



To: Florida District School Superintendents  
From: Brian T. Moore, FADSS General Counsel  
Subject: FADSS Legislative Update – Week of January 31, 2022  
Date: Friday, February 4, 2022

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The 2022 Legislative Session completed its fourth week, hearing about 40 different bills that FADSS has been tracking. The Third Calculation also came out late last Friday, which prompted the first serious committee discussions about education funding for the upcoming school year. Consistent with previous updates, the focus this week will be on those bills and topics that appear to have a good chance of passing and a big impact on district operations.

### **Budget Discussions**

The Third Calculation was released late on Friday, January 24, 2022, and it generated some questions that we are still pursuing. The short story is that there was an overall increase of about 44,500 students statewide over the Second Calculation totals. Much of the increase was due to the growth in Family Empowerment Scholarships (FES). This growth was partially covered by pulling approximately \$186 million from the reserve fund set aside for increased enrollment in this year's budget. Ultimately, the result for school districts is a drop of almost \$53 in funds per unweighted full-time equivalent (UFTE) students.

The Governor's proposed budget, which was released several weeks ago, included a request for an increase in the Base Student Allocation (BSA) of approximately \$125, as well as increases to a few categorical funds, such as mental health and safe schools. This week, the education appropriations subcommittees in each chamber released their initial budget proposals.

In the Senate, the *Appropriations Subcommittee on Education* met on February 2, 2022, to start its discussion on the budget for the 2022-23 school year. The Chair of the committee, Senator Broxson, who has met several times this year with superintendents and other school personnel to discuss early literacy and reading initiatives, announced his committee's initial proposal, which included the following, significant increases:

- \$1 billion to base funding
- \$239 more to the BSA
- \$40 million more for the reading categorical

- \$30 million more for the safe schools categorical (same as Governor)
- \$20 million more for the mental health categorical (same as Governor)
- \$50 million more for the teacher salary increase allocation (TSIA) (same as Governor)
- \$5 million to assist Jefferson as it resumes control of its district

With these increases, there is also an expectation that all school district employees will be paid at least \$15/hour by the 2022-23 school year.

In the House, the *PreK-12 Appropriations Subcommittee* met on February 3, 2022, where the Chair, Representative Fine, presented his initial budget proposal for the 2022-23 school year. Like the Senate and Governor's proposal, it included a significant increase to the BSA (\$150) and an additional \$30 million in safe schools funding. Unlike the Senate proposal, there was no increase in either the reading or mental health categoricals proposed, but the House plan included an additional \$250 million for teacher salaries under the TSIA, with half of those funds designated for veteran teachers who have been left out of most of the raises given the last two years under this allocation. Finally, the House plan includes a \$200 million penalty to the 12 districts that adopted mask mandates at the start of the school year (targeting the salaries of district administrators within those districts). Funds would be taken from those districts in proportion to their enrollment and then distributed to the 55 districts that did not require masks.

While these were just initial proposals and there is much work to be done before a final budget is reached, it is clear that the Senate, House, and Governor are all committed to significant increases in education funding this year, which will hopefully help districts provide needed assistance to their students, address at least some of their critical staffing shortages, and recognize veteran employees for all that they have done to serve our students.

### **High-Impact Legislation**

#### **[CS/HB 1193 \(Plasencia\)](#) / [SB 1048 \(Diaz\)](#)** – Student Assessments

These bills were filed with the goal of eliminating the FSA and switching more to a progress monitoring system, but neither provides many substantive changes to the current assessment and accountability system. With respect to the FSA, they do not appear to change anything other than calling the end of the year assessments something other than the FSA. Both bills would add progress monitoring assessments at the beginning and middle of each year with a final assessment being administered at the end of the year for which all the current high-stakes accountability laws would still apply. There is no proposed reduction in the grade levels taking these exams, nor are any changes to the current end of course examinations proposed. The bills also include a section on parents and their right to know how their children are doing, but it is largely just a duplication of what is already set forth in section 1008.25 for students who are exhibiting a reading deficiency.

Both bills require the Commissioner of Education to conduct a study and report the results to the Legislature by January 31, 2025. The Commissioner would be required to recommend “additional innovative ways to streamline testing.” It would also have to include an analysis of the correlation between the two new progress monitoring assessments to be given in the fall and winter and the high-stakes end-of-year assessments to see if the earlier assessments could be used in place of the end-of-year assessments.

The House version of this bill also includes changes to the turnaround statutes which have been discussed previously at length.

Update: The House version of the bill received its first committee hearing this week in the *Early Learning and Elementary Education Subcommittee* where it was reported favorably with four amendments. One of those amendments made some minor modifications to the turnaround provisions. Instead of allowing the State Board of Education (SBE) to unilaterally cancel a contract between a district and turnaround provider, the amended version of the bill says that the SBE may direct the district to modify or cancel the contract, which at least recognizes that the SBE cannot cancel a contract for which it is not a party. However, it does not alleviate concerns that potential external operators would hesitate to enter into an agreement that can be canceled early. With respect to schools that slide back to a D or F within two years of exiting turnaround status, the amended bill now provides that districts must implement a turnaround plan that it has not yet “completed,” as opposed to the original language that required changing to a turnaround option not previously used.

Another amendment to the House version would mandate a change to the school grading system to make it more difficult to get an A or B grade. If 75% of the schools within a category of schools (elementary, middle, high, or combination) receive an A or B grade in a year, the SBE would be required to adjust the grading scale upward incrementally (to the next highest percentage ending in 5 or 0) until we reach the point where it requires getting at least 90% of the available points to receive an A grade (80-89% for a B, 70-79% for a C, etc.). Thus, if it currently requires 62% of available points to obtain an A and 75% of the schools get an A or B, the SBE will be required to raise the cut score to 65%. The next change would require a bump to 70%. Obviously, this provision creates numerous concerns, including the difficulty many schools will have escaping turnaround status if they ultimately must achieve what currently is a high A (70%) to get even a C. It also seems to come from a viewpoint that if it is possible for 75% or more of our schools to be doing well, then cut scores must be too easy.

Additional Concerns: Many parents and staff members heard that there would be an end to the FSA and less high-stakes testing, but these bills change the current assessment requirements very little while also adding two new assessment periods at the beginning and middle of the school year. The progress monitoring and earlier feedback to teachers and parents would certainly be helpful in identifying deficiencies and implementing strategies before the end-of-year assessments, but this bill would not appear to do anything to reduce high-stakes testing.

There are also some concerns about making all of the tests computer-based, which may strain district resources or prove difficult for many students, particularly the younger ones.

#### [CS/SB 974 \(Gruters\)](#) / [CS/SB 985 \(Beltran\)](#) – Sovereign Immunity

These bills would change the sovereign immunity limitations established in statute. Currently, an individual is limited to no more than \$200,000 for a tort claim with a \$300,000 cap for the entire incident. Thus, if 5 people are injured due to district negligence, none of them could recover more than \$200,000, and collectively the five could not recover more than \$300,000. These bills, as originally drafted, would raise the individual cap from \$200,000 to \$1 million and eliminate the per occurrence cap altogether. The \$1 million cap would then increase each year based on the Consumer Price Index. This proposal appears to have extra attention and momentum in light of the Stoneman Douglas case, where the courts held that all of the victims of that tragedy were limited by the \$300,000 per occurrence cap with respect to their claims against government entities, including the school district.

*Update:* In the Senate *Judiciary Committee*, the bill sponsor introduced an amendment that would update the current sovereign immunity limits by \$100,000 for each category with an adjustment made according to the Consumer Price Index (CPI) every 10 years. Thus, the Senate version of the bill now proposes a \$300,000 / \$400,000 cap, which would be roughly in line with the CPI increase since the last adjustment to these limits a little over a decade ago as well as the original limits that were set in the early 1970's. This amended version of the bill was reported favorably.

The House's Appropriations Committee reported the bill favorably with only one dissenting vote. The House version retains the \$1 million individual and no aggregate cap provisions and has one committee stop remaining.

*Concerns:* Obviously, the House version could greatly increase litigation costs for school districts and may encourage more suits to be filed knowing that there are hardly any limits. Right now, obvious errors that cause significant injury or costs can be resolved quickly by negotiating a payout at the capped amounts. With a much higher cap or no cap at all, litigants may feel more compelled to pursue litigation or drag out claims much longer in the hopes of a greater payout.

All local governments are against these bills. Smaller districts, cities, and counties will surely struggle under these new limits; however, all school districts should be especially concerned about their ability to cover the increased litigation/risk management costs that would likely follow.

#### [HB 7 \(Avila\)](#) / [SB 148 \(Diaz\)](#) – Individual Freedom

These bills have been covered in depth in the previous two updates. In summary, they represent an attempt to prevent CRT and other forms of “wokeness” from appearing in the workplace and schools. While several of the provisions are noncontroversial, the major sticking

point is that neither employee training not district-run, public school instruction can cause an individual to “**feel discomfort, guilt, anguish, or any other form of psychological distress** on account of his or her race, color, sex, or national origin.” While the bill states that instructional personnel may facilitate discussions to address how freedoms of persons have been infringed by sexism, slavery, and other forms of racial oppression, it also adds that these topics and discussions may not be used to indoctrinate or persuade students of a particular point of view inconsistent with the principles stated within the bill.

Update: This week, the House version received its second of three committee hearings and was reported favorably along party lines by the House *State Affairs Committee* following another lengthy debate about whether this bill will stifle instruction on difficult historical topics out of fear that a student may feel discomfort.

Concerns: The primary concern is the vagueness of the language regarding how people feel. Anyone learning about the Holocaust, slavery, segregation, or Japanese internment camps may feel a sense of compassion or discomfort and perhaps even anguish and guilt due to the gravity of the topic. Does a child feeling some guilt for slavery *as an American* know the difference between guilt based on their race as opposed to a sense of guilt about what their country may have done? The bill’s sponsor emphasized that this bill is designed to keep teaching objective, but it would seem to suggest that a teacher could not add a comment like “We all understand that slavery was bad, right?” Are teachers just to present facts without offering any perspective as to why those facts are important or why they are being taught?

With this language, it is easy to imagine parents filing complaints against teachers because their student was emotionally impacted by something learned at school, and it may cause teachers to limit their instruction on difficult topics out of fear that a child’s discomfort will put their certification at risk or at least result in a time-consuming and costly legal action. The danger here is that this type of legislation puts teachers and school districts on the defensive for teaching the required, State Board of Education-approved standards, including those which may evoke a wide range of reactions among students.

Finally, because this bill seeks to amend section 1003.42, Florida Statutes, to include the language about instruction that provokes difficult feelings in students, it would not apply to charter schools and their instruction of students, as that section is not included in the list of statutes with which charter schools must comply.

#### **[HB 1421 \(Hawkins\)](#) / **[SB 802 \(Gruters\)](#)** - School Safety**

These bills attempt to codify most of the remaining recommendations from the MSD Commission (the recommendation to “restore local authority to public school boards to levy up to a half mill without a referendum for law enforcement officers or guardians, or other direct school security expenses” has remained absent from proposed school safety legislation). As discussed in previous updates, they would expand state-level oversight and enforcement of district compliance with school safety laws and require the development of family reunification

plans for both natural and man-made disasters and emergencies. The bills would also require that the safe school officer assigned to the school be physically present whenever an emergency drill is conducted.

Update: The House version received its second committee hearing in the *Secondary Education and Career Development Subcommittee* where it was reported favorably with three amendments. One of those amendments removed the language about the Commissioner being able to direct school boards to withhold a superintendent's salary based on a finding of noncompliance by the Office of Safe Schools. The new version of the House bill now simply directs the Commissioner to notify the State Board of Education of any findings of noncompliance at either a district or charter school. Another amendment would require that schools notify law enforcement at least 24 hours in advance of a school safety drill, because the bill would require the assigned safe school officer to be present for all of these drills.

Last week, the Senate's *Appropriations Subcommittee on Education* temporarily postponed hearing the bill so that additional work could be done on some of the provisions. This was promising news as the stakeholders continue to look for ways to make the provisions better for everyone, similar to what happened in the House this week.

[CS/HB 1467 \(Garrison\)](#) / [CS/SB 1300 \(Gruters\)](#) - K-12 Education

Following an amendment to SB 1300 last week, these two bills now include similar provisions regarding school board member salaries and library books and materials.

Update: The House *Appropriations Committee* reported the bill favorably with a committee substitute. The new version of the House bill would allow school board members to be paid up to \$200 per board meeting with a cap at \$4,800 per year. The Senate version would match school board member salaries to legislative salaries, which is currently between \$29,000 and \$30,000.

Both bills would now put every book in every school on a public watchlist, which was discussed in previous updates. Finally, as noted last week, the Senate version originally addressed school board meetings and included provisions mandating 30 minutes of public input at the start of each meeting that could include comments directed at individual board members, but those provisions are no longer part of the bill.

Concerns: Under the bill, each book made available to students through a school library or classroom list must be selected by a school district employee who holds a media specialist certificate. This requirement generates numerous questions and concerns. For example:

- Does this mean that the AP English teacher cannot select books for a reading list without consulting the media specialist first?
- Is a committee of media specialists, teachers, parents, and community members required to approve every book on every list selected by that media specialist, or does this committee just establish a set of standards that the media specialist must follow?

Does each book then have to get approved by the School Board after a 30-day review process? If so, how does the district make the book available to the public if it has not been allowed to purchase it yet?

- Can a civics teacher ask a class to read and discuss a recent newspaper article about a current event, or does that article have to go through the review process first too?

This bill creates the potential for a very time-consuming, costly process so that everyone with an opinion – whether or not they live in the district or have a child in the school – can second-guess the knowledge and expertise of media specialists and teachers. In its current form, this bill will stifle a school districts ability to incorporate supplemental books and other written materials into the curriculum.

Finally, it is worth noting that this bill would not apply to charter schools -- only traditional public schools. Again, this is another example of a bill promoted as something to protect all Florida school children and involve parents, but an exception is carved out for those parents and students receiving the same state funding but attending a charter or private school.

### **Other Legislation of Interest**

#### **[CS/HB 337 \(McClain\)](#) / [SB 536 \(Diaz\)](#)** - Administrative Procedures

The Administrative Procedure Act (APA) sets forth a set of procedures agencies must follow when adopting rules. These bills amend the APA rulemaking process in an effort to reduce unnecessary rules. While there are multiple provisions within the bills, many will not apply to school districts. The important language for districts is a requirement for each agency to review its rules for consistency with the powers and duties granted by the agency's enabling statutes. Then, the agency either makes the necessary changes or, if it determines substantive changes to update the rule are not needed, "repromulgate" the rule. This should result in every school board policy going before the board at least once every five years.

*Update:* The House version was reported favorably in the House's *Judiciary Committee* and has one committee assignment remaining. The Senate version was not heard this week and still has two committee assignments left.

#### **[CS/HB 851 \(McClain\)](#) / [CS/CS/SB 706 \(Perry\)](#)** - School Concurrency

These bills, as originally drafted, would amend school concurrency law by requiring local governments that adopt school concurrency to apply it to development on a districtwide basis, not to specific and adjacent concurrency zones. Currently, local governments that adopt school concurrency are only encouraged by law to apply it to development on a districtwide basis, these bills, as originally drafted, would require it.

*Update:* Both bills have been amended to remove the districtwide language. Now, the bills would provide, "Any proportionate-share mitigation must be directed by the school board

toward a school capacity improvement identified in the 5-year school board educational facilities plan or must be set aside and not spent until such an improvement has been identified that satisfies the demands created by the development in accordance with a binding developer’s agreement.” The only difference between the two bills right now is that the House version has language requiring local governments to respond to a developer’s commitment within 60 days.

The Senate *Education Committee* reported the bill favorably this week. The Senate version has one committee assignment remaining, while the House version was not heard this week and still has two committee assignments to complete.

**[CS/HB 1203 \(Fetterhoff\)](#) / [CS/SB 1386 \(Diaz\)](#) - K-12 Personnel Evaluation Procedures and Criteria**

As originally drafted, the Senate version of this bill addressed the issue of charter schools and other “employing entities” being able to conduct background checks. The House version simply addressed current statutory language concerning employee evaluations due to a recent Public Employee Relations Commission (PERC) ruling. The House bill attempts to clarify that the procedures established by the district school superintendent for the evaluation of instructional, administrative, and supervisory personnel are not a mandatory subject of collective bargaining. Following committee substitutes in both chambers, these bills are now almost identical.

*Update:* Both bills now establish a criminal penalty for knowingly and willingly failing to report to DOE an incident of sexual misconduct with a student. They both address employing entities and background checks, and they both clarify that establishing the evaluation procedures is the superintendent’s responsibility and not a mandatory subject of bargaining. The House version of the bill also contains provisions about teacher preparation curriculum requirements.

The House *Education and Employment Committee* reported the bill favorably, and it will now head to the House floor. The Senate *Education Committee* also reported the bill favorably, but it still has two more committee assignments to go.

**[HB 15 \(Tant\)](#) / [SB 236 \(Jones\)](#) – Children with Developmental Delays**

This bill would expand the definition of “exceptional student” to include children with developmental delays identified from birth through nine years of age or completion of second grade (whichever occurs first), as opposed to the current birth through five years of age. Moving the upper limit to age 9 would align Florida’s definition with the maximum allowable age under federal law.

*Update:* The House *PreK-12 Appropriations Subcommittee* reported the bill favorably, leaving it with one committee assignment remaining. The Senate version has not been heard in committee since November and still has two committee stops left.

**[HB 235 \(Plasencia\)](#) / [SB 390 \(Book\)](#) – Restraint of Students with Disabilities in Public Schools**

This bill would prohibit the use of mechanical restraints in school except by a school resource officer, school safety officer, guardian, or security guard for students in grades 6-12. There are few times where a student is placed in handcuffs, zip ties, straitjackets, etc. by school personnel, but it does raise the question of what can be done with the student committed to harming himself or others until law enforcement arrives.

*Update:* The House version completed the committee process when it was reported favorably in the *Education and Employment Committee*, which was the last of its three assigned committees. The Senate version received its first of three committee hearings this week and was reported favorably by the *Education Committee*.

**[SB 1240 \(Harrell\)](#) / [HB 899 \(Hunschofsky\)](#) - Mental Health of Students**

This bill would require charter schools to report when a student is Baker Acted from school just as district schools do. It also requires the DOE to share certain data with DCF. In addition, the bill requires districts to include in their annual mental health assistance allocation plans a process for providing parents of a student receiving mental health services with information about other services available at the school or within the local community. It would also require districts to provide other people living in the home with the student information about mental health services that may be available to them that would contribute to the student's well-being.

*Concerns:* While this raises numerous questions about how districts are supposed to know all of the community services available or who lives in the household and what services they might need, the bill does say, "A school may meet this requirement by providing information about and Internet addresses for web-based directories or guides for local behavioral health services."

*Update:* The Senate *Education Committee* reported the bill favorably, leaving it with one more committee assignment. Similarly, there is only one more House committee assignment to clear after the *Appropriations Committee* also reported the bill favorably this week.

**[HB 1219 \(Bartleman\)](#) / [SB 1578 \(Jones\)](#) - Instructional Personnel**

These bills would amend the definition of "instructional personnel" in section 1012.01, Florida Statutes, to include "certified prekindergarten staff members funded in the Florida Education Finance Program." Further, the "classroom teacher" category would include "prekindergarten instructors funded in the Florida Education Finance Program who hold an educator certificate in Prekindergarten/Primary Education, Preschool Education, Early Childhood Education, or any exceptional student education area with the Prekindergarten Disabilities endorsement." This change would allow PreK teachers to be eligible for things reserved to instructional personnel or classroom teachers, like the Teacher Salary Increase Allocation (TSIA) and, presumably, the Governor's \$1,000 Covid-relief payments.

The House version of the bill received its first committee hearing and was reported favorably by the *Early Learning and Elementary Education Subcommittee*. However, it still has three more committee assignments. The Senate version has not been heard in any of its three assigned committees.

**[HB 179 \(Altman and Slosberg\)](#) / [CS/SB 702 \(Burgess\)](#) – Photographic Enforcement of School Bus Safety**

This bill would create a new statute allowing school districts to install a “side stop signal arm enforcement system” on school buses to help enforce the law against passing school buses while they are loading or unloading students. It would require a camera system of two or more cameras attached to the school bus that records photos and video of motor vehicles that violate the law. Districts would need to post warning signs and stickers on buses using the system. Law enforcement could then use the photo and video evidence against violators. Fines collected as a result of these violations would be returned to the district to install and maintain these enforcement systems. An annual report of the results would be sent to the Governor, Senate President, Speaker, and the Department of Highway Safety and Motor Vehicles.

Update: A committee substitute that did not make any substantive changes of importance to districts was reported favorably by the Senate *Judiciary Committee* and has one stop remaining in the Senate. The House version has not yet been heard in any of its three assigned committees.

**[CS/HB 229 \(Arrington\)](#) / [SB 400 \(Bracy\)](#) – Guidance Services on Academic and Career Planning**

This bill would require personalized academic and career plans developed with school counselors to include more career-themed courses and work-based learning, such as apprenticeships, as opposed to just academic options. Notification to students of acceleration options would also need to include CTE and other career development pathways.

Update: The House *Secondary Education and Career Development Subcommittee* reported the bill favorably, and it has one more committee assignment. The Senate version has not been heard in committee yet, but it is on the agenda in the *Education Committee* next week.

**[CS/HB 599 \(Casello\)](#) / [CS/SB 600 \(Berman\)](#) – Upgrades to Education Facilities as Emergency Shelters**

These bills would allow up to \$2 million in facility upgrade costs to be excluded from the cost per student station calculation if they were to upgrade the school for use as a hurricane shelter. Eligible expenses include hardening the structure, as well as electrical and generator upgrades.

Update: The Senate *Education Committee* reported the bill favorably, but it still has two more committee assignments. Similarly, the House version has only been heard in one of its three assigned committees.

**[HB 155 \(Valdes\)](#) / [SB 1068 \(Jones\)](#) – Certificates of Completion**

This bill would allow students who are awarded a certificate of completion to be eligible to enroll in workforce education programs. Career centers established by the School Board would be required to identify these workforce programs from charter technical school career centers. A career center would have to identify workforce education programs available to students who finish their certificate of completion before the student receives their certificate. In addition to workforce education programs, the career center should advise students of adult general education programs as well.

*Update:* The Senate version was reported favorably by the *Education Committee* but still has two more committee assignments. The House version still has one remaining committee assignment.

**[CS/HB 173 \(Duran\)](#) / [SB 340 \(Garcia\)](#) – Care of Students with Epilepsy or Seizure Disorders**

This bill would create a new statutory section for students with epilepsies or seizure disorders to receive medical help at school through an individualized seizure action plan (ISAP). Parents can elect to submit a doctor-prescribed ISAP to the school, and the parents must give written permission each year for it to be carried out. The ISAP would be updated by a medical professional before the beginning of each school year and include certain information regarding the student, such as their symptoms and recommended care. It would create requirements for parents and school nurses and employees related to the care of such students. It would also provide training for certain school employees, and the school districts would have to provide specific information and training to school bus drivers who transport students who are susceptible to seizures. The school should also make sure that individuals working with the school are trained every two years in the care of students with epilepsy. In the Senate version of the bill, the law would specifically exempt school employees from liability for acting in good faith pursuant to the ISAP. The House bill was amended to remove this language on the grounds that the employees are already covered by sovereign immunity protections.

*Update:* The House version was reported favorably by the *Secondary Education and Career Development Subcommittee* and now has one more committee stop left. The Senate version was not heard in committee this week and still has two committee assignments remaining.

**[HB 447 \(Trabulsy\)](#) / [SB 1516 \(Jones\)](#) – Required Instruction in the History of African Americans**

These bills would amend the required instruction of the history of African-Americans to include the following provision: “Members of the instructional staff are encouraged to include the history of local African-American cemeteries in the study of the history of African Americans when practicable.”

*Update:* The House *Education and Employment Committee* reported the bill favorably, and it will now go to the House floor. The Senate version is scheduled to get its first committee

hearing next week in the Education Committee, but it will still have two more committee assignments after that.

**[CS/HB 573 \(Snyder\)](#) / [CS/SB 896 \(Burgess\)](#) – Educator Certification Pathways for Veterans**

This bill creates an additional pathway to educator certification for military service members. This bill specifies that a military service member may receive a temporary educator certificate if he or she meets the following requirements instead of holding a bachelor's degree: document 48 months of active-duty military service with an honorable discharge or a medical separation; and completed 60 college credits with a minimum grade point average of 2.5 on a 4.0 scale, as provided by an eligible institution of higher learning. Finally, the bill provides that a temporary certificate for military service members who meet the established requirements is valid for a period of 5 years and is nonrenewable.

*Update:* The Senate *Education Committee* reported a committee substitute favorably, adding a requirement that the holder of one of these temporary certifications must be assigned a teacher mentor for at least two years. The Senate version has one committee assignment remaining. The House version is scheduled to receive its second of three committee hearings next week in the *Local Administration and Veterans Affairs Subcommittee*.

**[HB 941 \(Silvers\)](#) / [SB 1404 \(Jones\)](#) – Certified School Counselors**

This bill would establish the “School Counselors Supporting Students Act” and prohibit school counselors from performing certain school-related tasks, like serving as a testing coordinator or helping to build the master schedule. The DOE would also be required to develop a program using Florida’s School Counseling Framework for certified school counselors to integrate into curricula, which prepares public school students in prekindergarten through grade 12 for postsecondary education and training or a career.

*Concerns:* Even before the recent focus on the mental health needs of students, there have been concerns that school counselors are asked to perform too many duties not directly related to counseling students. This bill seeks to prohibit many of those things, but it does not solve the problem of who will perform those other necessary tasks if the counselor is prohibited from doing so. It does allow counselors to perform other duties provided that all instructional personnel have the same responsibility, and it allows them to cover a class for a teacher in some cases. There is no doubt that students will benefit from increased counseling, whether it is for improved mental health or to set them on a career path. However, there may be some counselors and schools who have worked out an effective approach that will no longer be allowed.

*Update:* The Senate *Education Committee* reported the bill favorably, and it is on the agenda next week in the *Children, Families, and Elder Affairs Committee*. If it receives support there, it would have just one more committee stop to make. The House version has not been heard in any of its four assigned committees.

[HB 989 \(Shoaf\)](#) / [SB 1522 \(Ausley\)](#) - Sparsity Supplement Funds Within the Florida Education Finance Program

This bill would amend the sparsity provisions to exempt districts with enrollments under 2000 from the wealth adjustment. There are currently nine districts that have the wealth adjustment, but this would only apply to the three smallest districts and one lab school. The Senate version of the bill includes a \$2 million allocation to offset the impact of this change for the first year.

Updates: The House version received its first of three assigned committee hearings and was reported favorably by the *PreK-12 Appropriations Subcommittee*. The Senate version has not received a hearing yet.

**New Legislation**

Finally, there were two committee bills that emerged this week that will require additional discussion as they move forward. The House *Judiciary Committee* produced [HB 7049](#) – Legal Notices. This was a big topic in the Legislature last year, and the changes enacted just went into effect January 1, 2022. However, the House introduced this bill that would appear to make it much easier for school districts to meet their legal notice obligations by posting on their own website, which could result in significant cost savings. The changes that were ultimately made last year did not appear to provide school districts with any meaningful assistance. As was the case last year, the newspapers from around the state opposed the bill. Right now, there is no Senate companion, so a more complete analysis will be done if it appears that something significant for districts is likely to happen.

The other committee bill introduced this week came from the House *PreK-12 Appropriations Subcommittee*, which reported favorably [HB 5101](#), the conforming bill for the budget. The majority of the focus of this bill is on virtual instruction, and many of the provisions appear to offer improvements. However, one area that caused significant concern is the provision to eliminate the Florida Virtual School franchise option for school districts. There was also some concern about the proposed elimination of the digital classroom allocation.

The Committee chair, who presented the bill, made it clear that many of the provisions were meant to be a wake-up call. There may be significant changes between this initial version and what ultimately passes, but he said that now is the time to start having serious discussions, because changes are coming to virtual education. As this was only approved late in the afternoon on February 3, a more detailed analysis will be provided as it moves forward. For now, here is the summary prepared by House staff in the bill analysis:

The bill conforms applicable statutes to the appropriations provided in the House proposed General Appropriations Act for prekindergarten through grade 12 education for the 2022-2023 fiscal year. Specifically the bill:

- Requires that each virtual charter school and each school district with a contract with an approved virtual instruction program provider identified as a controlled open enrollment school, determine capacity based upon the enrollment requirements of s. 1002.45(1)(e)4, F.S.
- Modifies the requirements for establishing a virtual charter school by:
  - o Requiring the use of a standard virtual charter school contract and renewal contract; and
  - o Requiring virtual charter schools to comply with the applicable requirements of s. 1002.31, F.S., and the enrollment requirements of s. 1002.45(1)(e)4., F.S.
- Modifies the requirements for virtual instruction programs by:
  - o Requiring all programs to operate under its own Master School Identification Number as prescribed by the Department of Education.
  - o Requiring the annual audit completed by an approved virtual instruction program provider to be performed by an independent auditor licensed under chapter 473, F.S., and requiring the audit report to be provided to the State Board of Education and Auditor General.
  - o Requiring a contract with an approved virtual instruction program provider to include additional components to include submitting a monthly financial statement summary sheet and providing certain student academic achievement data.
  - o Requiring virtual instruction program providers to be approved by the State Board of Education.
  - o Requiring an approved virtual instruction program provider to receive a district grade based upon the aggregated assessment scores of all students served by the provider statewide and a separate school grade for each school district with which it contracts based on the assessment scores of all students served within the school district.
  - o Specifying how the Florida Education Finance Program (FEFP) funds for a district virtual fulltime equivalent (FTE) student is calculated and requiring the use of state FEFP funds only for out-of-district virtual FTE students enrolled in a district virtual instruction program.
  - o Clarifying that virtual instruction provided by a school district through a contract with an approved virtual instruction program provider may enroll students in other school districts throughout the state.

- Specifies that the funding for eligible students enrolled in juvenile justice education programs must be the same as traditional students funded in the FEFP.
- Modifies the type of Florida Empowerment Program scholarship students that are not included in the statutorily-established maximum number of student cap and clarifies when the scholarship payment adjustments are made to the eligible nonprofit scholarship funding organizations.
- Deletes the Digital Classroom Allocation in the FEFP.

### **The Week Ahead**

Several more bills may complete the committee process next week, and we may start to see some of the bills we are tracking come up for debate on the House or Senate floor. However, most of the attention will probably be on the budget proposals for 2022-23 when they reach the main Appropriations committees in each chamber.

Also, the State Board of Education will meet on [February 9, 2022](#), here in Tallahassee. Our President, Sam Himmel, will represent FADSS at the meeting. The SBE will be considering more than 15 rule amendments and adoptions, including an amendment to the rule concerning concordant scores for graduation requirements. If approved by the SBE, the rule would push back the stricter requirements by one year, allowing this year's seniors to graduate according to the previous standards, in recognition for all the lost instructional time and testing opportunities.

As always, if you have any questions or concerns about any pending 2022 legislation, please reach out to me or anyone else at FADSS.