



To: Florida District School Superintendents
From: Brian T. Moore, FADSS General Counsel
Subject: FADSS Legislative Update – Week of February 28, 2022
Date: Friday, March 4, 2022

The 2022 Legislative Session completes its eighth week today with most of the action happening on the chamber floors as multiple bills near or reach final passage. The budget conferences also began in earnest this week. Next week should see final resolution of the remaining bills still on the table, and the primary focus will be on the final 2022-23 budget proposals expected to be released early next week.

Budget Discussions

At the start of the week, the House and Senate named the budget conference participants, and the various budget conferences began meeting. The PreK-12 education conference held its first and only meeting on March 1, 2022. At the time of this report, there has been only one offer, which came from the House. With no Senate counter-offer being made as of this morning, it is expected that the remaining differences will be resolved at higher levels.

The Finish Line

A few bills affecting K-12 school districts completed the legislative process this week and will become law if signed by the Governor.

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

These bills attempt to codify most of the remaining recommendations from the MSD Commission. 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 passed its version of the bill unanimously on February 24, 2022. On March 3, 2022, the Senate took up the House's version and passed it unanimously as well. The bill will now go to the Governor for approval.

Finally, as discussed in previous updates, both bills have been amended to remove language that would have allowed the Commissioner of Education to direct school boards to withhold a superintendent's salary based on a finding of noncompliance by the Office of Safe Schools.

[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).

Update: The House version passed unanimously on February 25, 2022, and the Senate took up the House version on March 2, 2022, and passed it unanimously as well. The bill will be sent to the Governor for approval sometime in the coming weeks.

[CS/HB 395 \(Borrero\)](#) / [SB 268 \(Diaz\)](#) – Victims of Communism Day

This bill proclaim November 7 “Victims of Communism Day.” It would further require high school US government classes to have 45 minutes of instruction relating to various historical communist leaders such as Mao Zedong, Joseph Stalin, Vladimir Lenin, and Fidel Castro. There would have to be instruction on how people suffered under such regimes.

Update: The House passed its version of the bill 115-0 on February 24, 2022, and the Senate took up the House version and approved it unanimously on March 2, 2022. CS/HB 395 will now wait to be sent to the Governor for approval.

[CS/CS/HB 777 \(Robinson\)](#) / [CS/CS/SB 1194 \(Boyd\)](#) – Local Tax Referenda Requirements

These bills address local tax referenda and require that they be approved by the voters at a general election. This includes school district referenda under sections 1011.71 and 1011.73, Florida Statutes, which allow school boards to seek approval for additional millage to be used for operational purposes. If enacted, these requirements take effect October 1, 2022.

Update: The House approved its version on February 24, 2022, with a vote of 111-2. The Senate then took up the House's version and passed it unanimously on March 2, 2022. The bill is now waiting to be sent to the Governor for approval.

Concerns: There could be a few districts who already have an operational millage approved locally that will have problems due to changed timelines and TRIM notice requirements. TRIM notices are published in September, before the general election. Similarly, any district looking to initiate this process may have to delay collecting the funds for a bit longer to comply with notice requirements. However, holding these referenda at the general election eliminates any costs associated with a special election and ensures the highest voter turnout.

High-Impact Legislation

[CS/CS/CS/SB 974 \(Gruters\)](#) / [CS/CS/HB 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.

Update: The House *Judiciary Committee* reported the bill favorably this week following another substantial amendment. The latest version would change the sovereign immunity caps from \$200,000 / \$300,000 to \$400,000 / \$600,000. The Senate version, which was amended to a multi-tiered approach based on either the type or size of the governmental agency, still has one committee assignment remaining but was not heard before the Senate ended the committee process. Presumably, if this moves forward next week, it will be through the House version.

Concerns: Obviously, an increase in the sovereign immunity caps could greatly increase risk management, insurance, and litigation costs for school districts and may encourage more suits to be filed.

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

These bills have been covered in depth in the previous 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 points revolve around the way some information might make students or employees feel.

Update: Previously, the House version was amended to say, “A person should not be instructed that they must feel guilt, anguish, or other forms of psychological distress for actions, in which he or she played no part, committed in the past by other members of the same race or sex.” This may not prevent parents from complaining about teachers covering required topics of instruction that evoke strong feelings, but it is certainly less vague than the original language about feeling discomfort.

The full House approved the bill on February 24, 2022, with a vote of 74-41. The Senate *Rules Committee* heard the House version of the bill and reported it favorably along party lines. The bill is now awaiting placement on the Senate’s Special Order Calendar.

Concerns: As previously mentioned in these weekly updates, 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.

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

These bills were filed with the goal of eliminating the FSA and switching more to a progress monitoring system beginning with the 2022-23 school year, but neither provides many

substantive changes to the current assessment and accountability system. The main provisions have been discussed in previous updates.

Update: The Senate unanimously approved its version of the bill on March 3, 2022. The House version has completed the committee process but has been waiting for placement on the Special Order Calendar for a week.

Concerns: As mentioned in a previous update, the House version has been amended to mandate a change to the school grading system to make it more difficult to get an A or B grade. These House provisions create 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.

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

These are the bills that address school board members (term limits or salaries) and library and classroom books.

Update: As previously discussed, the House amended its version to change from removing school board salaries to installing eight-year term limits and passed the bill with a party-line vote. The Senate *Rules Committee* heard and reported the House version favorably after amending the term limit language from 8 years to 12 years. The House version is now awaiting placement on the Senate Special Order Calendar, and, if passed as amended, it will still need to go back to the House after that.

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, which have been covered in previous updates.

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 may stifle a school districts ability to incorporate supplemental books and other written materials into the curriculum.

[CS/CS/HB 1557 \(Harding\)](#) / [SB 1834 \(Baxley\)](#) - Parental Rights in Education

These bills would require district school boards to adopt procedures for notifying a student's parent if there are changes in the student's mental, emotional, or physical health or well-being and the school's ability to provide a safe and supportive learning environment. The school district would also be prohibited from withholding information from a parent regarding the student's mental health or well-being.

There is also language that would:

- Prohibit classroom instruction about sexual orientation or gender identity in grades K to 3 or in a manner that is not age appropriate.
- Allow a parent to bring an action against a school district for violating these new provisions and be entitled to reasonable attorney fees and court costs.
- Allow a parent, alternatively, to request a special magistrate be assigned by the Department of Education at district cost if the parent believes that his or her concerns were not resolved by the principal.
- Require districts to inform parents every year about all healthcare services offered at the school along with the option to withhold or decline consent for any specific service.
- Prohibit administering a well-being questionnaire or health screening form to students in grades K-3 without first sharing with parent and obtaining consent.

Update: The House passed its version of the bill by a vote of 69-47 on February 24, 2022. The Senate *Appropriations Committee* heard the House bill earlier this week and reported it favorably with a 12-8 vote. There was an attempt to amend the bill to reference instruction on "human sexuality or sexual activity" instead of "sexual orientation or gender identity" in light of the perceived targeting of LGBTQ students and the "Don't Say Gay" moniker the bill has earned. However, the amendment failed.

The bill is on the Senate Special Order Calendar for March 7, 2022.

Concerns: This bill appears to be aimed at school attempts to navigate issues with LGBTQ students, which often involves more turmoil at home than at school. There appears to be a perception that school counselors and teachers are conspiring with students to make major decisions affecting the student's life without the knowledge or input of the parents.

One major concern here is the provision allowing parents to file suit or request a special magistrate when there are so many subjective and vague provisions in the bill. Most of the bill is aimed at district policies and "practices," but that could be interpreted quite broadly.

[CS/HB 865 \(Rizo\)](#) / [CS/SB 758 \(Diaz\)](#) – Charter Schools

These bills would create the Charter School Review Commission and give it the power to review and approve applications for charter schools overseen by district school boards. There are also multiple provisions that address charter school renewals, funding for charter schools, and

charter school access to interlocal agreements between local governments and school districts. Those have been discussed in previous updates.

Update: Both bills were previously amended to require districts to receive a copy of the charter school application within three days of it being filed and then gives the district 30 days to provide input to the Commission as to the application.

The Senate version was heard on second reading on March 3, 2022. It is now awaiting its third and final reading. The House version was reported favorably by the *Education and Employment Committee* at the start of the week with the amendment for district input. It is now awaiting placement on the Special Order Calendar.

Other Legislation of Interest

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 Senate approved its version of the bill unanimously on March 1, 2022. Both bills are now awaiting potential placement on the House’s Special Order Calendar.

CS/HB 225 (Hawkins and Beltran) / SB 892 (Burgess) – Charter School Charters

This bill would amend the law with respect to the nonrenewal of charter schools in response to an issue that arose in Hillsborough County last year. It would require school boards to make the decision not to renew or to terminate a charter at least 90 days before the end of the school year. In the case of a renewal, if the decision is not made by that time, the charter will automatically renew under the same terms and conditions. The bill also adds a provision for requests to consolidate multiple charters outside the renewal term window.

Update: The House approved its version of the bill on February 24, 2022, with a vote of 105-10. The Senate took up the House bill on March 3, 2022, and rolled it onto third reading, leaving just a final vote by the Senate before the bill is passed.

Concerns: This bill is a reaction to what happened in Hillsborough at the end of the last school year. While it makes sense to notify a charter before June whether the district will recommend nonrenewal, if for no other reason than allowing parents and students to make informed decisions earlier in the process, the need to terminate a charter can arise at any time. Finding out about something in May that would justify closing the school, but not necessarily require an immediate termination, should not prevent school districts from taking action until the following school year.

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

This bill would require school boards to inform students and parents of certain academic and career planning options. It would also require a personalized academic and career plan to be developed with a school counselor for some students. This bill expands what options the student and parents should be notified of to now include more career themed courses and work-based learning such as apprenticeships, as opposed to just academic options. A plan should be made with a certified school counselor on how the student can achieve a high school diploma and more work-oriented opportunities.

Update: The House passed its bill unanimously this week. The Senate bill received only one committee hearing, but it may consider the House bill next week.

[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 unanimously passed its bill this week. The Senate is set to take up its identical bill today.

[CS/HB 255 \(Plasencia\)](#) / [SB 538 \(Hooper\)](#) – Private Instructional Personnel Providing Applied Behavior Analysis Services

This bill would amend s. 1003.572, F.S., by expanding the definition of “private instructional personnel” allowed to collaborate and provide services to students at school to include registered behavior technicians. The registered behavior technician would have to have a nationally recognized, professional certification and be under the supervision of a certified behavioral analyst.

Update: The House passed its bill unanimously on March 2, 2022. The Senate bill is on today’s Special Order Calendar.

Concerns: An issue that has arisen in recent years is that many students have been authorized to receive extensive ABA services, most of which are provided by a behavior technician, not a behavior analyst (BCBA). There are many students who seek to have a behavior technician spend every day with them at school. If allowed, this would put adults who are not district employees in multiple classrooms, exposed to many other students, and not under the direction of the teacher or principal.

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

These bills, which have been amended several times and are now virtually identical, would amend school concurrency law.

Update: The Senate passed its bill two weeks ago. The House has both bills on the Special Order Calendar today.

Both bills have been amended to remove language that would have required applying a districtwide approach to school concurrency decisions. 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.” Further, both bills have been amended to say, “The district school board shall notify the local government that capacity is available for the development within 30 days after receipt of the developer’s legally binding commitment.”

[CS/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 can document 48 months of active-duty military service with an honorable discharge or a medical separation and 60 college credits with a minimum grade point average of 2.5. The bill further provides that a temporary certificate for military service members who meet the established requirements will be valid for a period of 5 years, instead of 3, but is nonrenewable. Both bills were previously amended to require that the holder of one of these temporary certifications be assigned a teacher mentor for at least two years.

Update: The Senate unanimously passed its version of the bill last week. The House took up both bills on March 3, 2022, and proceeded with the Senate version, which was heard for a second time and is now awaiting its third and final reading.

[HB 1115 \(Busatta Carbera\)](#) / [SB 1054 \(Hutson\)](#) - High School Graduation Requirements in Personal Finance

These bills would amend high school diploma requirements for students entering the 9th grade in the 2022-23 school year to include instruction in financial literacy and money management. This would be a semester/half-credit class and reduce the amount of electives that students could take from 8 credits to 7.5. The instruction would include topics such as types of bank accounts, managing a bank account, balancing a check book, and completing a loan application.

Concerns: As important a topic as it is, this bill would make it a required course for graduation and further limit students’ elective options.

Update: The Senate version is on the Special Order Calendar today and has an amendment that would delay the half-credit requirement until students entering the 9th grade in 2023-24. The House version has completed the committee process but has not yet been placed on the Special Order Calendar.

[HB 1317 \(Tant\)](#) / [SB 1674 \(Ausley\)](#) - Individual Education Plans

To support students with disabilities and their parents when the student attains the age of majority while in school, this bill requires school districts to provide information and instruction to a student and his or her parent on self-determination and the legal rights and responsibilities relating to educational decisions that transfer to the student upon attaining the age of 18. The information provided must include mechanisms for maintaining parental involvement in educational decision-making including a Family Educational Rights and Privacy Act waiver, powers of attorney, guardian advocacy and guardianship.

Update: The House unanimously passed its bill this week. The Senate version only received one committee hearing, but that is sufficient for them to consider the House's bill.

[SB 1240 \(Harrell\)](#) / [CS/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.

Update: The House unanimously approved its bill this week. The Senate version is on the Special Order Calendar today.

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."

[HB 1197 \(Plakon and Byrd\)](#) / [CS/CS/CS/HB 1203 \(Fetterhoff\)](#) / [CS/CS/CS/HB 1505 \(Trabulsy\)](#) / [CS/SB 1386 \(Diaz\)](#) / [SB 1458 \(Baxley\)](#) / [CS/SB 1830 \(Brodeur\)](#) – Collection of bills with overlapping provisions involving employees, background screening, collective bargaining, and union membership

There are several bills that address public employee unions, collective bargaining, and background screenings of employees, but certain provisions have moved around or appear in multiple locations now, so these have been grouped together for one discussion.

HB 1197 and SB 1458 are bills that would, among other things, prohibit public sector union members (except police and firefighters) from having their dues deducted from their paychecks. The Senate version never received a hearing, while the House bill is just waiting for its third and final reading.

HB 1203 started off as a bill that would add a single sentence to the employee evaluation statutes to clarify that superintendents establish the evaluation procedures and set the standards of service, which means those procedures are not mandatory subjects of bargaining. This was in response to a PERC ruling last year that seems to contradict current statutory language. The bill was later amended to include the provisions also found in SB 1386 related to criminal penalties for failing to report sexual misconduct and allowing other employing entities to conduct background checks. This week, HB 1203 absorbed much of HB 1505, which is a bill that would have most employees in the state who work with children have their background screening done through a single clearinghouse. HB 1203 was also amended to restrict the use of longevity payments to teachers, allow legislators to access any school at any time just like board members, and more. The Senate companion to HB 1505, SB 1830, was reported favorably by one committee but did not advance after that.

Update: HB 1197 is waiting for its third and final reading. SB 1458 died in the Senate.

HB 1203 is on the Special Order Calendar in the House today. SB 1386 stalled in the Senate after two committee hearings.

HB 1505 passed the House unanimously. SB 1830 received only one committee hearing, but the Senate could still take up HB 1505 for consideration next week.

The Week Ahead

Next week is scheduled to be the final week of Session. There are numerous bills that still have some work to do, and a final budget proposal must be produced by Tuesday to allow a final vote on Friday. There is also an ongoing dispute about redistricting that may cause the Legislature to extend their session or call for a Special Session.