



To: Florida District School Superintendents
From: Brian T. Moore, FADSS General Counsel
Subject: FADSS Legislative Update – Week of March 15, 2021
Date: Friday, March 19, 2021

The Legislature completed its third week of the 2021 legislative session with another active week. In addition, the State Board of Education met on March 17, 2021, and the DOE released guidance on the ESSER II funds approved by Congress in early January.

State Board of Education

The State Board of Education (SBE) met in Tallahassee on March 17, 2021. Escambia Superintendent, Dr. Tim Smith, spoke on behalf of FADSS. He addressed accountability; turnaround schools; and upcoming budgetary issues, such as the upcoming textbook adoptions that are likely to dwarf the instructional materials categorical allocation. In other business, the SBE adopted the Governor’s proposed budget as its recommended 2021-22 education budget. It also reviewed Florida’s response to COVID-19 in the schools, noting that the percentage of students attending brick and mortar schools rose from 54% in August to almost 68% in February.

During its review of the state’s response to COVID-19, the SBE reviewed the US DOE’s invitation to states to request accountability waivers. It was stressed that we need to assess our students, but DOE knows that many schools will be unable to test 95% of their students. Seeking the waiver will allow Florida to make decisions for Florida without interference from any federal directives. There is a two-week input for public comment before the DOE seeks the [waiver](#), which was more fully explained in a [memo sent to Superintendents](#) on March 17, 2021. Dr. Grego, on behalf of FADSS, previously asked the Commissioner to seek this waiver.

2021 Legislation

Spotlight Bills

This week, I will spotlight some of the bills heard this week that either received their first committee hearing or have not been discussed previously. This week’s update has been scaled back slightly because of the FADSS Spring Leadership Conference on March 24th and 25th. We will have an opportunity to discuss pending legislation and its potential impact during the conference.

CS/SB 86 (Baxley) – Student Financial Aid – reported favorably with a committee substitute by the *Senate Education Committee*. This is the bill seeking to change Bright Futures, which has generated quite a bit of concern across the state. The committee substitute changed the original idea of creating an approved list of majors to maintain Bright Futures eligibility to creating a list of “dead-end” majors that do not lead to employment. The bill sponsor said that he hopes no majors make the list. The bill would also reduce a student’s Bright Futures award for AP or other accelerated options taken and passed in high school if they are accepted by the college or university towards the student’s degree or general education requirements. These changes would now start in the 2023-24 school year instead of 2022-23. Finally, the bill would change the current 100% and 75% award amounts and instead set the awards annually in the General Appropriations Act.

CS/HB 337 (DeCeglie) – Impact Fees – reported favorably as a committee substitute by *House Local Administration and Veterans Affairs Subcommittee*. The committee substitute defines the type of infrastructure for which impact fees can be spent. It restricts increases in impact fees. If a fee is to increase less than 25%, it must be phased in over two years. If the fee will increase between 25 and 50%, it must be phased in over four years. No fee could increase more than 50% without engaging in a new study applying the rational nexus test. Finally, the CFO will need to sign an affidavit to include with the district’s annual financial audit report that all impact fee requirements were followed in the collection and expenditure of impact fees.

HB 7035 (LaMarca) – School Safety – reported favorably by the *House Early Learning and Elementary Education Subcommittee*. This bill is very similar to a school safety bill that made it through the House last year but not the Senate. 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. 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. The bill also requires “timely” notification of parents of all events affecting the health, safety, or welfare of students. Presumably, this would 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 would require 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.

Bills Awaiting a Floor Vote or Passing either Chamber

HB 5 (Zika) / SB 1450 (Rodriguez) – Civic Education Curriculum – The House bill has been reported favorably by all House committees referenced and is waiting on the 2nd Reading Calendar. The Senate version was reported favorably by the *Senate Appropriations Subcommittee on Education*. This bill would require that the U.S. Government class required for high school graduation include comparative discussions of political ideologies that conflict with the freedom and democracy established in the United States. It also requires the DOE to develop

oral history resources that can be used in the curriculum. This oral history program would be called the “Portraits in Patriotism Act.”

CS/HB 35 (Fine) – Legal Notices – Passed off the House floor (85 Yeas/34 Nays). The bill would allow most government agencies to publish legal notices on a website rather than in the local newspaper. Currently, school districts must follow the notice provisions in Chapter 120, Florida Statutes, as well as section 1001.372. This bill amends section 120.81 to allow school districts to publish their Chapter 120 notices (e.g., rule or policy notices, other meeting notices) on a publicly accessible website. Regular school board meetings probably would need to be published in the newspaper under section 1001.372, F.S., but all other required notices could be posted on the school board’s public website instead. This could create a significant cost savings for districts. At this time, there is no Senate companion.

CS/SB 52 (Rodriguez) / **HB 281 (Duggan and Zika)** – Postsecondary Education – The Senate bill has been placed on 3rd Reading and the House bill was reported favorably by the *House Post-Secondary Education and Lifelong Learning Subcommittee*. These bills would provide dual enrollment scholarships for private and home school students, as well as public school students enrolled in summer courses.

CS/SB 72 (Brandes) / **CS/HB 7 (McClure)** – Civil Liability for Damages Relating to COVID-19 –the bill was passed off the Senate floor (24 Yeas/ 15 Nays). The House previously voted 83-31 to approve CS/HB 7 on March 5, 2021. The Senate version includes health care providers in the COVID-19 liability protections instead of addressing the issue in a separate bill. As previously discussed, these bills would extend liability protection to school districts facing potential civil lawsuits for COVID-19-related claims.

SB 146 (Brandes) / **HB 611 (Diamond)** – Civic Education – Passed off the Senate floor (39 Yeas/ 0 Nays) and reported favorably by the *House Education and Employment Committee* and . The bill establishes a nonpartisan civic literacy practicum, which high schools could choose to incorporate into their US Government courses. Those schools that successfully implement this practicum could then be eligible for designation as a Freedom School. The House version would also establish a citizen scholar program at the University of South Florida. The House version will now move to the House floor.

HB 529 (Fine) / **SB 282 (Baxley)** – Moments of Silence in Public Schools –passed off the House floor Thursday (94 Yeas/ 24 Nays). These bills require a one to two-minute moment of silence at the start of each school day for public school students. Teachers may not suggest to students how they will spend their moment of silence and instead must encourage parents to discuss it with their children. The Senate bill has had one committee hearing and is not on the agenda for next week.

HB 15 (Clemons and LaMarca) / **CS/CS/SB 50 (Gruters)** – Sales and Use Tax. Retained on *Senate Special Order Calendar*. Please refer to last week’s summary from Jim Hamilton.

Other Bills of Interest

[HB 51 \(McClain\)](#) – Charter Schools – reported favorably by the *House Early Learning and Elementary Education Subcommittee*. This bill would allow state universities or colleges to solicit, accept, and approve charter school applications and then serve as the charter sponsor. Unlike school districts which must accept and review all charter school applications, colleges and universities would have complete discretion over whether to even consider an application. Any schools approved under this bill would not be part of the local school district. The college or university would be considered the local education agency instead. The primary concern continues to be the creation of a separate charter authorizing process outside of the school districts. The bill has one more committee stop remaining. Its Senate companion, **[SB 1028 \(Hutson\)](#)**, is on the *Senate Education Committee* agenda for March 23rd.

[CS/HB 131 \(Duggan\)](#) – Educator Misconduct -- reported favorably by the *House Early Learning and Elementary Education Subcommittee*. 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. **[SB 1864 \(Perry\)](#)** 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. It has yet to be heard in a committee.

[CS/HB 149 \(Dubose and Plasencia\)](#) / **[SB 192 \(Book\)](#)** – Students with Disabilities in Public Schools -- reported favorably by the *House Education and Employment Committee*. The bill would prohibit the use of seclusion in a school and impose greater restrictions on the use of restraints. This was the third and final committee hearing in the House. The Senate companion is on the *Education Committee* agenda for March 23rd.

[CS/CS/HB 259 \(Williamson and Byrd\)](#) / **[CS/SB 498 \(Gruters\)](#)** – Safety of Religious Institutions – reported favorably with a committee substitute by the *House Judiciary Committee*. These bills are designed to fix what is called a loophole when someone cannot carry a concealed weapon at church on the weekend if that church has its own school on site due to the prohibition on firearms at all school properties. The new House version simply says that religious institutions can decide whether to allow weapons on properties they own or lease. The House sponsor insists that it does not prevent a property owner who leases space to a religious institution from prohibiting firearms in the lease. As discussed last week, all school districts should examine their current use of facilities forms, policies, and procedures, and also review all current leases in place – not just for the issue of firearms on campus but for general, good practices.

[CS/HB 355 \(Beltran\)](#) / **[SB 760 \(Burgess\)](#)** – Florida High School Athletic Association (FHSAA) – reported favorably by with a committee substitute by the *House Secondary Education and Career Development Subcommittee*. The committee substitute essentially takes all of the statutes establishing the FHSAA as the official athletic association for high school sports in Florida and authorizes the DOE to approve other associations that would need to follow the same laws that

apply to the FHSAA. The Senate version still focuses on eligibility to participate in FHSAA state championships, but the central issue is still the dispute over beach volleyball and revenue generated by it.

[HB 419 \(Grall\)](#) – Early Learning and Early Grade Success – reported favorably by the *House Children, Families, and Seniors Subcommittee*. The bill would change the way early learning is governed in the State of Florida.

- It repeals the Office of Early Learning and replaces it with a Division of Early Learning within the DOE, which then provides the State Board of Education (SBE) with rulemaking and oversight authority over both the voluntary prekindergarten (VPK) and school readiness programs.
- It moves the Gold Seal Quality Care Program from the Department of Children and Families (DCF) to the DOE.
- It brings Early Learning Coalitions (ELCs) under the SBE's oversight.
- It seeks to create a VPK accountability system that looks at student outcomes, learning gains, and student-teacher interactions.
- The Commissioner of Education would develop a screening and progress monitoring system for VPK through third grade to assess VPK performance.

The bill will now move to the *House PreK-12 Appropriations Subcommittee*. The Senate companion, **[SB 1282 \(Harrell\)](#)**, is on the *Senate Education Committee* agenda for March 23rd.

[HB 507 \(Rizo\)](#) – Education – reported favorably by the *House Post-Secondary Education and Lifelong Learning Subcommittee*. The bill would authorize the DOE to hold patents, copyrights, trademarks etc., and to sell or license any materials for which they control the rights. It also requires students to take a civic literacy assessment after their U.S. Government class. Students who pass the assessment would then be exempt from this bill's newly required civic literacy course requirement for Florida college and university students. Finally, it requires school districts to administer either the SAT or ACT for all 11th grade, public school students. HB 507 still has three more committees of reference. The Senate companion, **[SB 1108 \(Diaz\)](#)**, is on the *Judiciary Committee* agenda for March 22nd.

[CS/HB 519 \(Yarborough\)](#) / **[SB 1094 \(Bean\)](#)** – Required Health Education Instruction – reported favorably by the *House Early Learning and Elementary Education Subcommittee*. The bill would require that required sexual education curriculum include age- and developmentally appropriate information on the prevention of child sexual abuse, exploitation, and human trafficking. The Senate version is on the *Education Committee* agenda for March 23rd.

[HB 723 \(Massullo\)](#) / **[CS/SB 486 \(Bradley\)](#)** – Juvenile Justice Education Programs - Reported Favorably by *House Secondary Education & Career Development Subcommittee*. These bills increase the percentage of certain funds that must be spent on specified costs; requires contracts between district school boards & juvenile justice education programs be in writing; requires DOE provide mediation services for certain disputes; prohibits school boards from delaying

certain payments pending receipt of local funds. The Senate bill is on the Appropriations Subcommittee on Education agenda for March 23rd.

SB 726 (Taddeo) / HB 173 (Tant) – IEP Requirements for Students with Disabilities – reported favorably by the *Senate Appropriations Subcommittee on Education*. This is the bill that would start transition planning for students with disabilities earlier (7th grade) and requires that information about all transition services and options be shared with parents.

HB 1061 (Smith) – Schools of Hope – reported favorably by the *House Early Learning and Elementary Education 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.

HB 1507 (Yarborough) / SB 98 (Albritton)– Workforce Related Programs and Services – reported favorably by the *House Post-Secondary Education and Lifelong Learning Subcommittee*. This bill, which is entitled the Reimagining Education and Career Help Act, was discussed at greater length in last week’s update and will receive more attention as it moves forward, but there are some provisions that will affect all of the districts that offer post-secondary education options:

- Creates 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.
 - Modeled after program that has been in Texas for the last six years or so. According to Representative Yarborough, only one refund has been issued in six years.
 - 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.
 - 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.
 - The burden is on the former student to demonstrate eligibility for the refund.
- 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.
 - This contrasts with the current provision of \$1,000 per industry certification earned.
 - Questions about how the student earnings will be calculated remain. Many schools know whether their graduates obtained employment, but they do not know the former student’s wages. Who will determine how much graduates are

earning and what sort of performance bonus the technical centers will receive as a result?

The House bill is on the *House Appropriations Committee* agenda for March 22nd. The Senate bill is pared back and currently doesn't include many of the House bill provisions. The Senate bill:

- Requires DOE to address the accountability of apprenticeship and pre-apprenticeship programs.
- Looks to match the CAPE Industry Certification Funding List with the courses offered throughout Florida under the Career and Professional Education Act, as well as align the list to the future employment projections that will be made by a new Labor Market Estimating Conference; and
- Reviews the funding weights assigned to the courses and certifications listed in the CAPE Industry Certification Funding List.

The Senate bill is on the *Education Committee* agenda for March 23rd.

The Week Ahead

Relevant Senate Committee Agendas Published as of 3/19

- Judiciary Committee (Monday, March 22nd from 3:30 pm to 6:00 pm)
<https://www.flsenate.gov/Committees/Show/JU/MeetingNotice/5140>
- Appropriations Subcommittee on Education (Tuesday, March 23rd from 10:30 am to 12:00 pm)
<https://www.flsenate.gov/Committees/Show/AED/MeetingNotice/5152>
- Education Committee (Tuesday, March 23rd from 12:30 pm to 3:00 pm)
<https://www.flsenate.gov/Committees/Show/ED/MeetingNotice/5153>

Relevant House Committee Agendas Published as of 3/19

- Appropriations Committee (Monday, March 22nd from 12:30 pm – 2:30 pm)
<https://www.myfloridahouse.gov/Sections/Committees/meetingnotice.aspx?MeetingId=12941>
- Postsecondary Education and Lifelong Learning Committee (Monday, March 22nd from 4:00 pm to 6:00 pm)
<https://www.myfloridahouse.gov/Sections/Committees/meetingnotice.aspx?MeetingId=12946>