

STORAGE NAME: h0265a.ge.doc

DATE: March 28, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL EDUCATION
ANALYSIS**

BILL #: HB 265

RELATING TO: The Composition of School Advisory Councils

SPONSOR(S): Representative(s) Waters

TIED BILL(S): None.

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) GENERAL EDUCATION YEAS 9 NAYS 2
 - (2) COUNCIL FOR LIFELONG LEARNING
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

Section 229.58, F.S., requires each school board to establish School Advisory Councils (SAC) at each school, or district advisory councils if the district has fewer than 10,000 students. SACs assist in preparing and evaluating the school improvement plan (SIP), and provide assistance in the preparation of the school's annual budget.

Currently s. 229.58(1), F.S., specifies that each SAC shall be composed of the school's principal and an appropriately balanced number of teachers, education support employees, students, parents, and other business and community citizens who are representative of the ethnic, racial, and economic community served by the school.

HB 265 amends s. 229.58(1), F.S., changing the requirements for the composition of SACs from *required* ethnic, racial, and economic membership representation to local *consideration* of ethnic, racial, and economic representation. This change gives the schools and districts more flexibility in establishing and balancing SAC membership. Additionally, it requires school boards to develop procedures to ensure balanced SAC membership. The requirement that a majority of the SAC members not be employed at the school remains in statute; thus the SAC will continue to have parent and community representation.

The effective date of the bill is July 1, 2001.

There are no significant fiscal impacts to the state or local school districts.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

School Advisory Councils

School Advisory Councils (SACs) are a key component of Florida's system of school improvement and accountability. Section 229.58, F.S., requires each school board to establish school advisory councils or district advisory councils if the district has fewer than 10,000 students. Section 229.58(2), F.S., specifies that each SAC shall perform such functions as are prescribed by regulations of the school board; however, no SAC shall have any of the powers and duties now reserved by law to the school board. SACs assist in preparing and evaluating the school improvement plan (SIP), and provide assistance in the preparation of the school's annual budget. SIPs are locally developed "blueprints" for achieving the state education goals and student performance standards.

A portion of the Educational Enhancement Trust Fund (lottery money) is distributed to each school (through the districts) for the SAC to use for programs and projects to enhance school performance through the implementation of the SIP. The money may not be used for capital improvements or for projects or programs with duration of more than one-year. A principal may not override the selection of the use of the money.

The clearly earmarked amount in the 1997, 1998, 1999, and 2000 General Appropriations Act for discretionary use by SACs was ten dollars per unweighted FTE student.

SAC Membership Composition

Section 229.58(1), F.S., specifies that each SAC shall be composed of the school's principal and an appropriately balanced number of teachers, education support employees, students, parents, and other business and community citizens who are representative of the ethnic, racial, and economic community served by the school. A majority of the members must not be employees of the school. SAC members must be elected by their respective peer groups at the school, and the school board shall establish procedures to select business and community members. The school board must review the membership of each SAC, and if needed, the board must appoint additional members to achieve the appropriate representation. Vocational-technical center and high school advisory councils must have student members, while middle and junior high advisory councils are not required to include students. SACs of vocational-technical and adult education centers are not required to include parents as members.

Reviews and Reporting of SAC Membership Composition

The Office of Program Policy Analysis and Government Accountability (OPPAGA) reviews SAC membership composition through the Best Financial Management Practice Reviews. Of the 4 Best Practice Reviews performed by OPPAGA, Manatee and Polk had problems with SAC membership composition in specific schools. OPPAGA reported that Manatee had 4 SACs out of 38 that did not meet the required membership composition, and Polk had 7 SACs out of 108 that did not meet the required membership composition.

The Auditor General also reviews SAC membership composition in their annual audits of school districts. The Auditor General's recent reports are as follows: in FY 1997-98, 12 districts out of 65 audited did not meet the SAC membership requirements; in FY 1998-99, 6 districts out of 51 audited did not meet the SAC membership requirement; and in FY 1999-2000, 3 districts out of 51 audited did not meet the SAC membership requirements.

Before discretionary funds may be released to school districts the Department of Education must receive from each district a letter signed by the superintendent of schools certifying that all SACs in the district meet membership composition requirements. Sections 24.121(5)(d) and 229.592(7)(c), F.S., specify that funds from the Educational Enhancement Trust Fund may not be released to a district that does not comply with SAC membership composition requirements. Additionally, s. 229.592(7)(c), F.S., provides that DOE must send a technical assistance team to each school without appropriate SAC membership composition to develop a strategy for corrective action. Notice of DOE intervention must be given to the public, and the school in violation must be identified. According to DOE, to date no funds have been withheld or assistance teams sent due to a SAC not meeting the required membership composition.

Legislative History

Prior to 1991 the language of s. 229.58, F.S., did not require school boards to establish SACs. Additionally, the language only indicated that SAC membership should be "broadly representative of the community served by the school." The 1991 Legislature required schools to establish SACs, and provided districts with fewer than 10,000 students the option of establishing a district advisory council. Along with this change the Legislature replaced the "broadly representative..." language with the present language of, "(members) who are representative of the ethnic, racial, and economic community served by the school..."

Since 1991, the language of s. 229.58, F.S., has been altered eight different times. Most of these changes have dealt with increasing the responsibility of SACs, but several of these changes have dealt with specific issues concerning the membership composition of the SAC. Notable is the 1997 Legislative response to a 1993-1994 performance review by the Office of the Auditor General, and a 1995-1996 report by the OPPAGA. These reviews found persistent problems in SAC membership in the fourteen school districts reviewed. In one-third of the SACs reviewed, 50 percent of the SAC membership was new to the council. Almost half of the SACs reviewed did not include all statutorily required membership groups, such as business/community members and education support employees. Almost one third did not reflect the school community's racial, and ethnic diversity. Finally, school employees dominated sixty-three percent of the SACs, and school board employees dominated 78 percent of the SACs. The 1997 CS/SB 1992 required SACs to draw a majority of its membership from individuals who are not school board employees.

Currently

According to the Department of Education, districts and schools frequently report that securing parental involvement at the schools and on the SACs is challenging.

According to school district contacts, schools have difficulty meeting the current composition requirements. This difficulty arises in finding willing participants that represent the lower economic groups served by the school. This problem is magnified in schools with a high number of low

income students, in that once the principal and several teachers fill positions on the council the rest of the council must be representative of the lower economic community. This requirement may prevent certain concerned individuals who wish to serve from being allowed on the SAC. Additionally, it can be intrusive and impractical for schools to determine which ethnic, racial, or economic group an individual represents.

C. EFFECT OF PROPOSED CHANGES:

HB 265 relaxes the requirements for composition of SAC membership. While the bill provides that *consideration* must be given to the school's ethnic, racial, and economic makeup, the SAC members are no longer *required* to be representative of the ethnic, racial, and economic community served by the school. Additionally, HB 265 specifies that the school board shall provide procedures to ensure a balanced SAC membership.

The change may help alleviate the difficulty schools experience in recruiting SAC members. Three instances of difficulty that may be alleviated by this bill are: 1) instances where parents or concerned community members are denied membership to the SAC due to the SAC having enough members of a particular ethnic, racial, or economic group; 2) instances where enough persons of a specific representative group cannot be found to serve as SAC members; and 3) instances where proving that an individual is representative of a ethnic, racial, or economic group is intrusive and impractical.

According to the Department of Education, schools and districts will have more flexibility in establishing and balancing SAC membership and meeting state requirements. DOE also notes that this increased flexibility may have the unintended outcome of decreasing the SAC membership of some representative populations.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends section 229.58(1), F.S., changing the *requirement* that SAC membership be "representative of the ethnic, racial, and economic community served by the school," from a *requirement* to a *consideration*; providing that school boards shall develop procedures to ensure balanced SAC membership.

Section 2: Provides an effective date of July 1, 2001.

III. 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.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The current language in s. 229.58, F.S., *requiring* that SAC membership be representative of the ethnic, racial, and economic community served by the school raises constitutional concerns because the *requirement* may be viewed as creating a quota based on ethnicity and race. Generally, courts have frowned on the use of racial quotas, preferring instead that race be one of many *considerations* in a selection process. (Regents of University of California v. Bakke, 438 U.S. 265 (1978)). This bill addresses this constitutional concern by encouraging SAC membership to be representative of the ethnic, racial, and economic community served by the school but no longer mandating that a SAC be composed of members based on their race or ethnicity.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VII. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:

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