

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1373 CS Supplemental Educational Services
SPONSOR(S): Attkisson
TIED BILLS: **IDEN./SIM. BILLS:** SB 2616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	9 Y, 0 N, w/CS	Beagle	Mizereck
2) Education Appropriations Committee	16 Y, 0 N	Eggers	Hamon
3) Education Council	10 Y, 0 N, w/CS	Beagle	Cobb
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The No Child Left Behind Act of 2001 (NCLB) authorizes the use of federal funds to provide supplemental educational services (SES) to low income children attending low performing schools. States are required to adopt standards governing the provision of SES to eligible students. Currently, there are no provisions in Florida law establishing state standards for SES services.

HB 1373 prescribes Department of Education (DOE), school district, and SES provider responsibilities pertaining to the provision of SES. The bill establishes procedures for allowing school districts to reallocate unused SES funds for other Title I purposes.

The bill sets an effective date of July 1, 2006.

This bill does not have a fiscal impact. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill requires the Department of Education and school districts to take certain measures to increase access to supplemental educational services.

Empower Families: The bill increases opportunities for parents to enroll their child in supplemental education services.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

NCLB authorizes the use of federal funds to provide SES to low income children attending low performing schools. SES may include tutoring, additional instruction, or other services provided outside of the regular school day in reading, language arts, or mathematics.¹

Generally, a student is eligible for SES if the student meets school district established criteria for low income status and is attending a school subject to restructuring or corrective action or in its second year of school improvement.² NCLB requires state education agencies (SEA) to take certain measures to promote provider participation in the provision of SES.³ Each SEA must also follow federally established criteria in establishing state standards for approving providers. Each SEA must maintain and disseminate to school districts a list of the approved providers available in each school district.

School districts are required by NCLB to promptly inform parents that the school their child is attending is in need of improvement.⁴ In addition, school districts must provide parents a list of state-approved providers.⁵ Parents may utilize approved programs conducted by a non-profit entity, a for-profit entity, LEA, an educational service agency, a public school, a public charter school, or a private school.⁶

Federal law requires each SEA that receives federal education funds to create a State committee of practitioners to advise the state in carrying out its responsibilities under federal law.⁷ Each state's committee must be composed of parents, teachers, administrators, local school board members, representatives from private schools, and pupil services personnel. The committee is responsible for pre-publication review of any proposed or final state rule or regulation promulgated for the purpose of complying with federal law.

Currently, there are no provisions in Florida law establishing state standards for SES services.

Effect of Proposed Changes:

HBI 1373 prescribes school district, DOE, and SES provider responsibilities pertaining to the provision of SES.

Department of Education Responsibilities

- The bill requires the DOE to establish a committee of practitioners to review potential rules promulgated by the State Board of Education (SBE) relating to SES.

¹ 34 C.F.R. § 200.45.

² U.S. Department of Education, Supplemental Education Services: Quick Reference for Parents, available at <http://www.ed.gov/parents/academic/help/supplemental-services.html> (Accessed Mar. 16, 2006).

³ Id.

⁴ 34 C.F.R. § 200.37.

⁵ 34 C.F.R. § 200.46.

⁶ 34 C.F.R. § 200.47.

⁷ 20 U.S.C.A. § 6573.

- The bill requires the Commissioner of Education to appoint members of the committee.
- The bill requires the committee to annually report to the Governor and the Legislature.

School District Responsibilities

- The bill requires school districts to establish processes that enable students to begin receiving SES by October 15 of each school year.
- The bill requires school districts to allow SES providers to use school facilities to provide SES to students.
- To achieve compliance with SES obligations, the bill requires school districts to obtain written elections to receive or reject SES services from the parents of 80% of students receiving free or reduced price lunch in Title I schools. School districts may request a waiver of this requirement from the SBE. To receive a waiver, the district must show by clear and convincing evidence that it has made reasonable efforts to obtain the required written elections.
- School districts may apply to the DOE for authorization to reallocate unspent SES funds. The district may appeal the decision to the SBE, who must decide the appeal within 60 days.

Provider Responsibilities

- The bill requires state-approved SES providers to be able to provide services by October 15 of each school year.
- SES providers are prohibited from offering incentives to induce prospective students to choose them as a provider. Once students are enrolled, SES providers may provide incentives worth \$50 or less to reward student performance or attendance.
- The bill provides that state-approved SES providers that withdraw from offering services to a district must be removed from the state approved list.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law governing the provision of SES.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill establishes processes intended to enable eligible students in Title I schools greater access to SES. Private providers approved by DOE may experience an increase in demand for their services.

D. FISCAL COMMENTS:

NCLB requires school districts with schools subject to restructuring or corrective action or in the second year of school improvement to set aside 20% of their Title I funds to pay for SES. The bill requires school districts to take certain measures to increase the availability of SES to eligible students. The increased demand for SES that is likely to occur may result in greater expenditures of Title I funds within the 20% set aside for providing SES.

The bill requires school districts to obtain written elections to receive or reject SES from the parents of at least 80% of SES eligible students to achieve compliance with SES obligations. School districts that fail to meet this requirement must apply to the DOE for authorization to reallocate leftover SES funds for other Title I purposes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds; reduce authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules relating to the provision of SES.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the PreK-12 Committee adopted two amendments to the bill. The first amendment provides a procedure for LEAs to reallocate unused SES funds for other Title I purposes. The second amendment establishes an advisory council to assist DOE in developing regulations to guide the selection and oversight of SES providers.

On April 21, 2006, the Education Council adopted a strike-all amendment and reported the bill favorably. The strike-all makes significant revisions to the bill:

- Removes "definitions" section entirely.
- Replaces DOE, LEA, and SES provider responsibilities with less prescriptive requirements.
- Removes parent responsibilities section entirely.
- Removes original conditions on school district reallocation of unspent SES funds and replaces with a procedure enabling a school district to apply to the DOE for authorization to reallocate funds. Also adds SBE appeal procedure.
- Removes complaint process from bill.

This bill analysis reflects the bill as amended by the strike-all.