCA is exempt from all statutes in chs. 1000-1013, F.S. However, the FSCA must comply with the following statutes in chs. 1000-1013, F.S.:

- Those statutes pertaining to the student assessment program and school grading system.
- Those statutes pertaining to the provision of services to students with disabilities.
- Those statutes pertaining to civil rights, including, but not limited to, s. 1000.05, F.S., relating to discrimination.
- Those statutes pertaining to student health, safety, and welfare.
- Section 286.011, F.S., relating to public meetings and records, public inspection, and criminal and civil penalties.
- Chapter 119, F.S., relating to public records.
- Section 1006.12, F.S., relating to safe-school officers.
- Section 1006.07(7), F.S., relating to threat assessment teams.
- Section 1006.07(9), F.S., relating to school environmental safety incident reporting.
- Section 1006.07(10), F.S., relating to reporting of involuntary examinations.
- Section 1006.1493, F.S., relating to the Florida Safe Schools Assessment Tool.
- Section 1006.07(6)(d), F.S., relating to adopting active assailant response plans.
- Section 943.082(4)(b), F.S., relating to the mobile suspicious activity reporting tool.
- Section 1012.584, F.S., relating to youth mental health awareness and assistance training.
- Section 1003.4282, F.S., relating to requirements for a standard high school diploma.
- Section 1003.03(1), F.S., relating to class size maximums.
- Section 1011.61, F.S., relating to instructional hours requirements, but may provide instruction that exceeds the minimum time requirements for the purposes of offering a summer program.

The bill specifies that, similar to a charter school, for purposes of the exemption from statutes, the duties assigned to a district school superintendent apply to the director of the FSCA, and the duties to a district school board apply to the board of trustees.

The bill takes effect on July 1, 2023.

²⁶ Section 1001.20(4)(e), F.S.

²⁷ Section 1002.33(16), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill will have a significant impact on state revenue and expenditures. This bill creates the Florida School for Competitive Academics (FSCA) within the state. The sum of \$24,013,302 has been appropriated in the Senate's General Appropriations Act for the establishment of FSCA, including \$3,280,000 for operational costs (\$8,200/student with an anticipated enrollment of 400 students) and \$20,033,302 for fixed capital outlay. The remaining funds are allocated to the Department of Education for administrative support and to the FSCA's board of trustees to support the FSCA's establishment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 110.205, 216.251, 447.203, 1000.04, and 1001.20.

This bill creates the following sections of the Florida Statutes: 1002.351, 1011.58, and 1011.59.

The bill creates an undesignated section of Florida Law.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Appropriations Committee on Education on April 12, 2023:

The committee substitute:

- Requires each district school board, rather than the Commissioner of Education, to ensure students are informed about the Florida School for Competitive Academics (FSCA), and to inform parents regarding transfer of records to the FSCA.
- Removes from the bill the authority of the FSCA board of trustees to:
 - Have a stand-alone law enforcement agency; and
 - Exercise the power of eminent domain.

B. Amendments:

None.