



To: Florida District School Superintendents
From: Brian T. Moore, FADSS General Counsel
Subject: FADSS Legislative Update – Week of April 5, 2021
Date: Friday, April 9, 2021

The Legislature is closing in on the finish line for the 2021 Session as it wrapped up its sixth week and has completed the committee process for most committees. The main focus moving forward will be on the floor of both chambers as they continue working out the 2021-22 budget and vote on the substantive bills that make it to the floor.

2020-21 Accountability

The Commissioner of Education released a new Emergency Order today, and DOE staff conducted a webinar with Superintendents this morning to go over the specifics. I will not try to summarize the order in any detail here, but I have attached it to this update in case you have not had a chance to read it yet or missed the webinar. In short, the order matches what FADSS has been requesting in terms of giving schools the option to opt-in for things like exiting turnaround status, but please note that it specifically says that a school will have to assess at least 90% of its students. Please check with your schools to see what sort of participation rate they have had this past week, because you may need to make special efforts for some of your targeted schools to make sure they test at least 90%, if you are hoping that the school will be able to receive a school grade.

2021-22 Fiscal Year Budget

The PreK-12 Education Enrollment Estimating Conference met last week and decided to accept the district-adjusted enrollment forecasts for the upcoming year. In addition, the Revenue Estimating Conference completed its spring updates this week and presented a much better economic forecast than the previous forecasts from 2020. However, the House and Senate budget proposals were both built from the earlier estimates.

[HB 5001](#), [HB 5003](#), and [HB 5101 / SB 2500](#) and [SB 2502](#) – Appropriations – The Senate and House both passed their appropriations and implementing bills this week. The bills will now go to conference where the real work will begin, presumably with the new revenue and enrollment forecasts completed over the last week.

Legislation

Spotlight

HB 241 (Grall) / CS/CS/SB 582 (Rodrigues) – Parents’ Bill of Rights – The House passed its version of this bill last week and has sent the bill to the Senate. The Senate version made its third and final committee stop this week and was reported favorably by the *Senate Rules Committee* with a vote along party lines.

This bill creates the “Parents’ Bill of Rights,” providing that no governmental entity can infringe upon these fundamental rights of a parent unless the action is reasonable, necessary, and narrowly-tailored in the service of a compelling state interest. There are too many rights spelled out to list them all here, but some of the enumerated rights that may give rise to issues in school districts based on differing interpretations of their meaning include:

- The right to “direct” the education and care of his or her minor child.
- The right, pursuant to s. 1002.20(13), to access and review all school records relating to his or her minor child (this is the language that causes concerns for LGBTQ advocates).
- The right to consent in writing before the state or any of its political subdivisions makes a video or voice recording of his or her minor child (there are exceptions for recordings related to a legitimate academic or athletic activity, security videos, and photo identification cards).

School boards will also be required to adopt a policy, after consulting with parents, teachers, and administrators, that promotes parental involvement in the school system. There are several requirements regarding notice to parents about parental involvement, and the ultimate policy and parent information can be posted on the district’s website.

House Floor

CS/CS/HB 15 (Clemons and LaMarca) / CS/CS/SB 50 (Gruters) – Sales and Use Tax. These bills call for the collection of sales taxes on essentially all internet purchases. The additional revenue will be used to replenish the Unemployment Compensation Trust Fund to prevent rate hikes as a result of the pandemic. The Senate approved its version last week, and the House laid its bill on the table and took up SB 50, which it then approved with one amendment calling for reducing the tax on commercial rent after the unemployment fund has been replenished. The Senate concurred with the House amendment and passed the bill with the House amendment by a vote of 27-12. It is now ready to be sent to the Governor.

Senate Floor

SB 84 (Rodrigues) – Retirement – passed by the Senate and sent to the House for consideration. The bill would prohibit new employees from joining the FRS Pension Plan beginning July 1, 2022. The bill has been amended to leave employees in the Special Risk Class with the option to enroll in the pension plan, but it would not be open to teachers and other school board personnel hired after July 1, 2022.

CS/CS/SB 86 (Baxley) – Student Financial Aid – passed by the Senate with a vote of 22-18 and sent to the House for consideration. This is the Bright Futures bill that may have generated more attention across the State than any other bill. The bill now requires the Board of Governors

(BOG) to create an online dashboard tracking post-graduate salary, student loan debt, and other information to help guide students. It also requires career planning and the development of a list of career certificate and degree programs that do not lead directly to employment. The latest version still changes the 75% and 100% awards to an amount determined annually in the General Appropriations Act and appropriated by the Legislature. In its current version, no student would be prohibited from using Bright Futures for a particular major, and the language that could reduce the Bright Futures award based on accelerated credits received in high school and applied toward the student's degree was also removed.

SB 7018 – Employer Contributions to Fund Retiree Benefits – passed by the Senate and then passed by the House with an amendment that strikes the health insurance subsidy reduction from 1.66% to 1.5%. The proposed FRS rate hike remain identical. The bill will now return to the Senate.

Other Legislation

CS/HB 1505 (Melo) – Workforce Programs and Services – reported favorably by the *House Education and Employment Committee*. This bill seeks to create a “consumer-first,” “performance-based” workforce system with the DEO collaborating with both DCF and DOE in this effort. With respect to K-12 students, the bill requires that the middle school career and education planning course include state career planning resources and that the character development program for grades 9-12 include instruction on developing a digital resume, researching career pathways, and learning how to use state career planning resources.

This was the fourth and final committee hearing for the bill, which has no direct Senate companion. It will now move to the House floor.

CS/CS/HB 1507 (Yarborough) – Workforce Related Programs and Services – reported favorably after multiple amendments adopted as the bill's third committee substitute by the *House Education and Employment Committee*. This bill, which is entitled the Reimagining Education and Career Help Act, is much more extensive than HB 1505 and would seek to live up to its name by completely redefining workforce education in the State of Florida, starting with the creation of an Office of Reimagining Education and Career Help in the Governor's Office.

It is difficult to summarize the entire scope here, but, among other things, the bill would:

- Create a Money-Back Guarantee Program, whereby school districts would have to refund the cost of tuition to students who cannot find a job within six months of completing certain programs.
 - Beginning in the 2022-23 school year, districts would need to designate at least four programs that prepare students to enter “in-demand, high-skill, high wage occupations” and offer a money-back guarantee for those designated programs.
 - The money-back guarantee would also be required for programs designed to meet a critical local need that has not been identified by the Labor Market Estimating Conference as a statewide need.

- Districts would have to adopt eligibility criteria for the guarantee, which would include attendance, student performance in the program, attendance at a Career Service or Career Day event, participation in an internship or work-study program, documented job search efforts, and development of a career plan within the career service department.
- Workforce performance funding would require that one-third of the funding be based on student job placement and two-thirds be based on the student’s earnings with additional weight for underserved populations.

The bill has completed all four committee hearings now and will move on to the House floor. The Senate appears poised to take up the House bill after it is passed off the House floor.

CS/HB 7035 (LaMarca) – School Safety – reported favorably by the *House Education and Employment Committee*. This bill is very similar to a school safety bill that made it through the House last year but not the Senate. Most of the discussion has focused on common sense measures like making sure schools have a family reunification plan and seeking to address mental health issues. However, of specific interest to Superintendents is language that would empower the Office of Safe Schools to determine that a district was not in full compliance with all school safety laws, which would then require the school board to withhold the Superintendent’s salary. There is no language in the bill about a process to challenge this decision or for determining when the salary will be restored. Meanwhile, if a charter school is not complying with all of the laws, the Commissioner must facilitate compliance by making recommendations to the school board sponsor to fix the problem, which means the districts likely will have to take measures to fix the charter’s problems complying with the law. The bill also requires “timely” notification of parents of all events affecting the health, safety, or welfare of students. Presumably, this could require a school to notify all parents about every SESIR-level offense or allegation made at school within 24 hours no matter the circumstances. Finally, the bill requires districts to pay for and provide a law enforcement officer (SRO or school board officer) to a charter school that is unable to obtain its own officer or guardian. With the shortage of police officers across the state, if the local sheriff or police department cannot provide another deputy or officer for the charter school, the district may need to remove one from a traditional public school to assign to the charter even if the charter has only 75 students.

This bill will now move to the House floor, but there is no Senate companion at this time. Ordinarily, this would suggest that this bill will not make its way into law this year, but, as mentioned above, the lack of a Senate companion may not be a hinderance this year.

CS/HB 545 (Chaney) / **SB 410 (Rodriguez)** – Materials Harmful to Minors – As originally drafted, these bills would seek to ban “obscene” materials from the public schools and require districts to obtain written consent (opt-in) from parents before teaching any sexual education curriculum. The House version previously was amended to include only the “opt-in” clause concerning sexual education. Meanwhile, the Senate version was amended to retain a parent’s right to opt-out of this required instruction, rather than require that they opt-in.

The *House Education and Employment Committee* was scheduled to consider the bill this week, and there was an amendment filed by the sponsor to align it with the current Senate language retaining the opt-out status we have now. However, the Committee ran out of time to hear the bill, so it remains to be seen if they will meet again to consider it. On the Senate side, the bill has completed only one of three originally assigned committee hearings, but one of those references was removed, leaving it with just the *Senate Rules Committee*. Thus, there still seems to be effort being made to give these bills a chance to move forward.

HB 1475 (Tuck) / SB 2012 (Stargel) – Sex-specific Student Athletic Teams or Sports / Promoting Equality of Athletic Opportunity – reported favorably by the *House Education and Employment Committee*. These bills would prohibit transgender females from participating in girls’ sports. The debates on these two bills have grown more contentious with each hearing, but they continue to move forward along party lines. The House version has now completed the committee process and is awaiting action on the House floor. The Senate version still has one committee hearing left.

HB 1159 (Busatta Cabrera) / CS/CS/SB 934 (Wright) – Educator Preparation and Certification – reported favorably by the *Senate Appropriations Subcommittee on Education*. These bills would modify the core curricula for teacher preparation programs and Education Preparation Institutes (EPI) competency-based program requirements, remove the General Knowledge Test as a prerequisite for admission into a teacher preparation program, address the shortage of qualified CTE teachers, provide that a master’s degree or higher may demonstrate mastery of general knowledge, and modify and expand the reach and scope of the William Cecil Golden Professional Development Program for School Leaders. With the latest amendments approved in the Senate, the bill would also allow advisory committees to meet virtually instead of in a physical place, and it would allow high performing districts to provide two days of virtual instruction as part of the 180 required days.

Both bills have one more committee assignment.

HB 827 (Hawkins) / SB 918 (Bradley)– School District Funding / Education – reported favorably by the *Senate Appropriations Subcommittee on Education*. The bill would require that the 80% bonus funding required to be distributed to the schools include programs administered by the University of Cambridge Local Examinations Syndicate, which prepares prospective students to enroll in AICE courses. In addition to the regular \$50 bonus paid to a teacher for each student successfully passing an AICE examination, a \$25 bonus would be paid to a pre-AICE teacher for each student who passes the pre-AICE examination. Both bills have now completed the committee process and are awaiting placement on the Special Order Calendars.

CS/HB 419 (Grall) / CS/SB 1282 (Harrell) – Early Learning and Early Grade Success – reported favorably by the *Senate Appropriations Subcommittee on Education*. These bills would change the way early learning is governed in the State of Florida, but following a strike-all amendment approved in the Senate this week, they would accomplish this in different ways. Both versions seek to consolidate responsibility under one entity. In the House, the bill would repeal the Office of Early Learning (OEL) and replace it with a Division of Early Learning within the DOE. This would then provide the State Board of Education (SBE) with rulemaking

and oversight authority over both the voluntary prekindergarten (VPK) and school readiness programs. The House version also moves the Gold Seal Quality Care Program from the Department of Children and Families (DCF) to the DOE, and it brings Early Learning Coalitions (ELCs) under the SBE's oversight. Both bills also seek to create a VPK accountability system that looks at student outcomes, learning gains, and student-teacher interactions. In the House version the Commissioner of Education would develop a screening and progress monitoring system for VPK through third grade to assess VPK performance. In the new Senate version, the OEL would remain in place, but OEL would assume most of the responsibilities assigned to the DOE in the House version (e.g., transfer of Gold Seal Quality Care Program from DCF to OEL). Both bills have one additional committee assignment left.

CS/HB 149 (Dubose and Plasencia) / CS/SB 192 (Book) – Students with Disabilities in Public Schools – reported favorably by the *Senate Appropriations Subcommittee on Education*. The bill would prohibit the use of seclusion in a school and impose greater restrictions on the use of restraints. The House version has completed the committee process but has not been heard on the House floor yet. The Senate version has one more committee hearing left.

HB 7033 / SB 1816 (Rouson) – Task Force on Closing the Achievement Gap for Boys – reported favorably by the *Senate Appropriations Subcommittee on Education*. This bill would create a task force to examine the problem of the large achievement gap for boys (test scores, discipline rates, disability rates, etc.) and make recommendations to close that gap. One Superintendent who has implemented programs and strategies to close the achievement gap for boys with the assistance of a local non-profit will be a member of the task force. The Senate bill has one more committee stop, and the House bill is still waiting to be heard by the *House Education and Employment Committee*.

CS/CS/SB 1028 (Hutson) – Charter Schools – reported favorably by the *Senate Appropriations Subcommittee on Education*. There are multiple charter school bills in each chamber, but this is the only one moving through the Senate. It does not have a direct House companion, but there are three different house bills addressing charter schools in some way. This bill would authorize state colleges and universities to solicit charter applications and become charter sponsors, making it the local education agency (LEA). In addition, it provides for the withholding of funds by the DOE if the State Board of Education determines that the district is in violation of a charter school decision. Finally, it provides for prevailing party attorney's fees in any court proceeding between a charter school and the district.

CS/CS/HB 131 (Duggan) / SB 1864 (Perry) – Educator Conduct – reported favorably by the *Senate Appropriations Subcommittee on Education*. This bill has made its way through the House the last couple of years and attempts to address school employees being accused of sexual misconduct with students and then resigning before an investigation can be completed only to wind up working a different district. The Senate version is very similar but not identical, as many of its provisions would address district employees who resign prior to the completion of an investigation or in lieu of termination for anything that affects the health, safety, or welfare of students, not just sexual misconduct. The House version has completed the committee process

and is on the Special Order Calendar for April 15, 2021, while this was the second of three scheduled stops for the Senate version.

HB 7045 (Fine) – School Choice – reported favorably after multiple amendments by the *House Appropriations Committee*. This bill, like **CS/CS/SB 48**, seeks to revamp all the school choice programs currently embodied in Gardiner, McKay, Family Empowerment Scholarships, Hope Scholarships, and the Florida Tax Credit Scholarship Program. While there are some similarities between the two bills, there are also some major differences, and each of them has gone through significant amendments as they have moved forward. SB 48 has not yet come up on the Senate floor despite receiving its final committee hearing March 10, 2021. I will likely try to spotlight these two bills next week now that they both have completed the committee process.

CS/HB 311 (Silvers) / **SB 1456 (Rodriguez)** – Public Records / Examination and Assessment Instruments – This bill would expand the scope of the public records exemptions for certain examination and assessment instruments, such as the statewide kindergarten screening instrument. The Senate version received its second of three committee hearings and was reported favorably by the *Senate Governmental Oversight and Accountability Committee*. The House version has completed the committee process.

CS/HB 1031 (Rodriguez) / **SB 1468 (Gruters)** – Charter Schools – reported favorably by the *House PreK-12 Appropriations Subcommittee*. The House bill has grown. As originally filed, it would allow charter schools to apply at any time during the calendar year and then decide for themselves when they would open. It has been amended to bring back an old idea that was previously overturned in the courts – a statewide charter application review committee separate from the district sponsors. The courts previously ruled that the Florida Schools of Excellence Commission, which performed a similar function, was unconstitutional. The proposed Charter School Review Commission would have seven members, all of whom would be selected by the Commissioner. The bill requires that these commission members have “experience or expertise,” but it does not require any specific expertise in areas charter schools often fail to address adequately in their applications (e.g., ESE, finance, ELL, general curriculum, etc.). This was its third of four committee hearings. The Senate version has not received a committee hearing yet.

CS/HB 157 (Hawkins and Busatta Cabrera) / **SB 280 (Baxley)** – K-12 Physical Health Requirements / Cardiopulmonary Resuscitation Training in Public Schools – reported favorably by the *House PreK-12 Appropriations Subcommittee*. This bill would require basic first aid instruction and CPR training to be incorporated into 9th and 11th grade instruction. The House version has one more committee hearing, and the Senate version still has two left, but it is scheduled to be heard in the *Subcommittee on Education* next week.

CS/HB 1061 (Smith) – Schools of Hope – reported favorably by the *House PreK-12 Appropriations Subcommittee*. The bill would allow Hope schools that serve as the LEA to report students directly to the DOE, and it would allow Hope operators to conduct background checks of its employees instead of having to go through the district for it. Finally, it addresses last year’s lack of school grades by establishing that a Hope school can move in when a district

school has had three grades below a C in three of the last five years for which the school received a grade.

The Week Ahead

FADSS will host the first of three regional conferences on Monday, April 12, 2021, in Bay County. Then, the Superintendent certification training will continue on April 14 and 15 with a focus on legal issues. As a result, I expect next week's update to be somewhat abbreviated, perhaps focusing only on what happens on the House or Senate floor.