



To: Florida District School Superintendents
From: Brian T. Moore, FADSS General Counsel
Subject: FADSS Legislative Update – Week of April 17, 2023
Date: Friday, April 21, 2023

Today, the Legislature completes its seventh week of the 2023 Legislative Session, with next week being the last available for most committee meetings. Once again, the pace at which bills and amendments are being heard this year is extreme and difficult to track. Fortunately, with the committee process drawing to a close and most of the remaining bills heading to the House or Senate floor for final passage, the focus will now turn towards the budget process. Because of our regional conferences, this week's State Board of Education meeting, and the incredible volume of bills and amendments heard this week, this update will not go into much depth. However, I will still try to touch on the biggest issues.

Concordant Scores and the Class of 2023

Before talking about this week's legislative action, I want to address the concordant score issue superintendents have been raising since last November. After many of you reached out to your legislative delegations, the DOE, and the SBE over the last 10 days, it finally appears that action will be taken. Just in the last hour, an amendment was filed to HB 1537 (discussed below) that would address concordant scores for both the Class of 2023 and 2024. I have attached the entire amendment to this report, but in summary it sets the scores for 2023 (effective upon becoming law) at:

English/Language Arts FSA

- 430 SAT EBRW,
- 24 SAT Reading Subtest section, or
- 19 on ACT Reading

Algebra I EOC

- 114 PERT mathematics section,
- 430 PSAT/NMSQT mathematics section,
- 420 SAT mathematics section,

- 16 ACT mathematics section, or
- Level 3 on the Geometry EOC.

In essence, it is a full roll back to last year's standards for the ELA FSA and a partial roll back for Algebra I EOC. For the Class of 2024, the amendment would establish the current, higher standards already in Rule 6A-1.09422 by law.

As a result, this may not help all of the 15-25,000 seniors who currently cannot graduate due solely to a test score, but it should help a significant number of them.

Obviously, as soon as your team can assess your current seniors against these new scores, please start offering your seniors the PERT exam if they still need a score to satisfy the Algebra I EOC requirement. The next ACT test date is not until June 10, 2023, but the next SAT test date is May 6, 2023, with a late registration deadline of April 25, 2023. Those scores will be available on May 19, 2023, and you may find some extra-motivated seniors.

State Board of Education (SBE)

The SBE met at the Capitol this week. Senator Montford provided the FADSS update and informed the Board about the formation of the Florida Association of School Safety Specialists (FS3) and our upcoming conference this June.

At the meeting, the SBE adopted several new or amended rules, including changes to the principles of professionalism rule and a new emergency rule for reporting SESIR offenses. The principles of professionalism rule was amended to prohibit teachers from providing instruction on gender identity or sexual orientation in grades PreK-3 and then also grades 4-12 "unless such instruction is either expressly required by state academic standards as adopted in Rule 6A-1.09401, F.A.C., or is part of a reproductive health course or health lesson for which a student's parent has the option to have his or her student not attend." This new version of [Rule 6A-10.081](#) should be filed for adoption with the Department of State by the end of next week and will then take effect 20 days after that.

The SBE also adopted a new emergency rule related to SESIR definitions and the reporting of SESIR offenses to law enforcement pursuant to HB 543, which was signed into law a couple of weeks ago. You can read all of [Emergency Rule 6AER23-01](#) by clicking on the link, and the key provision is that these new requirements apply to all offenses that occur on or after August 1, 2023. Please make sure that your school safety specialist and student services department gets a copy of the emergency rule.

2023-24 Budget

By the time this update is sent, we may have budget conference members named and a schedule in place. In the Senate Appropriations Committee on April 20, 2023, it was suggested that the budget teams could start meeting early in the morning on Monday, April 23, 2023. Thus, many of the remaining questions may start getting answered over the next several days

as the two chambers work out their differences over the FEFP, FRS, appropriations projects, and more.

Bills Already Signed into Law

[CS/CS/CS/CS/HB 1 \(Tuck and Plascencia\)](#) / [CS/CS/SB 202 \(Simon\)](#) – School Choice (Universal Vouchers)

[CS/CS/HB 837 \(Gregory and Fabricio\)](#) / [CS/CS/SB 236 \(Hutson\)](#) – Civil Remedies (Tort Reform)

[CS/HB 543 \(Brannan and Payne\)](#) / [CS/SB 150 \(Collins\)](#) – Public Safety (permitless carry and Safe Schools)

Bills Passed but not yet Signed into Law

[CS/CS/HB 19 \(Tant\)](#) / [CS/SB 636 \(Simon\)](#) – Individual Education Plans

This bill requires schools to provide students and their parents at IEP meetings with information about what happens with legal rights and responsibilities when the student turns 18. The Senate approved HB 19 this week, and it will now go to the Governor for approval.

[HJR 31 \(Roach and Sirois\)](#) / [SJR 94 \(Gruters\)](#) – Partisan Election of Members of District School Boards

The Senate approved HJR 31 this week, and now the question of whether school board races should become partisan will go to the ballot for voter approval in 2024.

[HB 265 \(Plasencia and Lopez\)](#) / [SB 1004 \(Torres\)](#) – High School Equivalency Diplomas

These bills would prohibit districts from forcing students 16-years-old and older from taking any courses before they can take the GED examination if they pass the GED practice test. The Senate approved HB 265 this week, and it will now go to the Governor for approval.

[CS/HB 259 \(Brackett\)](#) / [CS/SB 190 \(Grall\)](#) – Interscholastic Extracurricular Activities

These bills would allow charter and virtual school students to make arrangements to participate in sports at a private school. The House took up SB 190 this week and passed it unanimously. It will now go to the Governor for approval.

Bills Heard on the House or Senate Floor

[CS/HB 379 \(Yeager\)](#) / [CS/CS/CS/SB 52 \(Burgess\)](#) – Student Use of Social Media Platforms

This bill addresses social media in schools. It requires districts to adopt a policy on internet safety, which includes prohibiting students from accessing social media sites through district networks except when expressly directed by a teacher for educational purposes. It also adds a new area of required instruction. For grades 6-12, districts will need to teach about the social,

emotional, and physical effects of social media. The Senate took up HB 379 this week and approved it with an amendment, which means it is now back with the House for final approval.

[CS/HB 223 \(Bartleman\)](#) / [CS/SB 290 \(Jones\)](#) – Public School Student Progression for Students with Disabilities

These bills would allow the parents of a pre-K ESE student to retain the student in pre-K at age 4 in consultation with the IEP team. Those students who are retained at age 4 must then receive instruction in early literacy skills. SB 290 passed the Senate this week and was sent to the House. HB 223 has completed the committee process but has not yet been scheduled for a hearing on the House floor.

[CS/HB 1521 \(Plakon\)](#) / [SB 1674 \(Grall\)](#) – Facility Requirements Based on Sex

These bills focus primarily on restrooms. They would make it a second degree misdemeanor for someone aged 18 or older to enter a restroom designated for the opposite sex (as determined at birth), if they refuse to leave immediately after being asked to do so. With respect to schools, the bills would require educational institutions to adopt into their student codes of conduct disciplinary procedures for people under age 18 who enter into the restroom for the opposite sex (as determined at birth) but refuse to leave immediately when asked to do so.

HB 1521 passed the House this week by a vote of 80-37. SB 1674 still has one committee hearing to go, but it is on the *Fiscal Policy Committee* agenda for April 25, 2023.

[CS/CS/HB 301 \(Alvarez\)](#) / [CS/SB 212 \(Collins\)](#) – Emergency Response Mapping Data.

These bills create a grant program to allow each district to produce emergency response mapping data for every public school in the district. The House passed HB 301 unanimously this week. The Senate version was reported favorably by the *Fiscal Policy Committee* and will now head to the Senate floor.

[CS/HB 551 \(Benjamin and Fine\)](#) / [SB 804 \(Simon\)](#) – Required African-American Instruction

These bills add a new layer of bureaucracy for the required instruction statute that applies only to traditional public schools. They would require school districts to certify and provide evidence annually to the DOE, “in a manner prescribed by the department,” showing that they complied with the requirements of section 1003.42(2)(h). There are no parameters included to guide or limit the DOE in what it may require of districts in this process.

In addition, HB 551 includes language that applies to all 20 of the required instruction topics included in section 1003.42. Each district would need to submit an implementation plan to the Commissioner of Education and post the plan on the district website. The implementation plan must include:

- The methods in which instruction will be delivered for each grade level,
- The professional qualifications of the instructional personnel, and

- A description of the instructional materials.

The Commissioner must then notify a district if he believes the implementation plan does not meet the requirements of statute or rule, giving districts 45 days to submit a revised plan. Finally, the bill would give the State Board of Education full enforcement authority over any failures to comply with section 1003.42(2) or any SBE rules adopted pursuant to it.

HB 551 passed the House unanimously this week and will be sent to the Senate. SB 804 was reported favorably by the Senate *Appropriations Committee on Education* but still has one committee hearing remaining.

[CS/CS/HB 897 \(Fernandez-Barquin\)](#) / [CS/SB 940 \(Calatayud\)](#) – Multiple-employer Welfare Arrangements

Districts facing ever-increasing health insurance costs for their employees may be interested in these bills, which may make it easier for districts to join together to create a larger group with better bargaining power, like most of the private colleges and universities in the state do through [ICUBA](#). It may be easier to form an association (Association Health Plan) for the purpose of securing health insurance for the employees of multiple employers.

The House passed HB 897 this week. In the Senate, SB 940 was reported favorably by the *Rules Committee* and will now head to the Senate floor.

High Impact Bills Heard in Committee

[CS/HB 1259 \(Canady\)](#) / [CS/SB 1328 \(Boyd\)](#) – Charter School Capital Outlay Funding

These bills would undo most of the changes made in 2018 with respect to charter schools receiving local capital millage dollars and could potentially cost districts to lose a significant portion of their capital millage funds. Both bills have undergone some changes since first introduced but are now nearly identical, and the Senate version no longer restricts applicability to just the 7 largest districts.

Both bills would strike the language that says charters do not get any of the local 1.5 capital millage if there is sufficient PECO funding for charter schools. Instead, it would say that charters are entitled to a per pupil share of capital millage dollars based on their FTE count after first subtracting the district's pre-March 1, 2017, debt service obligation and any required set-aside for special facilities allocations. This new obligation to pay charters from the district's 1.5 millage revenue would be phased in at 20% increments over five years.

HB 1259, as amended, was reported favorably by the House *Appropriations Committee* this week and will now head to the House floor where it is scheduled to be heard on Wednesday, April 25, 2023. SB 1328 was reported favorably by the Senate *Appropriations Committee* after being amended to match the House with one difference to restrict payments to family

members, not just spouses. It also has completed the committee process, and it will now go to the Senate floor.

I have discussed at length how these bills would affect districts and how they do not take into account the care and upkeep of publicly-owned facilities and the huge amount of deferred maintenance districts already have to address with their current, limited funding. Please make sure you share your district's financial conditions with your local delegation (or your lobbyist or FADSS) before these items reach the House and Senate floors next week. This includes any difference between your debt service obligation today compared to 2017, the amount of deferred maintenance you have even with the full 1.5 millage, and increased costs associated with regular maintenance and replacement of things like roofs, HVAC systems, etc.

Concerns: Capital outlay dollars are spent based on need and carefully constructed, long-term district facility plans. Distributing these funds on a per student basis is illogical and may result in the inability to perform necessary maintenance and repairs on district (i.e., public) facilities. OPPAGA released a report in December that recommended that all capital dollars be spent based on demonstrated need, but these bills reject that recommendation and seek to distribute capital funds based on head counts rather than need.

[HB 7039 \(Trabulsy\)](#) / [SB 1424 \(Calatayud\)](#) – Student Outcomes

These bills largely focus on reading and reading strategies but also establish a system for identifying deficiencies in math that mirrors the current system for identifying deficiencies in reading. They both embrace the Science of Reading and would prohibit certain reading strategies, namely the three-cueing strategy, currently being used in many districts.

HB 7039 has passed the House and is waiting for consideration in the Senate. SB 1424 completed the committee process this week when it was reported favorably by the *Fiscal Policy Committee*. It now heads to the Senate floor.

[CS/CS/CS/HB 1537 \(Rizo\)](#) / [CS/SB 1430 \(Avila\)](#) – Education (multiple, growing list of subjects)

First, please refer to the Concordant Score section above for a discussion about the amendment that was filed to HB 1537 earlier today. The amendment and the bill as a whole will be heard on the House floor on Wednesday, April 25, 2023.

These comprehensive bills address numerous subjects and continue to pick up additional amendments at every committee stop. For example, they both would allow a high school student to replace the fine or performing arts graduation requirement with a career education course. They both also make amendments to teacher preparation program requirements. The current version of the House bill also focuses on acceleration courses, expanding the discussion to include more than just the College Board and its AP classes, and high schools would be able to offer the Classic Learning Test to 11th graders instead of choosing only between the ACT or SAT exam.

With respect to school grades, both bills would add a new category for the calculation of elementary school grades – the percentage of third graders who score a level 3 or higher. According to one of the sponsors, this change would have lowered the grade for 6% of elementary schools this year, increased the grade for 3%, and left 91% of elementary schools unaffected.

Finally, the bills make several changes to the teacher certification process as part of a shift in focus from “professional development” to “professional learning.” They also would allow someone who has completed at least 60 college hours and is currently enrolled in a state-approved teacher preparation program to obtain a temporary teaching certificate. Going forward, district inservice activities will need to align with this new shift to professional learning.

HB 1537 was reported favorably by the House *Education and Employment Committee* after picking up several new amendments from other bills, including charter school provisions that may allow charter schools to dismiss students based on academic performance and receive capital funds even after receiving a grade of F or two consecutive grades below C. The bill also picked up the year-round school pilot project and the required instruction on the history of Asian Americans and Pacific Islanders.

In addition, HB 1537 picked up a couple of new provisions. First, it would create a rebuttable presumption that a student intervening in a fight to stop a violent act against a student, staff, or volunteer was necessary to restore order and maintain safety, provided the student used only the amount of force necessary. Next, there was an amendment to allow school boards to override the recommendations of appointed superintendents with respect to the reappointment of their executive staff. There is no definition of executive staff, nor is it clear what happens after a board refuses to reappoint a staff member.

SB 1430 was reported favorably by the *Appropriations Committee on Education* after being amended to align more closely to the House version as it was before it received all of its own amendments this week. SB 1430 still has one committee stop remaining. HB 1537 has completed the committee process and will now go to the House floor.

Concerns: As with most “train” bills, this one is packed with good ideas; minor, innocuous matters; and bad ideas. Carving out the power of a superintendent is of particular concern. As with many things the Legislature has done over the last couple of decades, the first step does not always seem egregious or a big deal, but it is often the first step towards something much worse. In this case, the provision about executive staff members does not apply to elected superintendents, and presumably the number of employees who qualify as executive staff should be quite limited. However, the next step may be adding elected superintendents or expanding the reach further down the ranks or even going as far as allowing the board to make its own hiring decisions instead of simply reviewing and rejecting a recommended reappointment. Similarly, it is worrisome to hear the way the bill sponsor described her

understanding of the provision that would allow charter schools to dismiss students for academic performance, and it is also concerning to see the Legislature require scarce capital funds to be sent to a failing school.

[CS/CS/HB 7051](#) / [CS/CS/SB 240 \(Hutson\)](#) – Education (CTE and workforce)

These bills seek to build upon the Legislature’s focus on CTE and workforce development over the last few years, including the adoption of the REACH Act in 2021. Both bills are quite lengthy and touch on multiple subjects, and they would provide \$102 million in funding to help school boards and colleges to create or expand programs. For more information, you may want to click on the link to read the Senate *Fiscal Policy Committee’s* [summary of the bill](#).

SB 240 completed the committee process last week but has not yet been placed on the Special Order Calendar. HB 7051 was reported favorably by the *Education and Employment Committee*, after it was amended again to bring it more in line with SB 240. Like its Senate counterpart, it now awaits hearing on the House floor.

[CS/HB 733 \(Temple\)](#) / [SB 1112 \(Burgess\)](#) – Middle School and High School Start Times

These bills would change the earliest start time for middle and high schools, including charter schools, beginning July 1, 2026. No middle school could start before 8:00 am, and no high school could start before 8:30 am. HB 733 has been approved by the House and sent to the Senate. SB 1112 was fast-tracked this week, as it was heard in two different committees in three days. Both the *Appropriations Committee on Education* and the *Fiscal Policy Committee* reported the bill favorably. It will now head to the Senate floor.

Concerns: This one-size-fits-all approach to start times does not take into account unique local issues, such as local business needs, efficiency in transportation routes, etc. Some districts currently run only one or two bus routes, but this may require adding a second or third route, which would require buying more buses and hiring more bus drivers to run less efficient routes. Fortunately, the bill has a three-year planning period built into it, which will allow each district to look at its operational needs and capacities, engage the local community, and ultimately share all of those local concerns with the Legislature for potential fixes before July 1, 2026.

The Week Ahead

With few exceptions, all eyes will be on the budget committees as they begin the conferencing process and also on the chamber floors as numerous more bills reach the finish line. In particular, we will be looking to see how many provisions from bills that have not completed the committee process will find their way into amendments to other bills that have reached the House or Senate floor.

Also, we hopefully will have some concrete news with respect to concordant scores that we can share with you and breathe some new life into all of those members of the Class of 2023 who have overcome so much but may have one last hurdle to go.