

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 20-E

SPONSOR: Senators Villalobos and Sullivan

SUBJECT: Florida School Code

DATE: April 29, 2002                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matthews</u>	<u>O'Farrell</u>	<u>ED</u>	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill recreates the Florida School Code and reorganizes the sections into a different format. This extensive restructuring responds to a directive in chapter 2001-170, L.O.F., that the Florida Board of Education should recommend revisions to the education laws to reflect changes made in governance by the Constitutional amendments of 1998 and by the mandatory repeal of many of the sections of the code, effective January 7, 2003.

Universities are the most affected by the changes in the bill:

- Universities are removed from state agency status and designated as public corporations.
- Universities may establish their own personnel and pay programs in accordance with law and state board rule.
- University boards may collectively bargain locally, and universities are public employers for collective bargaining. University boards are the legislative body for purposes of resolving impasses.
- Universities may establish their own purchasing and contracting systems in accordance with law and state board rule.
- Universities will deposit funds outside the State Treasury and invest funds locally.
- University boards will exercise the right of eminent domain with approval of State Board of Education.
- In the future, universities will hold title to lands purchased from non-state appropriated funds.
- Universities' continuing contracting authority and small construction project cap is increased from \$500,000 to \$1 million.
- An Alzheimer's institute is created at the University of South Florida.

- The jurisdiction of university law enforcement is expanded to include property and facilities of a university direct-support organization.
- The five percent cap on university carry forward of funds is eliminated. Universities are required to report when the five percent threshold is eclipsed.

The following issues affect community colleges:

- Funding:
  - Each community college will be required to submit an institutional budget request to DOE. Such requests were not previously considered in the preparation of legislative budget requests.
  - The 4 percent to 10 percent unencumbered fund balance currently required by s. 240.359(3)(e), F.S., is eliminated along with the penalty for having such a balance over 10% for more than two years. The bill only requires that community colleges notify the State Board of Education in writing if the fund balance falls below five percent.
  - Community colleges that border another state may charge differential out-of-state fees.
  - Community college matching fund programs are combined to allow greater administrative flexibility.
  - The community college funding formula currently located in s. 240.359, F.S., is amended to allow for the consideration of additional economic factors.
- Community colleges law enforcement will have authority over direct-support property.
- The standard for denying employment or admission currently in s. 240.319(4)(i), F.S., on the basis of past action is changed from actions that “disrupted or interfered with the orderly conduct, process, function or programs of the community college” to those found to be in the “best interest” of the school.

The following are school district issues:

- The Florida Education Finance Program will not be repealed, and reports of average daily attendance will not be required for the FEFP.
- For 2002 –2003 only, school districts will have flexibility over their categorical funds.
- School boards will have more time to act on personnel nominations.
- School districts may develop their own alternative certification program.
- School districts have more time before they must get rid of relocatables that do not meet the new standards.
- More school districts will qualify for awards from the school infrastructure thrift program because the space counted will not include hurricane shelters.
- School board members will set their own salaries, rather than having their pay ranges established in law.
- School boards may employ principals who are not certified educators, if the district uses an alternative route for the principal.
- A religious rights provision is inserted which unconstitutionally expands the expression of religious beliefs in public schools.
- School boards are authorized to make an exception from the zero-tolerance expulsion requirements for students who lawfully store a firearm or weapon in a locked vehicle on school property or for activities approved and allowed by the district school board when the board has adopted appropriate safeguards to assure student safety. This exception is also contained in the code of student conduct provisions.

- Includes as a ground for required expulsion the possession of a firearm at school.
- Requires a school district zero-tolerance policy to include referral to the criminal or juvenile justice system.
- Requires report of sexual battery committed on a student on school grounds.

Except as otherwise provided in the bill, the effective date of the bill is January 7, 2003.

This bill repeals the following sections of the Florida School Code, chapters 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 239, 240, 241, 242, Part I of chapter 243, 244, and 246 of the Florida Statutes.

It creates chapters 1000 through 1013, Florida Statutes, and requires legislative review of these chapters in the 2003 regular legislative session.

## II. Present Situation:

In November 1998, Florida voters approved changes in the State Constitution to mandate a new public education governance system led by an appointed, rather than elected, State Board of Education and Commissioner of Education.<sup>1</sup>

The 2000 Legislature called for the repeal of many sections in the Florida School Code, including all of chapters 239, 240, and 246, F.S., effective January 7, 2003,<sup>2</sup> and the 2001 Legislature required certain transition activities to prepare for that date.<sup>3</sup> The legislative changes with the most impact are the elimination of the State Board of Community Colleges, the Board of Regents, the State Board of Nonpublic Career Education, the State Board of Independent Colleges and Universities, and the restructuring of the Department of Education.

### School Code Revision Task Force

The 2001 Education Governance Implementation Act directed the newly created Florida Board of Education to recommend changes to rewrite the Florida School Code, to accommodate the mandatory repeals. The Florida Board of Education appointed a task force to recommend the changes and approved the recommendations in December 2001.

## III. Effect of Proposed Changes:

The legislation under consideration restructures and reformats every section of the Florida School Code. For clarity, the following analysis classifies the changes and describes the present situation and effect of proposed changes of each category.

### EDUCATION GOVERNANCE STRUCTURE

#### Present Situation:

<sup>1</sup> The wording of the amendment is: *The state board of education shall be a body corporate and have such supervision of the system of free public education as is provided by law. The state board of education shall consist of seven members appointed by the governor to staggered 4-year terms, subject to confirmation by the senate. The state board of education shall appoint the commissioner of education.*

<sup>2</sup> Chapter 2000-132, section 3, paragraph (7), Laws of Florida

<sup>3</sup> Chapter 2001-170, Laws of Florida

Chapter 2001-170, Laws of Florida, provides the current education governance structure -- four divisions within the Department of Education:

- Division of Independent Education
- Division of Public Schools
- Division of Community Colleges
- Division of Colleges and Universities.

Section 229.003, Florida Statutes, establishes the following education governance officers:

- Executive Director of Independent Education.
- Chancellor of Public Schools
- Chancellor of Community Colleges
- Chancellor of Colleges & Universities

Four offices are created under the Commissioner:

- Office of Technology and Information Services
- Office of Workforce and Economic Development
- Office of Educational Facilities and SMART Schools Clearinghouse
- Office of Student Financial Assistance

On July 1, 2001, the Commission for Independent Education assumed the responsibilities previously assigned to the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education. The commission is responsible for overseeing all independent postsecondary education institutions except for the 27 colleges that are most like state universities. These institutions are under the jurisdiction of the Division of Colleges & Universities.

#### **Effect of Proposed Changes:**

The Committee Substitute changes the education governance structure. In the new education governance, the appointed State Board of Education is the head of the Department of Education. The appointed Commissioner of Education is the Executive Director for the Department of Education. Three divisions are created within the Department of Education:

- Division of Public Schools
- Division of Community Colleges
- Division of Colleges & Universities.

The Division of Independent Education is eliminated.

The bill eliminates the Executive Director of Independent Education and renames the education governance officers to the following:

- Deputy Commissioner of Public Schools
- Deputy Commissioner of Community Colleges
- Deputy Commissioner of Colleges and Universities

The bill creates an Office of Private K-12 and Home Education within the Department of Education.

#### **SCHOOL CODE CHAPTER STRUCTURE**

**Present Situation:**

Currently, chapters 228 through 246, F.S., are considered the Florida School Code. Outlined below is a brief description of law contained in each of those chapters.

Chapter	Current Structure
228	Public Education – <ul style="list-style-type: none"> <li>• General Provisions</li> <li>• Definitions</li> <li>• Charter Schools</li> <li>• Miscellaneous</li> </ul>
229	Functions of State Educational Agencies <ul style="list-style-type: none"> <li>• Part I. Education Governance Reorganization</li> <li>• Part II. State Board of Education</li> <li>• Part III. Commissioner of Education</li> <li>• Part IV. Department of Education</li> </ul>
230	District School System; Powers and duties of school board
231	Personnel of School System <ul style="list-style-type: none"> <li>• Teacher Certification</li> <li>• Teacher Professional Development</li> </ul>
232	Compulsory School Attendance; Child Welfare <ul style="list-style-type: none"> <li>• Home Education</li> <li>• School Age</li> <li>• School Safety</li> </ul>
233	Courses of Study and Instructional Aids Instructional Materials
234	Transportation of School Children
235	Education Facilities Community college and public school facilities issues
236	Finance & Taxation of Schools <ul style="list-style-type: none"> <li>• FEFP</li> <li>• Public School Funding issues</li> </ul>
237	Financial Accounts & Expenditures for Public Schools
238	Retirement System for School Teachers
239	Vocational, Adult, and Community Education <ul style="list-style-type: none"> <li>• Part I. General Provisions</li> <li>• Part II. Vocational Education</li> <li>• Part III. Adult Education</li> <li>• Part IV. Community Education</li> <li>• Part V. Special Programs</li> </ul>
240	Postsecondary Education <ul style="list-style-type: none"> <li>• Part I. General Provisions</li> <li>• Part II. State University System</li> <li>• Part III. Community College System</li> <li>• Part IV. Scholarship and Financial Aid</li> </ul>

	<ul style="list-style-type: none"> <li>• Part V. Specific Programs and Institutions</li> </ul>
241	Distance Learning
242	Specialized State Educational Institutions
243	Educational Institutions law; Revenue Certificates <ul style="list-style-type: none"> <li>• Part I. Educational Institutions Law</li> <li>• Part II. Counties Higher Educational Facilities Authorities Law</li> <li>• Part III. Educational Institutions Law (nonpublic institutions)</li> </ul>
244	Educational Compacts <ul style="list-style-type: none"> <li>• Part I. Southern Regional Compact</li> <li>• Part II. National Compact</li> <li>• Part III. Compact on Qualifications of Educational Personnel</li> </ul>
245	Disposition of Dead Bodies
246	Nonpublic Postsecondary Institutions

**Effect Of Proposed Changes:**

The new structure provided in the bill is listed below.

Chapter	Recommended Structure
1000	K-20 General Provisions <ul style="list-style-type: none"> <li>• Part I – General Provisions</li> <li>• Part II – Systemwide Definitions</li> <li>• Part III – Educational Compacts</li> </ul>
1001	K-20 Governance <ul style="list-style-type: none"> <li>• Part I.a. State Board of Education</li> <li>• Part I.b. Commissioner of Education</li> <li>• Part I.c. Department of Education</li> <li>• Part II.a. District School Boards</li> <li>• Part II.b. District School Superintendents</li> <li>• Part II.c. School Principals</li> <li>• Part III Community Colleges</li> <li>• Part IV State Universities</li> </ul>
1002	Rights and Choices <ul style="list-style-type: none"> <li>• Part I. Definitions</li> <li>• Part II. Student and Parental Rights</li> <li>• Part III. Educational Choice</li> <li>• Part IV. Home Education, Private schools, Other Education Options</li> </ul>
1003	Public K-12 Education <ul style="list-style-type: none"> <li>• Part I. General Provisions</li> <li>• Part II. School Attendance</li> <li>• Part III. Control of Students</li> <li>• Part IV. Public K-12 Educational Instruction</li> <li>• Part V. Specializes Instruction for Certain Public K-12 Students</li> <li>• Part VI. Pilot Public K-12 Education Programs</li> </ul>

1004	<p>Public Postsecondary Education</p> <ul style="list-style-type: none"> <li>• Part I. General Provisions</li> <li>• Part II. State Universities</li> <li>• Part II.a. General Provisions</li> <li>• Part II.b. Branch Campuses, centers, institutes, and special programs</li> <li>• Part III Community colleges</li> <li>• Part III.a. General Provisions</li> <li>• Part III.b. Special programs; centers</li> <li>• Part IV. Workforce development education</li> </ul>
1005	<p>Nonpublic Postsecondary Education</p> <ul style="list-style-type: none"> <li>• Part I. General Provisions</li> <li>• Part II. Commission for Independent Education</li> <li>• Part III. Licensure of nonpublic postsecondary educational institutions</li> </ul>
1006	<p>Support for Learning, Student Services, and Safety</p> <ul style="list-style-type: none"> <li>• Part I. Public K-12 Educational Support for Learning and Student Services</li> <li>• Part I.a. Learning Services Generally</li> <li>• Part I.b. Student Food and Health Services</li> <li>• Part I.c. Student Discipline and School Safety</li> <li>• Part I.d. Student Extracurricular Activities and Athletics</li> <li>• Part I.e. Transportation of Public K-12 Students</li> <li>• Part I.f. Instructional Materials for K-12 Public Education</li> <li>• Part II. Postsecondary Educational Institutions</li> </ul>
1007	<p>Access &amp; Articulation</p> <ul style="list-style-type: none"> <li>• Part I. General Provisions</li> <li>• Part II. Articulation</li> <li>• Part III. Access to Postsecondary Education</li> </ul>
1008	<p>Assessment &amp; Accountability</p> <ul style="list-style-type: none"> <li>• Part I. Assessment (K-20)</li> <li>• Part II. Accountability (K-20)</li> <li>• Part III. CEPRI</li> </ul>
1009	<p>Educational Scholarships, Fees, and Financial</p> <ul style="list-style-type: none"> <li>• Part I. General Provisions</li> <li>• Part II. Postsecondary Student Fees</li> <li>• Part III. Financial Assistance</li> <li>• Part III.a. General Provisions</li> <li>• Part III.b. Scholarships, Grants, and other aid</li> <li>• Part III.c. Role of the Department of Education</li> <li>• Part IV. Prepaid College Program</li> <li>• Part V. Florida Higher Education Loan Authority</li> </ul>
1010	<p>Financial Matters</p> <ul style="list-style-type: none"> <li>• Part I. General Accounting Requirements</li> <li>• Part II. Financial Reporting</li> <li>• Part III. Audit Requirements &amp; Procedures</li> </ul>

	<ul style="list-style-type: none"> <li>● Part IV. Provisions Relating to Bonding</li> <li>● Part V. Trust Funds</li> </ul>
1011	<p>Planning and Budgeting</p> <ul style="list-style-type: none"> <li>● Part I. Preparation, Adoption and Implementation of Budgets</li> <li>● Part I.a. District school boards: Preparation, Adoption, and Implementation of Budgets</li> <li>● Part I.b. Community Colleges: Preparation, Adoption, and Implementation of Budgets</li> <li>● Part I.c. Universities: Preparation, Adoption, and Implementation of Budgets</li> <li>● Part I.d. Florida School for the Deaf and Blind: Preparation, Adoption, and Implementation of Budgets</li> <li>● Part II. Funding for School Districts</li> <li>● Part III. Funding for Workforce Education</li> <li>● Part IV. Funding for Community Colleges</li> <li>● Part V. Funding for State Universities</li> </ul>
1012	<p>Personnel</p> <ul style="list-style-type: none"> <li>● Part I. General Provisions</li> <li>● Part II. K-20 Personnel Issues</li> <li>● Part III. Public Schools; Personnel</li> <li>● Part III.a. Department of Education, district school board, district school superintendent, and school principal duties</li> <li>● Part III.b. Personnel files, qualifications, contracts, assessments</li> <li>● Part III.c. Personnel (instructional and noninstructional); authorizations; requirements</li> <li>● Part III.d. Educator certification; renewal, duties</li> <li>● Part III.e. Leave, Retirement, Worker’s Compensation</li> <li>● Part III.f. Educator Benefits; liability protection; awards</li> <li>● Part III.g. Personnel discipline; assistance</li> <li>● Part IV. Public Postsecondary Institutions; Personnel</li> <li>● Part IV.a. General Provisions</li> <li>● Part IV.b. Community colleges; personnel</li> <li>● Part IV.c. Universities; personnel</li> <li>● Part V. Professional Development</li> <li>● Part VI. Interstate compact on qualifications of educational personnel</li> </ul>
1013	<p>Educational Facilities</p> <ul style="list-style-type: none"> <li>● Part I. Functions; Department of Education</li> <li>● Part II. Use and management of Educational Facilities</li> <li>● Part III. Planning and Construction of Educational Facilities</li> <li>● Part III.a. Campus Master Plans and Educational Plant Surveys</li> <li>● Part III.b. Building Codes and Construction for Educational Facilities</li> <li>● Part III.c. Contracting for Educational Facilities</li> <li>● Part III.d. Cooperative Development of Educational Facilities</li> <li>● Part IV. Funding for Educational Facilities</li> </ul>

The following chapters are not included in the new Education Code:

- Retirement System for Teachers (chapter 238)
- Counties Higher Education Facilities Financing Authority and Higher Education Facilities Financing for Private Institutions (chapter 243, Part II and Part III)
- Disposition of Dead Bodies (chapter 245)

## **ENFORCEMENT AUTHORITY**

### **Present Situation:**

Chapter 2001-170, Laws of Florida, requires that the State Board of Education become an enforcement body. The legislation provides for the state board to be the entity responsible for ensuring that school districts and public postsecondary institutions comply with law and state board rule.

### **Effect Of Proposed Changes:**

The bill creates s. 1008.32, F.S., to authorize the State Board of Education a number of options to enforce the law and state board rule. District school boards and public postsecondary educational institution boards are primarily responsible for enforcement of law and state board rule.

## **University Issues**

### **Legal Entity Status**

- State universities are currently designated as state agencies.
- The bill removes universities from state agency status by designating them as “public corporations.”

### **Personnel Systems/personnel classification and pay systems**

- The State Board of Education currently prescribes the uniform personnel systems to be used by all universities.
- The bill allows universities to establish their own personnel programs and systems in accordance with law and state board rule.
- The bill requires the State Board of Education to adopt minimum guidelines and criteria for university personnel systems.
- Universities maintain coverage for their employees under the state health insurance and retirement plans.

### **Collective Bargaining**

- In current law, the State Board of Education is the public employer for all state universities and handles collective bargaining. One set of terms and conditions of employment is bargained centrally for all universities, by unit. The Legislature resolves issues at impasse.
- Five labor organizations are recognized as the bargaining agents for employees in the State University System:
  - Florida Public Employees Council 79 (AFSCME)(four separate units)
  - Florida Nurses Association, Inc. (FNA)
  - Florida Police Benevolent Association (PBA)
  - Graduate Assistants United (GAU)(three separate units)

- United Faculty of Florida (UFF).
- The bill allows university boards to collectively bargain locally and designates universities as the public employers for collective bargaining. In addition, the university boards are the legislative bodies for purposes of resolving impasses.

#### **Purchasing/Contracting/MIS**

- The State Board of Education currently prescribes the uniform purchasing and contracting systems to be used by all universities.
- The bill allows universities to establish their own purchasing and contracting systems in accordance with law and state board rule. The bill requires the State Board of Education to adopt minimum guidelines and criteria for university purchasing and contracting.

#### **Deposit of Funds outside the State Treasury/Investment of Funds**

- Current law requires the deposit of most university funds in the State Treasury with limited exceptions (i.e., student deposits, private funds, faculty practice plan funds, etc.)
- The bill allows universities to deposit funds in a qualified depository for public funds as defined by law. The bill establishes a biweekly disbursement schedule of state appropriated funds to each university.

#### **Eminent Domain**

- The Florida Board of Education can exercise the right of eminent domain with approval from the State Board of Education (elected Cabinet).
- The bill allows university boards to exercise the right of eminent domain with the approval of the State Board of Education (appointed body in 2003).

#### **Florida Financial Management Information System (FFMIS) and FLAIR**

- Current law requires all state agencies to utilize FFMIS and FLAIR.
- Five universities (USF, UCF, FIU, FGCU, and FAU) have been authorized to prepare plans to be exempted from the use of these systems; however, the universities are not ready to change for the 2002-2003 fiscal year.
- The bill establishes a process for each university to prepare a plan to move off the FFMIS and FLAIR systems.
  - Universities must establish a parallel system and demonstrate the adequacy and effectiveness of the new system to meet the needs of the university and to provide information required for Legislative budgeting and state level information systems.
  - The State Board of Education certifies to the Legislature when a university has an acceptable alternative budgeting and MIS process to transition to a new system.

#### **Carry forward funds**

- University carry forward funds cannot exceed 5% of the total operating budget of the university.
- The bill eliminates the 5 percent cap on university carry forward funds, but establishes a policy where universities must notify the State Board of Education, when the unencumbered balance in the general fund goes below 5 percent.

#### **Ownership of Property**

- Because they are state agencies, most university lands and buildings are state property and subject to the control and authority of the Board of Trustees of the Internal Improvement Trust Fund. Properties are then leased to the State Board of Education.
- The bill makes the following changes:
  - Title to property currently held with the state will remain with the state

- Title to property purchased in the future with state appropriated funds will remain with the state
- The university boards will hold title to property purchased in the future with funds not appropriated by the Legislature.

### **Risk Management**

- The State Risk Management Trust Fund (RMTF) provides insurance coverage from specified losses to universities due to their state agency status.
- The bill continues coverage for the universities under the Risk Management Trust Fund. However, the bill authorizes the State Board of Education to purchase or provide as a self-insurer comprehensive general liability insurance.
- Universities are required to maintain coverage under the Risk Management Trust Fund.

### **SUNCOM**

- Section 282.103, F.S., requires all state agencies to use the SUNCOM system.
- The bill continues to require universities to use SUNCOM.

### **Tuition and Fees**

- Currently universities have authority to go up to 10% above or below the legislatively set matriculation and tuition as long as they are given the spending authority for those funds. However, the Legislature has rarely given the spending authority for the differential tuition; therefore, all state universities charge the same matriculation and tuition.
- The bill authorizes the university boards to set tuition within the General Appropriations Act.

### **University admissions**

- Current law provides a 5% exception for the SUS admissions requirement relating to foreign languages. This 5% cap is a system wide cap. Therefore, the percentage of students provided exceptions varies by institution.
- The bill eliminates the 5% system wide cap and authorizes the State Board of Education to establish the percent cap which could vary by institution

### **Summer semester coursework**

- To increase the use of university facilities, State Board of Education rule requires students who attend a state university to take 9 credit hours of education during a summer term.
- The bill allows students who receive credit using an acceleration mechanism (such as CLEP testing, AP or IB credit) to count these credits towards the university required 9 summer school credits.

### **Law enforcement**

- The bill expands the jurisdiction of university law enforcement to include property and facilities of a university direct-support organization.

### **Student government**

- The bill changes the responsibility of the approval of student government association internal procedures from the authority of the university president to the university board of trustees.

## **Community College Issues**

### **Unencumbered fund balances**

- Community colleges must maintain an unencumbered fund balance of between 4% and 10% of funds available in the current operating budget. If the 10% level is exceeded for more than two consecutive years, appropriations to that community college must be reduced.
- The bill eliminates the unencumbered fund balance on community colleges but requires the community college to notify the State Board of Education when the unencumbered balance in the general fund goes below 5%.

#### **Institutional budget requests**

- The bill requires each community college to submit an institutional budget request to the Department of Education.

#### **Community college presidents; powers and duties**

- The bill creates section 1001.65, F.S., relating to powers and duties of community college presidents. This section is patterned after the university presidents' powers and duties section.

#### **Fees**

- The bill gives community colleges whose district borders another state authority to establish differential out-of-state fees.

#### **Law enforcement**

- The bill expands the jurisdiction of community college law enforcement officers to include property and facilities of a community college direct-support organization.

#### **Matching fund programs**

- The bill combines several community college matching fund programs (Dr. Philip Benjamin Matching Grant Program, Academic Improvement Program, Scholarship Matching Program, and the Health Care Education Quality Enhancement Challenge Grant Program) into the Dr. Philip Benjamin Matching Grant Program.

#### **Employment and Admissions**

- Section 240.319(4)(i), F.S., permits a community college board of trustees to deny admission or employment on the basis of past actions that interfered with the orderly conduct of any educational institution.
- The bill expands the grounds for denial of admission or employment to include any past action irrespective of disrupting conduct at an educational institution.

### **Issues Affecting Multiple Sectors and School Districts**

#### **School Board Member Pay**

- Section 230.202, F.S., provides school board members with a "base salary" that is based upon population and includes various rates and factors.
- The bill requires school boards to establish their own pay

#### **Educator Certification Programs**

- Section 1012.56(7)(a), F.S., allows school districts to choose between implementing the state-developed alternative certification program or implementing their own program that meets the same minimum requirements and is approved by the Department of Education.
- The bill authorizes district school boards to hire school principals who do not have educator certification and to provide an alternate route to certification for them.

#### **Financial Aid Programs**

The bill makes very few changes in financial aid requirements.

- It changes the name of the Florida Merit Scholarship Program to the Florida Medallion Scholarship Program.
- It deletes a requirement that a Gold Seal Vocational Scholarship requires a student to complete a vocational ready diploma, which does not exist.

#### **Immunizations**

- The bill requires students who live in campus housing at a university or community college to have or refuse certain vaccinations. The institution is not required to pay for the vaccinations.

#### **Florida Bright Futures Scholarship Testing Program**

- In current law, a student loses part of Bright Futures eligibility if the student succeeds in earning college credit through an acceleration mechanism. This requirement applies only to Medallion and Academic Scholars and only to students who enroll in public colleges or universities.
- The bill deletes this penalty and provides an incentive for passing a CLEP test or earning college credit through AP or IB credit.
  - The incentive is an exemption from the requirement to enroll in summer session at least for 9 credit hours.
  - The bill retains the requirement that all Bright Futures Medallion and Gold Seal Scholarship recipients must take 5 CLEP tests, if they enroll in a public community college or state university.
  - It does not authorize a penalty if students do not obey this requirement.
  - It retains the requirement that the community college or university must pay for the CLEP tests, and does not authorize the use of any other college equivalency testing program.

#### **Florida Education Finance Program**

- Section 236.081(1)(a), F.S., requires that a district's full-time equivalent membership be adjusted by multiplying by an average daily attendance factor. This provision has not been implemented by the Legislature since its establishment in 1999.
- The 2000 Legislature passed chapter 2000-181, L.O.F., to require a review of the FEFP and recommend changes to the formula. The law contains a repeal of the FEFP in 2004. The task force has not reached consensus on the issues.
  - The bill repeals the future repeal of the FEFP.
  - The bill eliminates the Average Daily Attendance requirement within the Florida Education Finance Program (FEFP).

#### **Charter Schools**

- Creates charter school appeal commission
- Vests final appeal decision with State Board of Education
- Authorizes commissioner to identify additional sources of capital outlay funding
- Redefines charter school purposes.
- Authorizes an exemption from certain fees.

#### **Foreign Language Instruction**

- Requires a plan to implement foreign language curriculum.

#### **Categorical Flexibility**

- School districts currently have complete discretion over the vast majority of their budgets (92.9%). The remaining funds are provided to districts through categoricals for specific

purposes. In the 2002 Special Session C, school districts were given flexibility over expenditures of certain categorical funds for 1 year only.

- The bill extends that flexibility for 1 more year

#### **Full credit for teaching experience**

- The 2001 Legislature<sup>4</sup> required school districts to recognize and accept for purposes of pay each year of full-time teaching service. Some districts have honored this requirement as Legislative intent, but others have not done so because it is not consistent with their collective bargaining agreements.
- The bill eliminates the collective bargaining limitation on awarding equivalent teaching service from current law.
- The bill also requires the full-credit for teaching service to apply to experience in charter schools, either in-state or out-of-state.

#### **School board action on personnel nominations**

- Section 230.23(5)(b), F.S., requires school boards to act on personnel nominations of the superintendent by no later than 3 weeks after the end of the regular legislative session.
- The bill requires boards to act on nominations within 3 weeks of the later of the end of regular session of May 31. [s. 1012.22(1)(b), F.S.].

#### **Education Facilities / Construction / Relocatables**

- The bill excludes hurricane shelter construction from the construction that is counted for purposes of receiving a School Infrastructure Thrift Award.
- School districts must include a plan for using existing relocatable facilities within a district 5-year program to be reviewed by the Commissioner of Education by January 1, 2003. Relocatables that do not meet state standards at the end of the work program may no longer be used as classrooms. This does not negate the statutory requirement that relocatable classrooms over 20 years of age that were used as classrooms during the 1998-1999 fiscal year must be removed from service by July 1, 2003.

#### **10th Grade FCAT Scores**

- The bill requires a student to earn the score on the Grade 10 Florida Comprehensive Assessment Test (FCAT) that was required for high school graduation at the time the student first attempted the test.
- The bill requires school districts to notify parents of students with disabilities when classroom accommodations cannot be made on the FCAT. The bill requires parental consent for these accommodations to be made in the classroom.

#### **Physical Education Requirements**

- The bill allows students who complete one semester with a grade of "C" or better in a marching band class, or in a physical activity class that requires participation in marching band activities as an extracurricular activity to satisfy a ½ credit requirement in physical education.

#### **Florida High School Activities Association (FHSAA)**

- The bill requires the board of directors of the FHSAA to examine alternative criteria for establishing administrative regions. The examination will include population; procedures to ensure appropriate diversity in the membership of the board; and opportunities to secure corporate financial support for high school athletic programs. By March 1, 2003,

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<sup>4</sup> Section 231.36(3)(g), F.S., created in Chapter 2001-47, L.O.F.

the board will report its findings to the Commissioner of Education, President of the Senate and Speaker of the House.

#### **Florida School for the Deaf and the Blind**

- Authorizes the school to carry forward funds without a cap.
- Requires school to report to State Board of Education if funds fall below 5 percent.

#### **Public School Student Progression**

- The bill requires retention of students whose reading deficiency is not remedied by the third grade, as demonstrated by scoring at Level 2 or higher on the third grade reading portion of the FCAT. Before third grade, students identified as having a substantial reading deficiency must be given intensive reading instruction.
- The bill requires that academic improvement plans describe specific areas of reading deficiency, desired levels of performance in these areas, and necessary support services.
- The bill requires written parental notification of a substantial reading disability, current services, proposed remediation, and a mandatory 3rd grade retention requirement.
- The bill outlines good cause exemptions: Limited English Proficient Students who have had less than two years of instruction in an English for Speakers of Other Languages program; those with disabilities whose individual education plan (IEP) indicates that participation in the statewide assessments is not appropriate; those who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education; those who demonstrate, through a student portfolio, the mastery of the Sunshine State Standards in reading equal to a Level 2 performance on the FCAT; students with disabilities who were previously retained in K, 1<sup>st</sup>, or 2<sup>nd</sup> grade, who participate in the FCAT and whose IEP or 504 plan shows a remaining deficiency after intensive remediation in reading for more than two years; and students who have received the intensive remediation in reading for two or more years but still demonstrate a deficiency or who were previously retained in kindergarten, grade 1, or grade two for a total of two years.
- The bill requires the teacher to document and report any good cause exemption to the principal. The principal reviews and reports a recommendation to the superintendent who makes the final decision. Each step of this process must be in writing.
- The bill gives the State Board of Education authority to enforce these provisions by requiring that districts submit relevant data, allowing the Commissioner of Education to investigate noncompliance, ordering compliance within a specified timeframe, and withholding funds in the event of continued noncompliance.

#### **Florida Virtual High School**

- The bill changes the name of the Florida Virtual High School to the Florida Virtual School. It requires the school districts to provide access for students to take courses with the school and to inform the public about educational opportunities in the school. The bill allows the school to use patent and trademark revenue for marketing, in addition to research and development.

#### **Charter Schools**

- The bill creates a charter school commission to review charter school appeals. The State Board of Education has the final decision on charter school appeals.
- The bill allows the Commission of Education to identify additional funding sources
- The bill redefines charter school purposes

- The bill exempts charter schools from the assessment of building fees as well as impact and service availability fees.

#### **McKay Scholarship Program**

- The bill requires school districts to notify the parent of a student with a disability within 10 school days of the parent's application for a McKay scholarship, if a matrix of services is not available on the student.
- The school district must give the parent a date for completion of the matrix of services and notify the parent within 10 school days upon completion of the matrix of services.
- Until a district completes a matrix of services for the student, the student's McKay scholarship award will be calculated based upon Support Level I (lowest weighted level).
- The bill eliminates the specific date for a private school to notify the Department of Education of its intent to participate in the program.
- The bill revises the notification requirements for parents who wish to send their child to a private school.

#### **Character Education**

- The bill expands required character education to grades 7-12.

#### **General Equivalency Diploma (GED)**

- The bill requires the State Board of Education to adopt a rule to allow students with a GED to take and pass assessment in order to earn a regular high school diploma.

#### **Florida School Recognition Program**

- The bill conforms the Florida School Recognition Program to current practice of administering the program based upon the school grading system. Schools are eligible to receive a bonus if they receive an "A" or improve a letter grade.
- If school staff and the school advisory council cannot decide how to use the school recognition award by November 1, the award will be divided equally among all classroom teachers in the school.

#### **Office of Inspector General**

- The bill establishes the Office of Inspector General to be responsible for promoting accountability, efficiency, and effectiveness and detecting fraud and abuse within school districts, community colleges, and universities in Florida.

#### **Commissioner's Waiver Authority**

- The 1997 Legislature amended s. 229.592(9), to allow the Commissioner to waive almost any substantive provision of law in chapters 230 through 239 and state board rule, except those pertaining to the allocation and appropriation of state and local funds.
- The bill eliminates the Commissioner's waiver authority over law. However, it authorizes the Commissioner to waive state board rule, if the state board delegates to him that authority.

#### **Religious Rights**

- The bill contains a religious rights provision that unconstitutionally expands student expression of religious rights in public schools.

#### **Zero-tolerance policy and code of student conduct**

- School boards are authorized to make an exception from the zero-tolerance expulsion requirements for students who lawfully store a firearm or weapon in a locked vehicle on school property or for activities approved and allowed by the district school board when the board has adopted appropriate safeguards to assure student safety. This exception is also contained in the code of student conduct provisions.

- Includes as a ground for required expulsion the possession of a firearm at school.
- Requires a school district zero-tolerance policy to include referral to the criminal or juvenile justice system.
- Requires report of sexual battery committed on a student on school grounds.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. Other Constitutional Issues:**

The bill contains a religious rights provision consisting of excerpts from a 1995 pamphlet on religious expression in public schools published by certain civil liberties organizations. The pamphlet, which sets forth the broad parameters of religious expression in public schools as existed in 1995, was not written for purposes of statutory enactment. The bill purports to codify portions of the pamphlet by lifting certain provisions from the pamphlet. The selected provisions do not reflect an accurate or comprehensive representation of current case law. Accordingly, a public school that implements the law would likely violate the First Amendment establishment clause of the U.S. Constitution and Article 1, section 3 of the Florida Constitution. The lifted provisions mostly unfetter student rights to express their religious beliefs without imposing the necessary safeguards to avoid constitutional violation. In addition, the provision is silent on the role of the public school in enforcing the provision or participating in the religious events. Codification of the pamphlet or certain selected provisions of the pamphlet would undoubtedly result in litigation against the state and its political subdivisions. Moreover, judicial opinions construing public school religious issues would not necessarily correspond with legislative session. Accordingly, the provision risks constant revision to conform to current law.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Residents of Georgia and Alabama who attend a Florida community college that borders those states may have their tuition and fees either reduced or increased, depending on the decision of the boards of trustees.

**C. Government Sector Impact:**

It is anticipated that the transition of a state university from a state agency to an independent entity would precipitate a fiscal impact. However, the fiscal impact is currently indeterminable.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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