

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1831 (formerly PCB EDK 03-05) w/CS School Code Rewrite Glitch Bill
SPONSOR(S): Committee on Education K-20
TIED BILLS: HB 911, HB 1739, HB 1745**IDEN./SIM. BILLS:** CS/S 1772, CS/S 1006, CS/S 1520, CS/S 2156, SB 2324, SB 2576, SB 2738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education K-20	26 Y, 0 N w/CS	Britton	Bohannon
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The 2002 Legislature enacted a new School Code designed to reflect the new K-20 education governance system, focus primarily on students and learning, reduce overly prescriptive provisions, eliminate duplication, eliminate obsolete provisions, have a logical and user-friendly format, and maintain all necessary statutory authority.

During the interim, staff of the Education K-20 Committee worked with representatives of the Department of Education, school districts, postsecondary institutions, Statutory Revision, the Senate, the Governor's Office, and other members of the education community to review the new School Code. They identified technical problems, items that need clarification, and unintended consequences of the legislation passed last session.

HB 1831 with a Committee Substitute, proposes a number of changes to the School Code Rewrite including updating obsolete terminology, correcting unintended consequences, providing clarification, correcting omissions, and making technical corrections.

The fiscal impact of the bill, if any, is expected to be minimal.

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This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1831.edk.doc
DATE: April 15, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

The “school code” is the compilation of Florida school laws, previously comprised of 19 chapters of education law reflected in chapters 228 through 246, F.S., and currently contained in chapters 1000 through 1013, F.S.

The Education Governance Reorganization Act of 2001 established the Florida Board of Education and charged it with governance of the K-20 education system and directed the new board to “develop and recommend . . . for adoption during 2002, a clear, concise new School Code, comprised of the revision of chapters 228-246, to accomplish the implementation, administration, and operation of Florida’s seamless K-20 education system in accordance with the (legislative) guidelines.”

In response to the 2001 legislation, the Florida Board of Education established a workgroup with representation from all education delivery sectors and education stakeholders to examine the School Code and make recommendations for its revision. During the 2002 Session, members of the Legislature considered the recommendations of the board, its workgroup, and others as they undertook the task of rewriting the Florida School Code.

The new School Code adopted by the 2002 Legislature was crafted to reflect the new K-20 education governance system, focus primarily on students and learning, reduce overly prescriptive provisions, eliminate duplication, eliminate obsolete provisions, have a logical and user-friendly format, and maintain all necessary statutory authority.

During the interim, staff of the Education K-20 Committee worked with representatives of the Department of Education, school districts, postsecondary institutions, Statutory Revision, the Senate, the Governor’s Office, and other members of the education community to review the revised School Code. They identified technical problems, items that need clarification, and unintended consequences of the legislation passed last session.

HB 1831 with a Committee Substitute, proposes a number of changes to the School Code Rewrite including updating obsolete terminology, correcting unintended consequences, providing clarification, correcting omissions, and making technical corrections.

HB 1831 w/CS updates obsolete terminology as follows:

- Changes references to “rule-making authority” of the “Department of Education” or the “Commissioner of Education” to rule-making authority of the State Board of Education.
- Changes references to “developmental research schools” to “lab schools.”
- Changes references to the “Florida Board of Education” to “State Board of Education.”
- Changes references to “Articulation Coordinating Committee” to “State Board of Education.”
- Changes references to “State Board of Community Colleges” to “State Board of Education.”

- Changes references to "State Board of Independent Colleges and Universities" and "State Board for Nonpublic Career Education" to the "Commission for Independent Education."
- Changing some references to "Board of Regents" to "Board of Governors" (most of the references to Board of Regents are not addressed in this bill).
- Corrects references to the Accrediting Council for Independent Colleges and Schools.

HB 1831 w/CS addresses unintended consequences as follows:

- Clarifies the methodology for calculating an elected superintendent's salary.
- Clarifies that school-entry immunizations are for pre-K through grade 12, rather than for Kindergarten through grade 12.
- Clarifies that rule changes to passing scores on the 10th grade FCAT only apply to students who take the 10th grade FCAT for the first time after the rules are changed.
- Adds grade 3 to grades 1 and 2 in good cause exemption from retention for students with disabilities.
- Authorizes AHCA, as the primary monitoring source, rather than DOE to monitor compliance of school districts with Medicaid provider agreements.
- Updates sections of statutes relating to direct deposit of funds, pretax benefits, deferred compensation, the Consolidated Equipment Financing Program, and Worker's Compensation Self-insurance due to the change of universities from state agency status to public corporations.

HB 1831 w/CS provides clarification and corrects omissions as follows:

- Clarifies that SBOE as an appointed board (not elected) may not waive state statutory law.
- Clarifies some of the functions of the Commissioner, the Department, and the State Board.
- Clarifies definitions, such as educational support employee.
- Restores language (pre School Code Rewrite) re impaired and learning disabled students in public postsecondary education.
- Includes AICE (Advanced International Certificate of Education) students and courses in Bright Futures scholarship program.
- Clarifies fee exemption relating to Apprenticeship Programs.

HB 1831 w/CS also makes a number of technical corrections. The bill corrects cross-reference errors, punctuation errors, and incorrect references to federal law. The bill also makes conforming changes.

C. SECTION DIRECTORY:

Section 1: Amends s. 17.076, F.S., to provide an exception to an exemption as it relates to state universities and the direct deposit of funds.

Section 2: Amends s. 20.055, F.S., to delete "Board of Regents."

Section 3: Amends s. 24.121, F.S., to correct cross-reference.

Section 4: Amends s. 110.161, F.S., to include employees of state universities in definition for purposes of pretax benefits program.

Section 5: Amends s. 112.215, F.S., to include employees of state university boards of trustees in definition for purposes of deferred compensation program.

Section 6: Amends s. 145.19, F.S., to add cross-reference; to provide for superintendent's annual performance salary incentive to be added to adjust salary rate.

Section 7: Amends s. 159.27, F.S., to change "development research" to "lab."

Section 8: Amends s. 212.055, F.S., to delete “Florida Frugal School System.”

Section 9: Amends s. 216.136, F.S., to delete chancellor of State University System; to delete executive director of State Board of Community Colleges; to delete executive director of State Board of Nonpublic Career Education; to add the executive director of the Commission for Independent Education.

Section 10: Amends s. 250.10, F.S., to delete “State Board of Community Colleges”; to change “Board of Regents” to “Board of Governors.”

Section 11: Amends s. 287.064, F.S., to authorize state universities to continue to participate in the Consolidated Equipment Financing Program.

Section 12: Amends s. 288.7091, F.S., to change “Florida Board of Education” to “State Board of Education.”

Section 13: Amends s. 316.615, F.S., to change “Commissioner of Education” to “State Board of Education.”

Section 14: Amends s. 402.305, F.S., to change “Department of Education” to “State Board of Education.”

Section 15: Amends s. 409.1451, F.S., to correct cross-reference.

Section 16: Amends s. 440.38, F.S., to include state universities as self-insurers for purposes of worker’s compensation.

Section 17: Amends s. 445.012, F.S., to change “Articulation Coordinating Committee” to “State Board of Education.”

Section 18: Amends s. 445.0122, F.S., to change “Articulation Coordinating Committee” to “State Board of Education.”

Section 19: Amends s. 445.0123, F.S., to change “State Board of Independent Colleges and Universities” and “State Board of Nonpublic Career Education” to “Commission for Independent Education.”

Section 20: Amends s. 445.0124, F.S., to change “Articulation Coordinating Committee” to State Board of Education”; to change “State Board of Community Colleges” and “Department of Education” to “State Board of Education.”

Section 21: Amends s. 455.2125, F.S., to change “State Board of Independent Colleges and Universities” and “State Board of Nonpublic Career Education” to “Commission for Independent Education”; to change “Board of Regents” to “Board of Governors”; to change “State Board of Community Colleges” to “State Board of Education.”

Section 22: Amends s. 456.028, F.S., to change “State Board of Independent Colleges and Universities” and “State Board of Nonpublic Career Education” to “Commission for Independent Education”; to change “Board of Regents” to “Board of Governors”; to change “State Board of Community Colleges” to “State Board of Education.”

Section 23: Amends s. 458.347, F.S., to change “State Board of Community Colleges” to “State Board of Education.”

Section 24: Amends s. 467.009, F.S., to change “State Board of Nonpublic Career Education” to “Commission for Independent Education.”

Section 25: Amends s. 488.01, F.S., to change “State Board of Nonpublic Career Education” to “Commission for Independent Education.”

Section 26: Amends s. 489.125, F.S., to change “Commissioner of Education” to “State Board of Education.”

Section 27: Amends s. 784.081, F.S., to change “development research” to “lab.”

Section 28: Amends s. 817.566, F.S., to change “State Board of Independent Colleges and Universities” to “Commission for Independent Education”; to correct cross-reference.

Section 29: Amends s. 817.567, F.S., to change “State Board of Independent Colleges and Universities” to “Commission for Independent Education”; to correct cross-reference.

Section 30: Amends s. 943.17, F.S., to change “Department of Education” to “State Board of Education.”

Section 31: Amends s. 943.22, F.S., to change “Accrediting Commission for Independent Colleges” to “Accrediting Council for Independent Colleges.”

Section 32: Amends s. 1000.04, F.S., to delete “area” from technical centers.

Section 33: Amends s. 1001.26, F.S., to correct cross-reference.

Section 34: Amends s. 1001.32, F.S., to delete “and the commissioner,” in reference to rules of the commissioner.

Section 35: Amends s. 1001.372, F.S., to correct cross-reference.

Section 36: Amends s. 1001.395, F.S., to add clarifying language regarding school board members’ salaries.

Section 37: Amends s. 1001.42, F.S., to correct cross-reference.

Section 38: Amends s. 1001.47, F.S., to provide calculation methodology for salaries for elected superintendents based on county populations.

Section 39: Amends s. 1001.50, F.S., to delete “age,” limiting age as a criterion of compensation for district school superintendents.

Section 40: Amends s. 1001.51, F.S., to delete “patrons.”

Section 41: Amends s. 1001.74, F.S., to correct a cross-reference.

Section 42: Amends s. 1002.01, F.S., to correct cross-reference.

Section 43: Amends s. 1002.20, F.S., to correct cross-reference.

Section 44: Amends s. 1002.32, F.S., to change “developmental research” to “lab”; to correct cross-reference.

Section 45: Amends s. 1002.33, F.S., to correct reference to federal law; to delete conflicting provisions relating to charter school students; to require compliance with s. 1012.45, F.S., for transportation of charter school students; to delete obsolete pilot program.

Section 46: Amends s. 1002.42, F.S., to correct cross-reference.

Section 47: Amends s. 1002.43, F.S., to add “school” before attendance, for purposes of clarification; to correct cross-reference.

Section 48: Amends s. 1003.22, F.S., to change “kindergarten” to “prekindergarten.”

Section 49: Amends s. 1003.43, F.S., to delete reference to State Board of Education waiver authority; to correct a date and name.

Section 50: Amends. s. 1003.52, F.S., to correct cross-reference.

Section 51: Amends s. 1003.63, F.S., to delete reference to State Board of Education waiver authority.

Section 52: Amends s. 1004.24, F.S., to delete obsolete reference to postaudit of financial accounts; to provide for financial audit pursuant to s. 11.45, F.S..

Section 53: Amends s. 1004.26, F.S., to conform university oversight of student government.

Section 54: Amends s. 1004.445, F.S., to delete obsolete reference to postaudit of financial accounts; to provide for financial audit pursuant to s. 11.45, F.S..

Section 55: Amends s. 1005.04, F.S., to correct a punctuation error.

Section 56: Amends s. 1006.06, F.S., to change “private” to “non-profit.”

Section 57: Amends s. 1006.14, F.S., to correct a punctuation error.

Section 58: Amends s. 1006.18, F.S., to change “Activities” to “Athletics”

Section 59: Amends s. 1006.20, F.S., to change “Activities” to “Athletics”; to add conforming language in regards to the physical assessment needed for participation; to remove an obsolete section.

Section 60: Amends s. 1006.21, F.S., to delete “regulation”; to change “state board” to “State Board of Education.”

Section 61: Amends s. 1007.21, F.S., to delete “guardian.”

Section 62: Amends s. 1007.264, F.S., to revise provisions relating to impaired and learning disabled persons; to delete provisions relating to admission into a program of study and graduation.

Section 63: Creates s. 1007.265, F.S., to create provisions relating to impaired and learning disabled students with regard to graduation, study program admission, and upper division entry; to provide for substitute requirements.

Section 64: Amends s. 1008.22, F.S., to delete reference to passing scores for students taking FCAT for first time; to provide rules for raising passing score only apply to students taking FCAT for first time after rules are adopted.

Section 65: Amends s. 1008.25, F.S., to provide grade 3 students with disability who were previously retained same exemption from retention as grade 1 and 2 students with disability who were previously retained; to change date.

Section 66: Amends s. 1008.29, F.S., to remove cross-reference.

Section 67: Amends s. 1008.32, F.S., to require the Commissioner of Education to report finding of probable cause; to correct a grammar error.

Section 68: Amends s. 1008.37, F.S., to change date from November “31” to “30.”

Section 69: Amends s. 1009.24, F.S., to restore language providing that nonresident student fees must be sufficient to defray costs of undergraduate education.

Section 70: Amends s. 1009.25, F.S., to restore language providing that a student enrolled in an apprenticeship program is exempt from certain tuition and program fees; to define the terms “fees”

Section 71: Amends s. 1009.29, F.S., to change number of state universities from “nine” to “eleven.”

Section 72: Amends s. 1009.531, F.S., to change “plead” to “pled”; to add “International General Certificate of Secondary Education” and “Advanced International Certificate of Education” in the courses that are weighted for purposes of determining initial eligibility for a Bright Futures Scholarship.

Section 73: Amends s. 1009.532, F.S., to change “reinstatement only once” to “restoration one time.”

Section 74: Amends s. 1009.534, F.S., to add “Advanced International Certificate of Education” in initial eligibility criteria for a Florida Academic Scholars award; to change “Department” to “State Board”; to change “Office” to “Organization”; to change “one reinstatement” to “restoration one time.”

Section 75: Amends s. 1009.535, F.S., to add “Advanced International Certificate of Education” in initial eligibility criteria for a Florida Medallion Scholars award; to change “Department” to “State Board”; to change “reinstatement” to “restoration.”

Section 76: Amends s. 1009.536, F.S., to change “reinstatement” to “restoration.”

Section 77: Amends s. 1009.58, F.S., to change “development research” to “lab.”

Section 78: Amends s. 1009.61, F.S., to change “development research” to “lab.”

Section 79: Amends s. 1009.765, F.S., to change “Department of Education” to “State Board of Education” for purposes of rulemaking.

Section 80: Amends s. 1009.77, F.S., to change “Department” to “State Board”

Section 81: Amends s. 1010.215, F.S., to change “revenues” to “funds.”

Section 82: Amends s. 1010.75, F.S., to change “for” to “from,” providing that fees be remitted for disbursement from the Teacher Certification Examination Trust Fund.

Section 83: Amends s. 1011.24, F.S., to change “developmental research” to “lab.”

Section 84: Amends s. 1011.47, F.S., to change “developmental research” to “lab.”

Section 85: Amends s. 1011.60, F.S., to delete obsolete cross-reference; to add provisions relating to minimum days of instruction for grade 12 students for purposes of high school graduation.

Section 86: Amends s. 1011.62, F.S., to change “developmental research” to “lab”; to delete reference to High School Competency Test; to add reference to state accountability grade.

Section 87: Amends s. 1011.70, F.S., to change “Department of Education” to “Agency for Health Care Administration”; to change “development research” to “lab”; to provide lab schools to participate in Medicaid certified school match program “on same basis as school districts.”

Section 88: Amends s. 1011.765, F.S., to change “Department of Education” to “Consortium of Florida Education Foundations”; to change a date; to change “notification” to “certification.”

Section 89: Amends s. 1012.21, F.S., to change “Department of Education” to “department”; to change “Department” to “State Board.”

Section 90: Amends s. 1012.585, F.S., to correct trust fund name; to correct cross-reference.

Section 91: Amends s. 1012.61, F.S., to add definition of “educational support employee.”

Section 92: Amends s. 1012.62, F.S., to correct cross-reference.

Section 93: Amends s. 1012.74, F.S., to correct cross-reference.

Section 94: Amends s. 1012.79, F.S., to correct cross-reference.

Section 95: Amends s. 1012.795, F.S., to add clarifying language designating appointed representative of district school superintendent to receive certain records concerning certain offenses.

Section 96: Amends s. 1012.796, F.S., to correct cross-reference.

Section 97: Amends s. 1012.98, F.S., to add “state,” requiring consultation with state university faculty.

Section 98: Amends s. 1013.31, F.S., to delete extraneous use of “colleges;” to change “Division of Colleges and Universities” to “Department of Education” or “State Board of Education,” providing that Department of Education validates certain university surveys in accordance with State Board of Education approval of needs and enrollment cycle.

Section 99: Amends s. 1013.62, F.S., to add “for a nominal fee or at no charge,” providing charter schools serve students in facilities that are not provided for nominal fee or at no charge by sponsor to be eligible for capital outlay funding.

Section 100: Amends s. 1013.73, F.S., to correct cross-reference.

Section 101: Amends s. 1013.74, F.S., to delete obsolete cross-reference.

Section 102: Repeals s. 445.049, F.S., paragraphs (g) and (h) of subsection (2), removing the executive director of the State Board of Community Colleges and the executive director of the State Board for Career Education as members of the Digital Divide Council; s. 1006.57, F.S., relating to certain books furnished by the Clerk of the Supreme Court; s.1008.345, F.S., subsection (3), relating to implementation of state system of school improvement and education accountability.

Section 103: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS.

D. FISCAL COMMENTS:

The fiscal impact of the bill, if any, is expected to be minimal.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

See Other.

2. Other:

The bill does not appear to have any constitutional issues.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 31, 2003, the Committee on Education K-20 adopted 6 amendments.

Amendment 1, revises the timeframe for the district school board members to set their own salaries.

Amendment 2, changes the name of the Florida High School Activities Association to the Florida High School Athletic Association, and eliminates an obsolete report requirement.

Amendment 3, clarifies the criteria required of the athletic physicals students are required to have before playing sports.

Amendment 4, changes the entity distributing the funds of the Florida Academic Improvement Trust Fund from the Department of Education to the Florida Consortium of Education Foundations.

Amendment 5, adds a cross-reference to clarify that university employees are still eligible to participate in pre-tax benefits programs.

Amendment 6, repeals s. 1006.57, F.S., relating to certain books furnished by Clerk of Supreme Court.

The bill, as amended, was reported favorably with a CS out of committee by a vote of 26 Yeas and 0 Nays.