

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7037 PCB EPC 10-02 Education

SPONSOR(S): Education Policy Council

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Education Policy Council	13 Y, 0 N	White	Lowell
1)	_____	_____	_____	_____
2)	_____	_____	_____	_____
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

SUMMARY ANALYSIS

The bill amends law governing a variety of education-related topics for purposes of:

- Conforming statutes that address vocational rehabilitation programs to changes in controlling federal law and repealing provisions of law related to those programs that are duplicative or obsolete.
- Repealing statutory references to the SMART Schools Clearinghouse. The entity is no longer funded and its duties have been assumed by the Office of Educational Facilities within the Department of Education.
- Directing Statutory Revision to produce a reviser’s bill for the 2011 Regular Session that will ensure the uniform use of terminology related to the Florida College System throughout the Florida K-20 Education Code.
- Repealing sections of law that: have been held unconstitutional; establish programs that have been superseded by more recent legislation; are duplicative of federal law requirements; or have not been funded or implemented.

The bill takes effect on July 1, 2010.

The bill does not appear to have a fiscal impact on state or local governments.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill amends law governing a variety of education-related topics for purposes of: (a) conforming statutes that address vocational rehabilitation programs to changes in controlling federal law and repealing sections of those statutes that are duplicative or obsolete; (b) repealing statutory references to the SMART Schools Clearinghouse, which is no longer funded or operational; (c) directing Statutory Revision to produce a reviser's bill for the 2011 Regular Session that will ensure the uniform use of terminology related to the Florida College System throughout the Florida K-20 Education Code; and (d) repealing sections of law that: have been held unconstitutional; establish programs that have been superseded by more recent legislation; are duplicative of federal law requirements; or have not been funded or implemented.

The present situation and effect of the bill's proposed changes for each topic are discussed below.

Vocational Rehabilitation

Vocational rehabilitation (VR) consists of various programs designed to foster the independence and employability of eligible individuals with disabilities. VR services are authorized and funded under Title I of the Federal Rehabilitation Act of 1973.¹ Agency oversight for such programs is provided by the Department of Education's (DOE's) Division of Vocational Rehabilitation (DVR).² Federal law establishes minimum eligibility requirements for state VR programs. States that receive federal VR funding may only serve individuals with disabilities who meet the federal eligibility classification.³

Current Florida law contains numerous inconsistencies with federal law governing VR services. Most of the inconsistencies relate back to the 1998 congressional amendments to the Rehabilitation Act.⁴ These amendments made changes to VR terminology and program requirements. Florida law has not since been amended to conform with the federal changes.

Terminology: Current federal law uses the term: (a) "Individualized Plan for Employment," while state law uses the term, "Individualized Written Rehabilitation Program;⁵ (b) "significant" disabilities, while

¹ 29 U.S.C. § 701 et seq.

² Part II, ch. 413, F.S.

³ 34 C.F.R. § 361.42(a).

⁴ The Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936.

⁵ An Individualized Plan for Employment is a written plan that prescribes the VR services to be provided to, and employment outcome to be achieved by, the individual. 34 C.F.R. § 361.45; § 413.30(5), F.S.

state law refers to “severe” disabilities;⁶ and (c) “eligible individual,” while state law sometimes refers to such individuals who are receiving VR services as “clients.”⁷

Further, both Florida and federal law substantively define the term “personal assistance services” to mean a range of services designed to assist a person with a disability to perform daily living activities on or off the job that the person would typically perform if the person did not have a disability.⁸ The federal regulation adds, however, that, “The services must be necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.”⁹ This latter provision is not contained in the state’s definition.

Finally, s. 413.395, F.S., creates the “Florida Independent Living Council.” This term is not used consistently in several sections of law governing VR.¹⁰

Effect of Bill: The bills amends:

- Sections 413.20(27), 413.30(5) and (6), F.S., to replace the term “Individualized Written Rehabilitation Program” with the term “Individualized Plan for Employment.”
- Sections 413.20(12), (26), and (27), 413.30(2) and (8), 413.371, 413.393(1)(c), and 413.40, F.S., to replace the term “severe” disability with the term “significant” disability.
- Sections 413.30(7) and 413.341, F.S., to replace the term “client” with the term “eligible individual.”
- Section 413.20(18), F.S., which defines “personal assistance services,” to add the omitted provision contained in the federal definition.
- Sections 413.393(1), 413.405(1)(a) and (9)(f) and (g), and 413.407(1)(a), F.S., to consistently use the term “Florida Independent Living Council.”

Trial Work Experiences: Under Florida and federal law, individuals with disabilities are presumed eligible for VR services.¹¹ A state must initially assess an individual for service eligibility. If a state cannot determine that VR services will or will not benefit an individual after the initial assessment, federal law requires states to follow certain procedures before determining that the individual is ineligible for VR services.¹² Prior to the 1998 amendments to federal law, states were required to conduct an “extended evaluation” in these circumstances. The 1998 amendments established a new, alternate procedure referred to as, “trial work experiences.”¹³

Trial work experiences provided by the state must be of sufficient variety and duration to accurately assess service eligibility. Individuals may be placed in supported employment, on-the-job training, and other appropriate work experiences. A state must find clear and convincing evidence that VR services will not benefit the individual before denying them services.¹⁴ The extended evaluation process may still be used if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted before the state is able to make an eligibility determination.¹⁵

Florida law still reflects the “extended evaluation process” as the sole method for determining eligibility for services after the initial assessment. The DVR must conduct the evaluation for up to 18 months.¹⁶

⁶ 34 CFR 361.5(30) & (31); s. 413.20, F.S.

⁷ 34 CFR 361.38; ss. 413.30 and 341, F.S.

⁸ 34 C.F.R. § 361.5(b)(39); § 413.20(18), F.S.

⁹ 34 C.F.R. § 361.5(b)(39).

¹⁰ Sections 413.393, 413.405, and 413.407, F.S.

¹¹ 34 C.F.R. § 361.42(a)(2); § 413.30(4), F.S.

¹² 34 C.F.R. § 361.42(e) & (f).

¹³ *Id.*

¹⁴ 34 C.F.R. § 361.42(e); § 413.30(3), F.S.

¹⁵ 34 C.F.R. § 361.42(f).

¹⁶ Section 413.30(3), F.S.

Effect of Change: The bill conforms s. 413.30(3), F.S., to federal law by amending the subsection to require the DVR to use trial work experiences before denying eligibility for VR services. Trial work experiences may include supported employment, on-the-job training, or other work experiences. The bill also authorizes the DVR to conduct an extended evaluation, under the following limited circumstances, before denying eligibility for VR services: (a) when the individual cannot take advantage of trial work experiences; or (b) when options for trial work experiences have been exhausted.

Required Referrals: Federal law sets forth procedures that a state must follow when it determines that an individual is ineligible for VR services. Depending on the reason for denying service eligibility, a state must refer such individuals to: (a) programs that are part of the one-stop delivery system under the Workforce Investment Act,¹⁷ which are for individuals who are determined to have less severe impediments to employment than those served by VR programs; or (b) local extended employment programs that serve individuals who are determined to be too severely disabled to benefit from VR services.¹⁸ Florida law does not reflect this federally-required exit referral procedure.¹⁹

Effect of Change: The bill amends s. 413.30(6), F.S., to require the DVR to refer individuals who have been determined ineligible for VR services to services that are part of the one-stop delivery system under s. 445.009, F.S., or local extended employment providers. The bill's provisions are identical to the federal requirement.

Client Records: Under Florida and federal law, all public records related to VR clients or applicants are privileged, confidential, and exempt from public records disclosure requirements, except in specified situations. State law authorizes the disclosure of records that *do not identify* clients or applicants for research purposes and requires the director of DVR to approve such disclosure.²⁰ In contrast, federal law authorizes release of records that *contain personal information* for audit, program evaluation, and research purposes. States must require the recipient of the information to assure that the information will be used only for authorized purposes and will not reveal personally identifying information in a final product or report without informed written consent of the participant. It does not require that the state VR agency director approve such disclosure.²¹

Effect of Change: The bill amends s. 413.341(1)(b), F.S., to authorize the disclosure of records that contain personally identifying information in the same manner as federal law, i.e., the bill authorizes such disclosure for the purposes of audit, program evaluation, and research. Further, the bill specifies that all personally identifying information released under the paragraph remains privileged, confidential, and exempt and may not be released to third parties.

Independent Living Program: Section 413.371, F.S., requires the DVR to establish and maintain an Independent Living Program that will provide appropriate services to enhance the ability of persons who have severe disabilities to live independently. It also authorizes the DVR to contract with centers for independent living to provide independent living services.²² Section 413.39, F.S., authorizes the DVR to administer the program to individuals with severe disabilities.

Section 413.40, F.S., provides that DVR, in carrying out the Independent Living Program, is authorized to engage in activities that include: (a) employing necessary personnel and consultants; (b) contracting with any entity, public or private, to provide independent living services; (c) providing diagnostic, medical, and psychological and other evaluation services; (d) providing training necessary for rehabilitation; (e) providing persons with financial need rehabilitation services such as personal care attendants and transportation; and (f) providing specified rehabilitation facilities. According to DVR representatives, the DVR only exercises its authority to employ necessary personnel and consultants and contract with public and private entities. The DVR is not a direct provider; rather, the DVR contracts

¹⁷ Section 445.009, F.S.

¹⁸ 34 U.S.C. § 361.43(d).

¹⁹ Section 413.30(6), F.S.

²⁰ Section 413.341(1)(b), F.S.

²¹ 34 C.F.R. § 361.38(d).

²² Centers for independent living are designated in the State Plan for Independent Living under s. 413.393, F.S.

with the centers for independent living centers for the provision of the services and facilities listed in (c) through (f).²³

Effect of Bill: The bill repeals s. 413.39, F.S., which authorizes the DVR to administer the Independent Living Program because it is substantively duplicative of s. 413.371, F.S. The bill amends s. 413.371, F.S., as discussed above, to replace the term, “severe” with the term “significant” and it deletes the text authorizing the DVR to contract with the centers for independent living. This deleted provision is moved to s. 413.40, F.S., which addresses the DVR’s powers regarding employment and contracting for the program. The bill also amends that section to delete the DVR’s authority to directly provide specified services and facilities for the Independent Living Program, but retains existing law that authorizes the DVR to employ consultants or personnel or contract for those services and facilities.

Florida Rehabilitation Council: Section 413.405, F.S., establishes the Florida Rehabilitation Council. The council must be comprised of at least 15, but no more than 25 members. This section specifies the required membership on the council, provides that no member may serve more than two full terms, and specifies the council’s duties. Currently, this section contains several outdated references to federal law and conflicts with governing federal law that addresses the requirements for each state’s rehabilitation council.²⁴

Effect of Bill: The bill amends s. 413.405, F.S., establishing the Florida Rehabilitation Council, in order to correct outdated cross-references and conform its requirements to governing federal law. Specifically, the bill amends provisions relating to council membership to require, as in federal law, that: (a) at least one member be the director of the client assistance program; (b) one or more members be representatives of individuals with disabilities who have difficulty representing themselves due to their disabilities; and (c) at least one member be the director of a VR Services Project for American Indians with Disabilities, if this state participates in one or more such projects. The bill also specifies, in conformity with federal law, that: (a) DOE employees may only serve as nonvoting members; (b) only the representatives of the client assistance program and VR Services Project for American Indians with Disabilities may serve more than two full terms; and (c) an additional duty of the council is to review and analyze consumer satisfaction with employment outcomes of individuals receiving VR services.

State Vocational Rehabilitation Plan: Legislation enacted in 2002 required the DVR to develop a five-year state plan to address improvements to, and privatization of, VR services. According to the DVR, issues arising from efforts to privatize its services caused it to be placed on “high-risk” status by the United States DOE and this one-time plan was required to resolve these issues. The plan was submitted to the Governor and presiding officers of the Legislature in 2002, and the DVR was removed from “high risk” status in October of 2003.^{25, 26}

Effect of Bill: The bill repeals s. 413.206, F.S., which required the DVR to submit a one-time, five-year plan in November 2002. Having fulfilled these requirements, this statute serves no purpose.

Limiting Disabilities Program: In 1990, the Legislature established the Limiting Disabilities Program.²⁷ The purpose of the program is to provide rehabilitation services to persons who are not required to be served under federal law, but who have a limiting disability.²⁸ The program was to be state-funded as federal VR funding may only be used to serve individuals meet federal eligibility requirements for VR services. The program, however, was never funded by the Legislature nor implemented by the DVR.²⁹

Effect of Change: The bill repeals ss. 413.70, 413.72, and 413.73, F.S., relating to the Limiting Disabilities Program, as such program was never funded or implemented. The bill also amends s.

²³ Florida Department of Education, Division of Vocational Rehabilitation, Legislative Bill Analysis (2010).

²⁴ 29 U.S.C. s. 725 and 34 C.F.R. 361.16.

²⁵ Section 413.206, F.S.

²⁶ Email from the Florida Department of Education, Division of Vocational Rehabilitation staff re: VR Technical Bill (Mar. 19, 2009).

²⁷ Section 413.70, F.S.

²⁸ Sections 413.70 through 413.73, F.S.

²⁹ Florida Department of Education, Legislative Bill Analysis for SB 2274 (2009).

413.20, F.S., to delete the definitions of “limiting disability,” “program,” “rehabilitation,” “rehabilitation service,” and “transitional living facility” because these definitions relate only to the repealed program and, as such, are no longer necessary.

SMART Schools Clearinghouse

In 1997, legislation, now codified as s. 1013.05, F.S., was enacted to establish the “SMART³⁰ Schools Clearinghouse” (SSC) in the Office of Educational Facilities (OEF) within the DOE.³¹ This section of law requires the SSC to assist school districts in accessing: (a) School Infrastructure Thrift (SIT) Program awards that have been granted to districts for the new construction of educational facilities; and (b) effort index grants that have been awarded to districts for the construction, renovation, or maintenance of educational facilities or to pay debt service on specified capital outlay bonds.³² The section further provides that OEF shall prioritize school district SIT Program awards based on a review of the district facilities work programs and proposed construction projects.³³

Multiple other sections of law provide that the SSC and OEF are jointly responsible for: (a) reviewing interlocal agreements between counties or municipalities and school districts; (b) reviewing and monitoring district educational facilities work plans; (c) validating educational plant surveys and Florida Inventory of School Houses data; (d) assisting schools in building SMART schools; and (e) reviewing and making recommendations regarding SIT award requests.³⁴

The SSC is no longer funded and, since 2005, its functions have been assumed by the OEF.³⁵

Effect of Bill: The bill amends statute to delete obsolete references to the SSC and clarify that the SSC’s duties have been assumed by the OEF. Specifically, the bill repeals s. 1013.05, F.S., which establishes the SSC and amends ss. 163.31777, 1001.20, 1013.04, 1013.21, 1013.33, 1013.35, 1013.41, 1013.42, 1013.72, and 1013.73, F.S., to delete references to the SSC in sections specifying the joint responsibilities of the OEF and SSC. The bill also: (a) transfers the statutory language specifying the manner in which the OEF is to prioritize SIT program awards from the now repealed s. 1013.05, F.S., to s. 1013.42, F.S., which governs the SIT Program Act; and (b) amends s. 1013.72 (2), F.S., to update the cost per student station information with the most recent data.³⁶

Florida College System

In 2008, the Legislature established the Florida College System (FCS) for purposes of maximizing open access, responding to community needs for postsecondary education, and providing associate and baccalaureate degrees that meet the state’s employment needs. The FCS is comprised of Florida’s 28 public colleges that grant two-year and four-year academic degrees.³⁷ The 2008 legislation also, in relevant part, created the FCS Task Force, codified at s. 1004.87, F.S., to make recommendations relating to the transition of a community college to a baccalaureate degree granting institution.³⁸ The Task Force issued its report and recommendations in December 2008, and is scheduled to be dissolved on June 30, 2010.³⁹

Prior to 2009, Florida’s 28 public colleges were referred to in statute as “junior colleges” and “community colleges.”⁴⁰ To conform with the creation of the FCS in 2008, legislation was adopted in 2009, that, among other things, renamed the “Division of Community Colleges” within the DOE as the

³⁰ SMART stands for “Soundly Made, Accountable, Reasonable, and Thrifty.”

³¹ See Ch. 97-384, s. 10, L.O.F. (formerly s. 235.217, F.S., now codified as s. 1013.05, F.S.).

³² SIT awards have not been funded since 2004 and effort index grants have not been funded since 1997.

³³ Section 1013.05(2), F.S.

³⁴ Sections 163.31777, 1001.20, 1013.04, 1013.21, 1013.33, 1013.35, 1013.41, and 1013.42, F.S.

³⁵ Information provided during telephone conference with Department of Education representatives.

³⁶ Florida Legislature, Office of Economic and Demographic Research, *Student Station Cost Factors*, <http://edr.state.fl.us/conferences/peco/station.htm> (last visited February 10, 2010).

³⁷ See Section 2, ch. 2008-52, L.O.F.; Section 1001.60, F.S.

³⁸ Section 1004.87(3), F.S.

³⁹ Section 1004.87(8), F.S.; The Florida College System Task Force, *The Florida College System: Assuring Postsecondary Access That Supports Florida’s Future* (December 2008) available at <http://www.fldoe.org/CC/pdf/CollegeSystemFinalReport.pdf>.

⁴⁰ Section 1004.66, F.S., provides that the terms “community college” and “junior college” are interchangeable.

“Division of Florida Colleges” and provided that the term “Florida colleges,” along with the existing terms “community colleges” and “junior colleges,” refer to Florida’s 28 public colleges when used in the Florida’s K-20 Education Code.⁴¹ As a result, statute currently uses three terms to refer to the 28 public colleges in the FCS.

Effect of Bill: The bill repeals s. 1004.87, F.S., which establishes the FCS Task Force, as the Task Force’s purposes have been completed. The bill also creates an undesignated section of law that recognizes the need to conform the Florida K-20 Education Code to changes in terminology relating to community colleges made by legislation adopted in 2008 and 2009. To address this need and ensure use of a term that clearly identifies Florida’s 28 public colleges, the bill directs the Division of Statutory Revision within the Office of Legislative Services to prepare a reviser’s bill that will replace the terms, “community college,” “junior college,” and “Florida college” with the term “Florida College System institution” throughout the Education Code.

Florida Schools of Excellence Commission

Section 1002.335, F.S., establishes the Florida Schools of Excellence (FSE) Commission as an independent, state-level charter school authorizing entity. The commission has the power to: authorize and act as a sponsor of charter schools; authorize municipalities, state universities, community colleges, and regional educational consortia to act as cosponsors of charter schools; approve or deny FSE charter school applications and renew or terminate charters of FSE charter schools; and conduct facility and curriculum reviews of charter schools approved by the commission or one of its cosponsors.

Section 1002.335, F.S., was held facially unconstitutional by the First District Court of Appeals in 2008. The Court held that the law was in direct conflict with Art. IX, s. 4 of the Florida Constitution, which empowers local school boards with the authority to “operate, control and supervise all free public schools within the school district.”⁴²

Effect of Bill: The bill repeals s. 1002.335, F.S., establishing the FSE Commission, as this section of law has been held unconstitutional. The bill amends s. 1002.33, F.S., to make conforming changes for the repeal.

Secondary School Improvement Award Program

Section 1003.413(5), F.S., which was enacted in 2006, directs the Commissioner of Education to create and implement the Secondary School Improvement Award Program to reward public secondary schools that demonstrate continuous student academic improvement and show the greatest gains in student academic achievement in reading and mathematics. Representatives of the DOE have indicated that the program was never implemented due to a lack of funding.

Effect of Bill: The bill repeals s. 1003.413(5), F.S., establishing the Secondary School Improvement Award Program, as the program was never funded or implemented.

Academic Performance-Based Charter School Districts

Section 1003.62, F.S., authorizes academic performance-based charter school districts, which are school districts that have entered into certain performance contracts with the State Board of Education (SBE). The contracts exempt the districts from rules and statutes specified by the SBE in exchange for the districts’ agreement to comply with stated performance goals.⁴³ Such performance contracts were first authorized by legislation establishing the Charter School District Pilot Program in 1999. Under this authority, the SBE initially selected four school districts to participate in the program.⁴⁴

The program’s pilot status was removed in 2003 and the SBE was authorized, in its discretion, to designate any district in the state as an “academic performance-based charter school district” if at least 50 percent of the district’s schools received an “A” or “B” grade and other eligibility standards were

⁴¹ See ch. 2009-228, L.O.F.; ss. 20.15(3) and 1001.21(3), F.S.

⁴² *Duval County School Board v. State Board of Education*, 998 So. 2d 641 (Fla. 1st DCA 2008).

⁴³ Section 1003.62, F.S.

⁴⁴ Staff of Senate Comm. on Education Pre-K - 12, Bill Analysis for CS/SB 2092 (2007).

satisfied.⁴⁵ The 2003 legislation and subsequent legislation in 2007 created a “grandfather clause” to continue the authority for the four pilot program charter districts until July 1, 2010.⁴⁶ After that date, the four districts must conform to the standards required for other districts.⁴⁷

As of July 2009, the SBE has not designated any district as an academic performance-based charter school district under the standards of the 2003 statewide program.⁴⁸

In 2007, the Legislature created s. 1003.621, F.S., to authorize academically high-performing school districts.⁴⁹ Like s. 1003.62, F.S., this section authorizes districts meeting specified eligibility standards to be exempt from certain statutes. Unlike s. 1003.62, F.S., this section: (a) specifies higher eligibility standards for designation as an academically high-performing school district, e.g., the district’s school grade average weighted by school enrollment must be an “A” for two consecutive years; (b) requires, rather than permits, the SBE to designate a district meeting the specified eligibility standards as an academically high-performing school district; and (c) specifies the statutes from which an academically high-performing school district is exempt, rather than leaving the determination of those exemptions to the discretion of the SBE.⁵⁰

Twenty-one school districts have been designated as academically high-performing school districts for the 2009-2010 school year.⁵¹

Effect of Bill: The bill repeals s. 1003.62, F.S., which authorizes academic performance-based charter school districts. This section will be rendered obsolete as of July 1, 2010, because: (a) the authority for the four existing pilot districts expires on July 1, 2010; (b) the statute is no longer being implemented, i.e., no district has been designated by the SBE as an academic performance-based charter school district since the authorization of such districts in 2003; and (c) the section has effectively been superseded by s. 1003.621, F.S., which was more recently enacted in 2007 and which also provides statutory flexibility to high-performing districts. The bill also amends ss. 1011.69 and 1013.64, F.S., to make conforming changes for the repeal.

Deregulated Public Schools Pilot Program

Section 1003.63, F.S., which was originally enacted in 1998, authorized a deregulated public schools pilot program. The program provides that schools earning an “A” or improving at least two letter grades are eligible to have the same flexibility and accountability afforded charter schools; i.e., deregulated public schools may be exempted from all statutes of the K-20 Florida Education Code except those pertaining to civil rights; public records and meetings; student health, safety, and welfare; and certain budgetary and financial matters. To become a deregulated public school, the district school board must approve a proposal that is developed by the school principal and the school advisory council, that is supported by at least 50 percent of the teachers at the school, and that has demonstrated parental support.⁵²

The following school districts were authorized to conduct pilot programs: Palm Beach, Pinellas, Seminole, Lee, Leon, Walton, and Citrus. The pilot program ended after the 2003-2004 school year and was not reauthorized by the Legislature.

Effect of Bill: The bill repeals s. 1003.63, F.S., because the Legislature has not reauthorized the pilot program, which ended after the 2003-2004 school year. Due to the repeal of the program, the bill also

⁴⁵ Section 24, ch. 2003-391, L.O.F.

⁴⁶ Section 24, ch. 2003-391, L.O.F. (continuing authority until July 1, 2007) and s. 8, ch. 2007-234, L.O.F. (continuing authority until July 1, 2010).

⁴⁷ Section 8, ch. 07-234, L.O.F., *codified as* §1003.62(7), F.S. (2007).

⁴⁸ Telephone interview with Florida Department of Education, Bureau of School Improvement staff.

⁴⁹ Section 1, ch. 2007-194, L.O.F.

⁵⁰ Section 1003.621(1) and (2), F.S.

⁵¹ Florida Department of Education, Academically High-Performing School Districts 2009-2010 Eligibility Status *available at* www.fldoe.org/board/meetings/2009_09_15/academ.pdf.

⁵² Section 1003.63(6), F.S.

repeals s. 1008.345(7), F.S., to make a conforming change and amends s. 1004.68(2), F.S., to conform a cross-reference.

Campus Crime Reporting

Section 1006.67, F.S, requires each postsecondary institution to prepare an annual report of campus crime statistics for submission to the DOE. The data for these reports may be taken from the Florida Department of Law Enforcement Annual Report. Additionally, each postsecondary institution must prepare an annual report of campus crime statistics for the most recent three-year period for submission to the DOE. The institution must give notice that the report for the three-year period is available upon request. The Commissioner of Education must convey both annual reports to the presiding officers of the Legislature.

The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act⁵³ requires all postsecondary institutions participating in Title IV student financial aid programs to disclose campus crime statistics and security information for the most recent three years. This act is enforced by the U.S. DOE. Each institution must submit the information to the Secretary of Education on an annual basis. The Secretary must make copies of the statistics available to the public.

Effect of Bill: The bill repeals s. 1006.67, F.S., because the annual campus crime reporting requirements appear duplicative of information that must be reported under federal law. The bill also amends s. 1013.11, F.S., to make a conforming change for the repeal.

Unfunded Financial Assistance Programs

Section 1009.96, F.S., states that all new and existing financial assistance programs authorized under chapter 1009, F.S., which are not funded for three consecutive years after enactment, must stand repealed. The following program appears to meet the criteria:

- The *Certified Education Paraprofessional Welfare Transition Program*, codified at s. 1009.64, F.S., was established in 1995⁵⁴ to provide education and employment for recipients of public assistance who are certified to work in schools that, because of the high proportion of economically disadvantaged children enrolled, are at risk of poor performance on traditional measures of achievement. The program is administered by the DOE, Department of Children and Family Services, and Agency for Workforce Innovation. No record was found of the program ever receiving funds through the General Appropriations Act. Current laws provide that the program may be funded through local and federal funds. Staff has not been able to determine if any such funding has been provided to date.

Additionally, the DOE⁵⁵ identified the Occupational Therapist or Physical Therapist Critical Shortage (OT/PT-CS) Program, which is established in ss. 1009.63 through 1009.634, F.S., as having last received appropriated funds in the 2001-2002 General Appropriations Act.⁵⁶ The program consists of the following three loan forgiveness, scholarship loan, and tuition reimbursement programs:⁵⁷

- The *Critical Occupational Therapist or Physical Therapist Shortage Loan Forgiveness Program*, codified at s. 1009.632, F.S., was established to provide repayment toward loans received by graduates of postsecondary occupational therapy or physical therapy programs who initiate employment in the public schools of this state.
- The *Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan Program*, codified at s. 1009.633, F.S., was established to provide a scholarship loan program for students who are in therapy assistant programs or an upper division or higher level occupational therapist or physical therapist educational program and who intend to be employed by Florida's public school

⁵³ 20 U.S.C. § 1092(f).

⁵⁴ Ch. 95-392, L.O.F.

⁵⁵ Email from the Florida Department of Education, Governmental Relations staff (Oct. 15, 2009).

⁵⁶ Specific Appropriation 37B, § 2, ch. 2001-367, L.O.F.

⁵⁷ The Department of Education may still be receiving loan payments for some of these programs.

system for three years. Credit for repayment of the loan and interest is granted for each full year of employment by the public schools of this state.

- The *Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program*, codified at s. 1009.634, F.S., was established to provide tuition reimbursement for approved courses taken by therapists and therapy assistants employed by the public school system in order to improve their skills and knowledge.

Effect of Bill: The bill repeals the financial assistance programs established in s. 1009.64, F.S., which appears to have never been funded since its creation in 1995. The bill also repeals the programs established in ss. 1009.63 through 1009.634, F.S., relating to the OT/PT-CS Programs, which have not been funded since Fiscal Year 2001-2002. These repeals are necessary to comply with the provisions of s. 1009.96, F.S., which provides that statutory financial aid programs that have not received funding for three consecutive years must stand repealed.

B. SECTION DIRECTORY:

Section 1: Amends s. 413.20, F.S., revising definitions for vocational rehabilitation programs.

Section 2: Amends s. 413.30, F.S., revising provisions related to eligibility for vocational rehabilitation services.

Section 3: Amends s. 413.341, F.S., revising provisions related to the confidentiality of applicant and client records.

Section 4: Amends s. 413.371, F.S., revising provisions related to the independent living program.

Section 5: Amends s. 413.393, F.S., revising provisions related to the state plan for independent living.

Section 6: Amends s. 413.40 F.S., revising provisions related to the independent living program.

Section 7: Amends s. 413.405, F.S., revising provisions related to the Florida Rehabilitation Council.

Section 8: Amends s. 413.407, F.S., revising provision related to the Assistive Technology Advisory Council.

Section 9: Repeals s. 413.206, F.S., relating to the State Vocational Rehabilitation Plan; repeals s. 413.39, F.S., relating to the Independent Living Program; and repeals ss. 413.70, 413.72, and 413.73 F.S., relating to the Limiting Disabilities Program.

Section 10: Repeals s. 1013.05, F.S., relating to the Office of Educational Facilities and SMART Schools Clearinghouse (SSC).

Sections 11-17: Amends s. 163.31777, 1001.20, 1013.04, 1013.21, 1013.33, 1013.35, and 1013.41, to delete obsolete references to the SSC.

Section 18: Amends s.1013.42, F.S., deleting obsolete references to the SSC and specifying the manner in which the OEF is required to prioritize School Infrastructure Thrift awards.

Section 19: Amends s. 1013.72, F.S., deleting obsolete references to the SSC and updating cost per student station data.

Section 20: Amends s. 1013.73, F.S., deleting obsolete references to the SSC.

Section 21: Creates an unnumbered section of law to require the Division of Statutory Revision to prepare a reviser's bill related to the Florida College System (FCS).

Section 22: Repeals s. 1004.87, F.S., establishing the FCS Task Force.

Section 23: Repeals s. 1002.335, F.S., establishing the Florida Schools of Excellence (FSE) Commission.

Section 24: Amends s. 1002.33, F.S., making conforming changes for the repeal of s. 1002.335, F.S.

Section 25: Repeals s. 1003.413(5), F.S., establishing the Secondary School Improvement Award Program.

Section 26: Repeals s. 1003.62, F.S., relating to academic performance-based charter school districts.

Section 27: Amends s. 1011.69, F.S., making conforming changes for the repeal of s. 1003.62, F.S.

Section 28: Amends s. 1013.64, F.S., making conforming changes for the repeal of s. 1003.62, F.S.

Section 29: Repeals ss. 1003.63 and 1008.345(7), F.S., relating to the Deregulated Public Schools Pilot Program.

Section 30: Amends s. 1004.68, F.S., making conforming changes for the repeal of s. 1008.345(7), F.S.

Section 31: Repeals s. 1006.67, F.S., relating to campus crime reporting.

Section 32: Amends s. 1013.11, F.S., making conforming changes for the repeal of s. 1006.67, F.S.

Section 33: Repeals ss. 1009.63, 1009.631, 1009.632, 1009.633, and 1009.634, F.S., relating to financial assistance programs for occupational therapists and physical therapists; and repeals s. 1009.64, F.S., relating to the Certified Education Paraprofessional Welfare Transition Program.

Section 34: Amends s. 1009.40, F.S., making conforming changes for the repeal of s. 1009.63, F.S.

Section 35: Amends s. 1009.94, F.S., making conforming changes for the repeal of s. 1009.63, F.S.

Section 36: Providing an effective date of July 1, 2010.

II. 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:

The bill is not anticipated to have a fiscal impact on state or local governments as it only rewrites statutes for purposes of conforming with controlling federal law and repeals or amends sections that are obsolete, outdated, or otherwise ineffective.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax sharing with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES