

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1264

INTRODUCER: Senator Calatayud

SUBJECT: Private Schools

DATE: February 9, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Fleming	CA	Favorable
2.	_____	_____	ED	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1264 provides that local governments must consider a private school enrolling 150 or fewer students a permitted use in all zoning districts other than residential districts within a county or municipality without requiring rezoning, land use change, or compliance with additional regulation.

Such a school may operate in a facility that is subject to and complies with certain Florida Building Code occupancy classification, and is not subject to additional state or local health, safety, or welfare laws, codes, or rules beyond those applicable to the underlying class of facility.

The bill provides limitations on a local government’s authority to regulate fire safety and inspections beyond the standards applicable to the existing facility in which such a school operates.

The bill takes effect July 1, 2026.

II. Present Situation:

Comprehensive Plans

The Community Planning Act directs counties and municipalities to plan for future development by adopting comprehensive plans.¹ Each local government must maintain a comprehensive plan to guide future development.²

¹ Section 163.3167(1), F.S.

² Section 163.3167(2), F.S.

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.³ A comprehensive plan is intended to provide for the future use of land, which contemplates gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and include any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.⁴

Each county and municipality must adopt and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.⁵ Local governments are encouraged to use innovative land development regulations⁶ and may adopt measures for the purpose of increasing affordable housing using land use mechanisms.⁷ Land development regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.⁸

Zoning

A comprehensive plan's future land use element establishes a range of allowable uses and densities⁹ and intensities¹⁰ over large areas, while the specific use and intensities for specific parcels within that range are decided by a more detailed, implementing zoning map.¹¹

Zoning maps and zoning districts are adopted by a local government for developments within each land use category or sub-category. While land uses are general in nature, one or more zoning districts may apply within each land use designation.¹² Common regulations within the zoning map districts include density, height and bulk of buildings, setbacks, and parking requirements. Regulations for a zoning category in a downtown area may allow for more density and height than allowed in a suburb, for instance.

If a developer or landowner believes that a proposed development may have merit but it does not meet the requirements of a zoning map in a jurisdiction, the developer or landowner can seek a

³ Section 163.3194(3), F.S.

⁴ Section 163.3164(26), F.S.

⁵ Section 163.3202(1), F.S.

⁶ Section 163.3202(3), F.S.

⁷ Sections 125.01055 and 166.04151, F.S.

⁸ See ss. 163.3161(6) and 163.3194(1)(a), F.S.

⁹ "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. S. 163.3164(12), F.S.

¹⁰ "Intensity" means an objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services. S. 163.3164(22), F.S.

¹¹ Richard Grosso, A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215, 34 J. Envtl. L. & Litig. 129, 154 (2019) citing Brevard Cnty. v. Snyder, 627 So. 2d 469, 475 (Fla. 1993).

¹² See, e.g., Indian River County, Planning and Development Services FAQ (last visited. 9 2026).

rezoning through a rezoning application.¹³ Rezoning applications are initially reviewed by local government staff, followed by a review by an appointed body that makes recommendations to the governing body of the local government, which makes the final determination.¹⁴ If a property has unique circumstances or small nonconformities but otherwise meets zoning regulations, local governments may ease restrictions on certain regulations such as building size or setback through an application for a variance.¹⁵ However, any action to rezone or grant a variance must be consistent with the local government's comprehensive plan.

Private School Facilities

A private school is defined in Florida law, as “an individual, association, copartnership, or corporation or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade” and is below the college level. Private elementary and secondary schools in Florida are not licensed, approved, accredited, or regulated by the Department of Education (DOE). Private schools are required to complete an online annual survey to provide information for inclusion in a statewide directory. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school.¹⁶

While private schools operate outside of the public education system, there remain some requirements in Florida law that are imposed on private schools as well as areas of authorization. Those laws address the following areas:

- Participation in the annual private school survey.
- Background screening for each private school owner.
- Retention of student records.
- Maintenance of records of attendance and reports.
- Required school-entry health examinations.
- Student immunization and attendance records.
- Student participation in high school athletic programs at public schools.
- Educational and instructional materials.
- Services for exceptional student education services.
- Professional learning systems.
- Bus driver training purchase of school buses.
- Emergency procedures and medications.
- Facilities and safe school officers.¹⁷

Specifically related to facilities, private schools are permitted to use property owned or leased by a library, community service organization, museum, performing arts venue, theater, cinema, church facility, Florida College System institution or university or other similar public institutional facilities, or a facility recently used to house a school or childcare facility under the facilities preexisting zoning and land use designations. There are similar provisions regarding the purchase of the same types of facilities by private schools. The facilities used or purchased must

¹³ See e.g., City of Tallahassee, Application for Rezoning Review (last visited Feb. 9, 2026).

¹⁴ See *id.* and City of Redington Shores, Planning and Zoning Board (last visited Feb. 9, 2026).

¹⁵ See e.g., City of Tallahassee, Variance and Appeals and Seminole County, Variance Processes (last visited Feb. 9, 2026).

¹⁶ Section 1002.01(3), F.S.

¹⁷ Section 1002.42, F.S.

meet state and local health, safety, and welfare laws, codes, and rules, including fire safety and building safety.¹⁸ Additionally, private schools in certain counties may construct new temporary or permanent facilities on property that was owned by a church, library, theater, or school, that was recently used for the zoned purpose. The same applies to land that was owned by a Florida college System institution or university or land that was recently used to house a school or childcare facility. The new facility constructed by the private school is required to meet all applicable state and local health, safety, and welfare laws, codes, and rules, including fire safety and building safety.¹⁹

Fire Prevention and Control

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Prevention Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Building Code. Each county, municipality, and special district with fire safety enforcement responsibilities must employ or contract with a fire safety inspector (certified by the State Fire Marshal) to conduct all fire safety inspections required by law.²⁰

Fire Protection Systems

A “fire protection system” is a system individually designed to protect the interior or exterior of a specific building or buildings, structure, or other special hazard from fire. A fire protection system includes, but is not limited to:²¹

- Water sprinkler systems;
- Water spray systems;
- Foam-water sprinkler systems;
- Foam-water spray systems;
- Carbon dioxide systems;
- Foam extinguishing systems;
- Dry chemical systems; and
- Halon and other chemical systems used for fire protection.

Fire protection systems also include any tanks and pumps connected to fire sprinkler systems, overhead and underground fire mains, fire hydrants and hydrant mains, standpipes and hoses connected to sprinkler systems, sprinkler tank heaters, air lines, and thermal systems used in connection with fire sprinkler systems.²²

Fire protection systems must be installed in accordance with the Fire Prevention Code and the Building Code. Current law requires local governments to enforce the Fire Prevention Code and the Building Code including the permitting, inspecting, and approving the installation of a fire

¹⁸ Section 1002.42(19), F.S.

¹⁹ Section 1002.42(c), F.S.

²⁰ Section 633.202, F.S.

²¹ Section 633.102(11), F.S.

²² *Id.*

protection system.²³ Owners of fire protection systems must contract with a certified fire protection system contractor to regularly inspect such systems.²⁴

Fire Prevention Code

The State Fire Marshal is required to adopt by rule the Fire Prevention Code and must adopt or incorporate by reference specified codes, such as the current edition of the National Fire Protection Association's Standard 1, Fire Protection Code.²⁵ Local governments are given an opportunity to submit local fire code amendments within a certain time which the State Fire Marshal is required to review to make specified determinations.²⁶ The State Fire Marshall must adopt a new code every three years, and any local amendments are only effective until the new adoption of the code occurs.²⁷ After the State Fire Marshal approves a local amendment and it is published on the State Fire Marshal's website, the local authority having jurisdiction to enforce the Fire Prevention Code may enforce the local amendment.²⁸ The State Fire Marshal may approve local amendments that address specified topics.²⁹

Included in the Fire Code is the National Fire Protection Association (NFPA) Life Safety Code (NFPA 101) and NFPA Guide to Alternative Approaches to Life Safety (NFPA 101A).³⁰ The NFPA 101A provides a methodology for comparing the level of safety provided by an arrangement of safeguards that differ from those specified in the NFPA 101 to the level of safety provided in a building that conforms exactly with the NFPA 101. For some existing facilities, compliance with these requirements may require significant and costly improvements to the physical plant of the facility. Therefore, the Fire Safety Evaluation System as described in NFPA-101A, Alternative Approaches to Life Safety, has been accepted by federal and state agencies as an acceptable and cost effective alternative method of establishing compliance through equivalency. The NFPA 101A is intended to be used alongside NFPA 101 to facilitate equivalency requests using numerically based fire safety evaluation systems.³¹

III. Effect of Proposed Changes:

The bill amends s. 1002.42(19), F.S., to introduce a new sub-subsection specifically regarding private schools enrolling 150 or fewer students.

The bill provides that local governments must consider such a school a permitted use in all zoning districts other than residential districts within a county or municipality without requiring rezoning, special exception, or land use change, and without requiring compliance with any mitigation requirements, conditions, performance standards, ordinances, rules, codes, or policies.

²³ See generally chs. 553 and 633, F.S.; Florida Fire Prevention Code 8th Edition (NFPA Standard 1), available at [florida-fire-prevention-code-8th-edition-nfpa-101-fl-sp.pdf](https://www.floridafire.com/wp-content/uploads/2022/02/florida-fire-prevention-code-8th-edition-nfpa-101-fl-sp.pdf) (last visited Feb. 9, 2026).

²⁴ Section 633.312, F.S.

²⁵ Section 633.202(1) and (2), F.S.

²⁶ Section 633.202(3)(a), F.S.

²⁷ Section 633.202(3)(b), F.S.

²⁸ Section 633.202(5), F.S.

²⁹ *Id.*

³⁰ Rule 69A-3.012(1)(ggg) and (hhh), F.A.C.

³¹ National Fire Protection Association, NFPA 101A, *Guide on Alternative Approaches to Life Safety* (2025), available at <https://www.nfpa.org/product/nfpa-101a-guide/p0101acode> (last visited Feb. 9, 2026).

Such a school may operate in a facility that is subject to and complies with certain Florida Building Code occupancy classification, and is not subject to additional state or local health, safety, or welfare laws, codes, or rules beyond those applicable to the underlying class of facility.

For a small private school beginning operation in an existing facility, the local fire official shall use firesafety evaluation systems found in NFPA 101A: Guide on Alternative Approaches to Life Safety, as adopted by the Fire Code.

A private school enrolling 150 or fewer students opening inside, or moving operations to, an existing assembly, day care, mercantile, or business occupancy must meet standards for existing educational occupancy requirements for automatic sprinkler, detection, alarm, and communications systems and requirements for hazardous areas. Notwithstanding those requirements, automatic sprinkler systems must be provided for educational occupancies throughout all group E fire areas greater than 12,000 square feet and throughout every portion of educational buildings below the level of exit discharge, but is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level without intervening corridors, passageways, interior exit stairways or ramps, or exit passageways.

The bill takes effect July 1, 2026.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 1002.42.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.