



# The Florida Senate

*Interim Project Report 2003-122*

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Committee on Education

President James E. "Jim" King, Jr.

## REVIEW OF THE NEW SCHOOL CODE

### SUMMARY

This interim report recommends the introduction of a bill to correct any technical errors that exist in the new Florida School Code. Section 1060 of Chapter 2002-387, Laws of Florida, requires the Legislature to review the new Florida School Code, consisting of chapters 1000 to 1013. The Senate Education Committee's interim report on the new school code reviewed the technical and substantive changes made to the Florida School Code to identify incorrect cross-references and terminology, ascertain problems in agency implementation, highlight unintended consequences, and reconcile bills passed within the 2002 regular and special sessions with the new school code. Consultations were made with staff members from the Governor's office, House of Representatives, education agencies, and other education entities. Resolution of the technical errors in the new School Code requires close monitoring to ensure that no conflicts would occur with legislative changes that may be required by the three education constitutional amendments: class-size reduction, universal pre-kindergarten, and the board of governors.

### BACKGROUND

The Florida School Code has been in effect since 1939. Although the Florida School Code has been substantially amended over the years, the Legislature determined that the code needed substantial structural changes in order to reflect the new educational governance structure brought about by a 1998 constitutional amendment.

The 1998 constitutional amendment replaced the elected Cabinet serving as the State Board of Education with an appointed board, and the elected Commissioner of Education with a commissioner appointed by the new state board. To implement the changes, the Legislature enacted the Florida Governance Reorganization Act of 2000 (ch. 2000-321, L.O.F.).

The act required identifying necessary changes to current law to implement the new governance structure. The act provided for repeal of several sections of the Florida School Code on January 7, 2003.

The 2001 Legislature continued to make necessary changes in the school code through passage of the Florida Education Governance Implementation Act (ch. 2001-170, L.O.F.). The act abolished the Board of Regents and established boards of trustees for each of the state's eleven public universities. It created a transitional Florida Board of Education and gave the board the responsibility of recommending a revised school code to the Legislature.

The 2002 Legislature restructured the Florida School Code to conform the new school code to the education governance structure based on recommendations from the Florida Board of Education and others. These changes for the most part will be implemented on January 7, 2003.

Chapter 2002-396, L.O.F., repeals the current code on January 7, 2003, and creates a new code reflecting a K-20 seamless system of public education. For the most part, the new code includes the current education laws; however, the statutes are reorganized with new chapter and section numbers. In addition to reorganizing the code, the act makes major revisions in the laws affecting the governance of state universities, the organization and operation of the new State Board of Education, and the Department of Education.

### METHODOLOGY

Each committee staff person was assigned a portion of the code to review using the guiding principles. The guiding principles were to (1) limit the review to technical corrections, (2) limit the review to identify any unintended results from changes to substantive law, (3) ensure that other legislation passed in the 2002 regular session and special sessions amending the previous school code is appropriately reconciled with

the new school code, and (4) avoid making any major policy changes through this bill. Staff reviewed current law and legislative history, and received suggestions from the Governor's office, the House of Representatives, the education agencies, and the various entities representing education interests throughout the state regarding technical changes that would improve the new Florida School Code.

## FINDINGS

### Cross-references

The new school code employs a directory approach to the statutes. Each power and responsibility assigned to a specific entity is briefly referenced in the entity's main powers and duties with a corresponding cross-reference to the particular provision that provides the actual details of the law. In addition, the new school code repeals the previous chapters of law comprising the school code and creates a new series of chapters. This has created some cross-reference errors.

### Obsolete boards

The new school code has abolished numerous boards and entities while creating others. The boards and officers for the transition period will no longer exist as of January 7, 2003.

### Agency implementation

Staff of the Florida Board of Education and the Department of Education have identified some minor technical errors that need to be corrected to implement the new legislation. The identified problems include obsolete dates, errors in terminology, and cross-references to federal law that need to be changed.

### Unintended consequences

The new school code represents a dramatic change in the method of education governance in the state. As the new entities and officers implement the law, there may occur some unintended consequences through the adoption of certain provisions in the new school code.

### Reconciling school code revisions with other legislation

Section 1059 of chapter 2002-387, L.O.F., requires the Division of Statutory Revision to incorporate any laws passed during the 2002 regular session of the

Legislature and to transfer any provisions into parallel successor cites created under the act. There were 19 other bills passed in the 2002 regular session and subsequent special sessions that made amendments to the previous school code. Staff reviewed the placement of the text of the 19 bills into the new school code. Statutory Revision followed certain guidelines. First, any bill text that did not conflict with the new school code was inserted into the successor provision. Second, any bill text that conflicted with the new school code superseded the text of the new school code. Third, the provisions were reviewed to ensure that no unintended substantive changes occurred in the new school code by virtue of incorporating the new text. Finally, Statutory Revision substituted the nomenclature contained within the new school code for the text of the 19 bills.

The new school code contains the text of bills passed in special session C of the 2001 legislature. The Legislature may need to determine if these bills should survive repeal.<sup>1</sup>

## RECOMMENDATIONS

Committee staff recommends resolving the technical errors, cross-reference errors, unintended consequences, and the reconciliation of legislation passed in the same or similar session of the Legislature. A bill, if proposed, should be confined to making technical corrections and avoid addressing major policy issues that can be better dealt with in a separate bill.

Caution is urged in the preparation of a bill as the constitutional amendments may require changes in the new school code. To avoid potential conflicts, it may be advisable to delay the drafting of the technical corrections bill until such time as the effects on the statutes by the constitutional amendments are more fully known.

<sup>1</sup>Specifically, ch. 2001-374, s. 6, L.O.F., amends s. 235.187, F.S., to authorize interlocal agreements between school districts to lend their Classroom First funds. This provision was not recreated in ch. 2002-387, L.O.F. Chapter, 2002-402, L.O.F., resurrects the land and facilities advisory board that was specifically repealed under ch. 2002-387, L.O.F.