

CHAPTER 2010-70

House Bill No. 7037

An act relating to education; amending s. 413.20, F.S.; redefining and deleting terms relating to vocational rehabilitation programs; replacing an obsolete term; amending s. 413.30, F.S.; revising provisions relating to eligibility for vocational rehabilitation services; providing for an individualized plan for employment; requiring the Division of Vocational Rehabilitation in the Department of Education to conduct trial work experiences before determining that an individual is incapable of benefiting from services; requiring the division to refer an individual to other services if the division determines that the individual is ineligible for vocational rehabilitation services; requiring the division to serve those having the most significant disabilities first under specified circumstances; conforming provisions to changes made by the act; amending s. 413.341, F.S.; allowing confidential records to be released for audit, program evaluation, or research purposes; amending s. 413.371, F.S.; requiring the division to administer an independent living program; conforming provisions to changes made by the act; repealing the division's authority to contract for specified services; amending s. 413.393, F.S.; correcting references and conforming provisions to changes made by the act; amending s. 413.40, F.S.; revising the division's powers to administer the independent living program; authorizing the division to employ specified individuals and to contract for services in accordance with the state plan for independent living; conforming provisions to changes made by the act; amending s. 413.405, F.S.; revising the membership of the Florida Rehabilitation Council; providing that Department of Education employees may serve only as nonvoting members; revising provisions relating to terms of office; revising council functions; correcting references and replacing obsolete cross-references; amending s. 413.407, F.S.; correcting a reference; repealing s. 413.206, F.S., relating to a 5-year plan for the division; repealing s. 413.39, F.S., relating to administration of the independent living program; repealing ss. 413.70 and 413.72, F.S., relating to the limiting disabilities program; repealing s. 413.73, F.S., relating to the disability assistance program; repealing s. 1013.05, F.S., relating to the Office of Educational Facilities and SMART Schools Clearinghouse; amending ss. 163.31777, 1001.20, and 1013.04, F.S.; deleting obsolete references; amending s. 1013.21, F.S.; deleting obsolete references; requiring the Office of Educational Facilities in the Department of Education to monitor district facilities work programs; amending ss. 1013.33 and 1013.35, F.S.; deleting obsolete references; amending s. 1013.41, F.S.; deleting obsolete references; requiring the Office of Educational Facilities to assist school districts in building SMART schools; amending s. 1013.42, F.S.; deleting obsolete references; specifying criteria for the prioritization of School Infrastructure Thrift Program awards; amending s. 1013.72, F.S.; revising the cost per student station for purposes of School Infrastructure Thrift Program awards; deleting

obsolete references; amending s. 1013.73, F.S.; deleting an obsolete reference; requiring the Division of Statutory Revision of the Office of Legislative Services to prepare a reviser's bill to make conforming changes to address past legislation amending terminology relating to the Florida College System; repealing s. 1004.87, F.S., relating to Florida College System Task Force; repealing s. 1002.335, F.S., relating to the Florida Schools of Excellence Commission; amending s. 1002.33, F.S.; conforming provisions to changes made by the act; repealing s. 1003.413(5), F.S., relating to the Secondary School Improvement Award Program; repealing s. 1003.62, F.S., relating to academic performance-based charter school districts; amending ss. 1011.69 and 1013.64, F.S.; conforming provisions to changes made by the act; repealing ss. 1003.63 and 1008.345(7), F.S., relating to the deregulated public schools pilot program; amending s. 1004.68, F.S.; conforming a cross-reference; repealing s. 1006.67, F.S., relating to the reporting of campus crime statistics; amending s. 1013.11, F.S.; conforming provisions to changes made by the act; repealing ss. 1009.63 and 1009.631, F.S., relating to the occupational therapist or physical therapist critical shortage program; repealing s. 1009.632, F.S., relating to the Critical Occupational Therapist or Physical Therapist Shortage Student Loan Forgiveness Program; repealing s. 1009.633, F.S., relating to the Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan Program; repealing s. 1009.634, F.S., relating to the Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program; repealing s. 1009.64, F.S., relating to the Certified Education Paraprofessional Welfare Transition Program; amending ss. 1009.40 and 1009.94, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (12) through (33) of section 413.20, Florida Statutes, are amended to read:

413.20 Definitions.—As used in this part, the term:

(12) “Independent living services” means any appropriate rehabilitation service that will enhance the ability of a person who has a significant severe disability to live independently, to function within her or his family and community and, if appropriate, to secure and maintain employment. Services may include, but are not limited to, psychological counseling and psychotherapeutic counseling; independent living care services; community education and related services; housing assistance; physical and mental restoration; personal attendant care; transportation; personal assistance services; interpretive services for persons who are deaf; recreational activities; services to family members of persons who have significant severe disabilities; vocational and other training services; telecommunications services; sensory and other technological aids and devices; appropriate preventive services to decrease the needs of persons assisted under the

program; and other rehabilitation services appropriate for the independent living needs of a person who has a significant severe disability.

~~(13) “Limiting disability” means a physical condition that constitutes, contributes to, or, if not corrected, will result in an impairment of one or more activities of daily living but does not result in an individual qualifying as a person who has a disability.~~

(13)(14) “Occupational license” means any license, permit, or other written authority required by any governmental unit to be obtained in order to engage in an occupation.

(14)(15) “Ongoing support services” means services provided at a twice-monthly minimum to persons who have a most significant disability, to:

(a) Make an assessment regarding the employment situation at the worksite of each individual in supported employment or, under special circumstances at the request of the individual, offsite.

(b) Based upon the assessment, provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain the individual’s employment stability.

The ongoing support services may consist of, but are not limited to, the provision of skilled job trainers who accompany the individual for intensive job-skill training at the worksite, job development and placement, social skills training, followup services, and facilitation of natural supports at the worksite.

(15)(16) “Person who has a disability” means an individual who has a physical or mental impairment that, for the individual, constitutes or results in a substantial impediment to employment and who can therefore benefit in terms of an employment outcome from vocational rehabilitation services. The term encompasses the terms “person who has a significant disability” and “person who has a most significant disability.”

(16)(17) “Person who has a significant disability” means an individual who has a disability that is a severe physical or mental impairment that seriously limits one or more functional capacities, such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills, in terms of an employment outcome; whose vocational rehabilitation may be expected to require multiple vocational rehabilitation services over an extended period of time; and who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorder, including stroke and epilepsy, paraplegia, quadriplegia, or other spinal cord condition, sickle-cell anemia, specific learning disability, end-stage renal disease, or another

disability or a combination of disabilities that is determined, after an assessment for determining eligibility and vocational rehabilitation needs, to cause comparable substantial functional limitation.

~~(17)~~(18) “Person who has a most significant disability” means a person who has a significant disability who meets the designated administrative unit’s criteria for a person who has a most significant disability.

~~(18)~~(19) “Personal assistance services” means a range of services, provided by one or more ~~individuals~~ persons, designed to assist a person who has a disability to perform daily living activities, on or off the job, that the ~~person~~ individual would typically perform if the ~~person~~ individual did not have a disability. Such services shall be designed to increase the ~~person’s~~ individual’s control in life and ability to perform everyday activities on or off the job. The services must be necessary for achieving an employment outcome and may be provided only if the person who has a disability is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.

~~(19)~~(20) “Physical and mental restoration” means any medical, surgical, or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that is stable or slowly progressive and constitutes an impediment to employment, but is of such nature that the treatment can reasonably be expected to correct or modify such impediment to employment within a reasonable length of time, including, but not limited to, medical, psychiatric, dental, and surgical treatment, nursing services, hospital care in connection with surgery or treatment, convalescent home care, drugs, medical and surgical supplies, and prosthetic and orthotic devices.

~~(21)~~ “Program” means an agency, organization, or institution, or a unit of an agency, organization, or institution, that provides directly or facilitates the provision of vocational rehabilitation services as one of its major functions.

~~(22)~~ “Rehabilitation” means those events and processes occurring after injury and progressing to ultimate stabilization and maximum possible recovery.

~~(23)~~ “Rehabilitation service” means any service, provided directly or indirectly through public or private agencies, found by the division to be necessary to enable a person who has a limiting disability to engage in competitive employment.

~~(24)~~ “Rules” means rules adopted by the department in the manner prescribed by law.

~~(20)~~(25) “State plan” means the state plan approved by the Federal Government as qualifying for federal funds under the Rehabilitation Act of

1973, as amended. However, the term “state plan,” as used in ss. ~~413.393-413.401~~ ~~413.39-413.401~~, means the state plan for independent living ~~Rehabilitative Services~~ under Title VII(A) of the Rehabilitation Act of 1973, as amended.

~~(21)~~(26) “Supported employment” means competitive work in integrated working settings for persons who have most significant severe disabilities and for whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or is intermittent as a result of such a severe disability. Persons who have most significant severe disabilities requiring supported employment need intensive supported employment services or extended services in order to perform such work.

~~(22)~~(27) “Supported employment services” means ongoing support services and other appropriate services needed to support and maintain a person who has a most significant severe disability in supported employment. Supported employment services are based upon a determination of the needs of the eligible individual as specified in the person’s individualized plan for employment ~~written rehabilitation program~~. The services are provided singly or in combination and are organized and made available in such a way as to assist eligible individuals in entering or maintaining integrated, competitive employment. The services are provided for a period of time not to extend beyond 18 months, but can be extended under special circumstances with the consent of the individual in order to achieve the objectives of the rehabilitation plan.

~~(23)~~(28) “Third-party coverage” means any claim for, right to receive payment for or any coverage for, the payment of any vocational rehabilitation and related services.

~~(24)~~(29) “Third-party payment” means any and all payments received or due as a result of any third-party coverage.

~~(25)~~(30) “Transition services” means a coordinated set of activities for a student, designed within an outcome-oriented process, that promote movement from school to postschool activities, including postsecondary education; vocational training; integrated employment; ~~including~~ supported employment; continuing and adult education; adult services; independent living; or community participation. The coordinated set of activities must be based upon the individual student’s needs, taking into account the student’s preferences and interests, and must include instruction, community experiences, the development of employment and other postschool adult living objectives, and, ~~if when~~ appropriate, acquisition of daily living skills and functional vocational evaluation.

~~(31)~~ “Transitional living facility” means a state-approved facility as defined and licensed pursuant to chapter 400 and division approved in accord with this part.

~~(26)~~(32) “Vocational rehabilitation” and “vocational rehabilitation services” mean any service, provided directly or through public or private entities instrumentalities, to enable an individual or group of individuals to achieve an employment outcome, including, but not limited to, medical and vocational diagnosis, an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel; counseling, guidance, and work-related placement services; vocational and other training services; physical and mental restoration services; maintenance for additional costs incurred while participating in rehabilitation; interpreter services for individuals who are deaf; recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other appropriate service employment; occupational licenses; tools, equipment, and initial stocks and supplies; transportation; telecommunications, sensory, and other technological aids and devices; rehabilitation technology services; referral services designed to secure needed services from other agencies; transition services; on-the-job or other related personal assistance services; and supported employment services.

~~(33)~~—“Vocational rehabilitation and related services” means any services that are provided or paid for by the division.

Section 2. Section 413.30, Florida Statutes, is amended to read:

413.30 Eligibility for vocational rehabilitation services.—

(1) A person is eligible for vocational rehabilitation services if the person has a disability and requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

(2) Determinations by other state or federal agencies regarding whether an individual satisfies one or more factors relating to the determination that an individual has a disability may be used. Individuals determined to have a disability pursuant to Title II or Title XVI of the Social Security Act shall be considered to have a physical or mental impairment that constitutes or results in a substantial impediment to employment and a significant disability ~~severe physical or mental impairment that seriously limits one or more functional capacities in terms of an employment outcome.~~

(3) An individual ~~is shall be~~ presumed to benefit in terms of an employment outcome from vocational rehabilitation services under this part unless the division can demonstrate by clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome. Before making such a determination, the division must consider the individual’s abilities, capabilities, and capacity to perform in a work situation through the use of trial work experiences. Trial work experiences include supported employment, on-the-job training, or other work experiences using realistic work settings. Under limited circumstances, if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted

To demonstrate that an individual cannot benefit from vocational rehabilitation services due to the severity of the individual's disability, the division shall conduct an extended evaluation, not to exceed 18 months. The evaluation must determine the eligibility of the individual and the nature and scope of needed vocational rehabilitation services. The extended evaluation must be reviewed once every 90 days to determine whether the individual is eligible for vocational rehabilitation services.

(4) The division shall determine the eligibility of an individual for vocational rehabilitation services within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive vocational rehabilitation services, unless the ~~division notifies the individual that exceptional and unforeseen circumstances beyond the control of the division prevent the division from completing the determination within the prescribed time and the division and the individual agree agrees that an extension of time is warranted or that an extended evaluation is required.~~

(5) ~~When the division determines~~ As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the division must complete an assessment for determining eligibility and vocational rehabilitation needs and ensure that an individualized plan for employment ~~written rehabilitation program~~ is prepared.

(a) ~~Each~~ The individualized plan for employment ~~written rehabilitation program~~ must be jointly developed, agreed upon, and signed by the vocational rehabilitation counselor or coordinator and the eligible individual or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative, of the ~~such~~ individual.

(b) The division must ensure that each individualized plan for employment ~~written rehabilitation program~~ is designed to achieve the specific employment outcome objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual, and otherwise meets the content requirements for an individualized plan for employment ~~written rehabilitation programs~~ as set out in federal law or regulation.

(c) Each individualized plan for employment ~~written rehabilitation program~~ shall be reviewed annually, at which time the individual, or the individual's parent, guardian, advocate, or authorized representative, shall be afforded an opportunity to review the plan ~~program~~ and jointly redevelop and agree to its terms. Each plan ~~individualized written rehabilitation program~~ shall be revised as needed.

(6) The division must ensure that a determination of ineligibility made with respect to an individual ~~before~~ prior to the initiation of an individualized plan for employment ~~written rehabilitation program~~, based upon the review, and, to the extent necessary, upon the preliminary assessment, includes specification of the reasons for such a determination; the rights and remedies available to the individual, including, if appropriate, recourse to

administrative remedies; and the availability of services provided by the client assistance program to the individual. If there is a determination of ineligibility, the division must refer the individual to other services that are part of the one-stop delivery system under s. 445.009 that address the individual's training or employment-related needs or to local extended employment providers if the determination is based on a finding that the individual is incapable of achieving an employment outcome.

(7) If the division provides an eligible individual ~~person~~ with vocational rehabilitation services in the form of vehicle modifications, the division shall consider all options available, including the purchase of a new, original equipment manufacturer vehicle that complies with the Americans with Disabilities Act for transportation vehicles. The division shall make the decision on vocational rehabilitation services based on the best interest of the eligible individual ~~client~~ and cost-effectiveness.

(8) ~~If In the event~~ the division is unable to provide services to all eligible individuals, the division shall establish an order of selection and serve ~~first~~ those persons who have the most significant ~~severe~~ disabilities first.

Section 3. Subsection (1) of section 413.341, Florida Statutes, is amended to read:

413.341 Applicant and eligible individual ~~client~~ records; confidential and privileged.—

(1) All oral and written records, information, letters, and reports received, made, or maintained by the division relative to any ~~client or applicant~~ or eligible individual are privileged, confidential, and exempt from the provisions of s. 119.07(1). Any person who discloses or releases such records, information, or communications in violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Such records may not be released except that:

(a) Records may be released to the ~~client or applicant~~ or eligible individual or his or her representative upon receipt of a written waiver from the ~~client or applicant~~ or eligible individual. Medical, psychological, or other information that the division believes may be harmful to an ~~a client or applicant or eligible individual~~ may not be released directly to him or her, but must be provided through his or her designated representative.

(b) Records ~~that do not identify clients or applicants~~ may be released to an entity or individual officially engaged in an audit, a program evaluation, or for the purpose of research, when the research is approved by the division director. Personally identifying information released under this paragraph remains privileged, confidential, and exempt under this section and may not be disclosed to third parties.

(c) Records used in administering the program may be released as required to administer the program or as required by an agency or political

subdivision of the state in the performance of its duties. Any agency or political subdivision to which records are released under this paragraph may not disclose the records to third parties.

(d) Records may be released upon the order of an administrative law judge, a hearing officer, a judge of compensation claims, an agency head exercising quasi-judicial authority, or a judge of a court of competent jurisdiction following a finding in an in camera proceeding that the records are relevant to the inquiry before the court and should be released. The in camera proceeding and all records relating thereto are confidential and exempt from the provisions of s. 119.07(1).

(e) Whenever an applicant or eligible individual receiving services has declared any intention to harm other persons or property, such declaration may be disclosed.

(f) The division may also release personal information about an applicant or eligible individual receiving services in order to protect him or her or others when he or she poses a threat to his or her own safety or to the safety of others and shall, upon official request, release such information to law enforcement agencies investigating the commission of a crime.

Section 4. Section 413.371, Florida Statutes, is amended to read:

413.371 Independent living program; establishment and administration maintenance.—The division shall establish and administer ~~maintain~~ an independent living program that will provide any appropriate rehabilitation services or other services to enhance the ability of persons who have significant ~~severe~~ disabilities to live independently and function within their communities and, if appropriate, to secure and maintain employment. ~~The division, at its sole discretion and within the constraints of its funding, may contract with centers for independent living to provide such services.~~

Section 5. Subsection (1) of section 413.393, Florida Statutes, is amended to read:

413.393 State plan for independent living.—

(1) The state plan for independent living shall be jointly developed and submitted by the Florida Independent Living Council and the division, and the plan must:

(a) Include the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the state for the provision of state independent living services; the development and support of a statewide network of centers for independent living; and working relationships between programs providing independent living services and independent living centers and the vocational rehabilitation program established to provide services for persons who have disabilities.

(b) Specify the objectives to be achieved under the plan, establish time periods for the achievement of the objectives, and explain how such objectives are consistent with and further the purpose of this part.

(c) Specify that the state will provide independent living services under this part to persons who have significant severe disabilities and will provide the services in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

(d) Describe the extent and scope of independent living services to be provided under this part to meet such objectives. If the state makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

(e) Set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in federal law.

(f) Set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among the independent living rehabilitation service program, the Florida Independent Living Council, centers for independent living, the division, other agencies represented on such council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the council.

(g) Describe how services funded under this part will be coordinated with, and complement, other services in order to avoid unnecessary duplication with other federal and state funding for centers for independent living and independent living services.

(h) Set forth steps to be taken regarding outreach to populations that are not served or that are underserved by programs under the act, including minority groups and urban and rural populations.

(i) Provide satisfactory assurances that all entities receiving financial assistance funds under this part will notify all individuals seeking or receiving services under this part about the availability of the client-assistance program, the purposes of the services provided under such program, and how to contact such program; take affirmative action to employ and advance in employment qualified persons who have disabilities on the same terms and conditions required with respect to the employment of such persons; adopt such fiscal control and fund-accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the state under this part and meet all the other requirements of federal law or regulation.

(j) Establish a method for the periodic evaluation of the effectiveness of the state plan in meeting the objectives of the state plan, including evaluation of satisfaction by persons who have disabilities.

Section 6. Section 413.40, Florida Statutes, is amended to read:

413.40 Powers of division; independent living program.—The division, in administering ~~carrying out~~ a program to provide ~~of providing~~ independent living ~~rehabilitation~~ services to persons who have significant severe disabilities, shall be authorized, contingent upon available funding, to:

- (1) Employ necessary personnel and-
- ~~(2) Employ consultants.~~
- ~~(3) Provide diagnostic, medical, and psychological and other evaluation services.~~
- ~~(4) Provide training necessary for rehabilitation.~~
- ~~(5) Provide for persons found to require financial assistance with respect thereto and provide maintenance, including:~~
 - ~~(a) Personal care attendant services while undergoing rehabilitation.~~
 - ~~(b) Transportation incident to necessary rehabilitation services.~~
 - ~~(c) Physical and mental restoration services, prosthetic appliances, and other equipment determined to be necessary for rehabilitation.~~
 - ~~(6) Provide rehabilitation facilities necessary for the rehabilitation of persons who have severe disabilities or contract with facilities such as centers for independent living for necessary services. The division shall not, however, assume responsibility for permanent custodial care of any individual and shall provide rehabilitation services only for a period long enough to accomplish the rehabilitation objective or to determine that rehabilitation is not feasible through the services available under this section.~~
- (2)(7) Contract with any entity, public or private entity, including centers for independent living, to provide independent living services in accordance with the state plan for independent living.

Section 7. Subsections (1), (2), (7), (9), (10), and (11) of section 413.405, Florida Statutes, are amended to read:

413.405 Florida Rehabilitation Council.—There is created the Florida Rehabilitation Council to assist the division in the planning and development of statewide rehabilitation programs and services, to recommend improvements to such programs and services, and to perform the functions listed in this section.

(1) The council shall be composed of:

(a) At least one representative of the Florida Independent Living Council, ~~one of whom must which representative may~~ be the chairperson or other designee of the Florida Independent Living Council.

(b) At least one representative of a parent training and information center established pursuant to s. ~~671 631(e)(9)~~ of the Individuals with Disabilities Education Act, 20 U.S.C. s. ~~1471 1431(e)(9)~~.

(c) At least one representative of the client assistance program established under s. 112 of the act, one of whom must be the director of the program or other individual recommended by the program.

(d) At least one qualified vocational rehabilitation counselor who has knowledge of and experience in vocational rehabilitation programs services, who shall serve as an ex officio, nonvoting member of the council if the counselor is an employee of the department.

(e) At least one representative of community rehabilitation program service providers.

(f) ~~At least Four~~ representatives of business, industry, and labor.

(g) Representatives of disability ~~advocaey~~ groups that include representing a cross-section of:

1. Individuals ~~Persons~~ who have physical, cognitive, sensory, or mental disabilities.

2. ~~Parents, family members, guardians, advocates, or authorized~~ Representatives of individuals with persons who have disabilities and who have difficulty representing themselves find it difficult to or are unable due to their disabilities to represent themselves.

(h) Current or former applicants for, or recipients of, vocational rehabilitation services.

(i) The director of the division, who shall be an ex officio member of the council.

(j) At least one representative of the state educational agency responsible for the public education of students with disabilities who have a disability and who are eligible to receive vocational rehabilitation services and services under the Individuals with Disabilities Education Act.

(k) At least one representative of the board of directors of Workforce Florida, Inc.

(l) At least one representative who is a director of a Vocational Rehabilitation Services Project for American Indians with Disabilities under s. 121 of the act, if this state participates in one or more such projects.

~~(2) Employees of the department may serve only as nonvoting members of the council. Other persons who have disabilities, representatives of state and local government, employers, community organizations, and members of the former Occupational Access and Opportunity Commission may be considered for council membership.~~

(7)(a) Each member of the council shall serve for a term of not more than 3 years, except that:

1.(a) A member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term.

2.(b) The terms of service of the members initially appointed shall be, as specified by the Governor, for such fewer number of years as will provide for the expiration of terms on a staggered basis.

~~(b) A No member of the council may not serve more than two consecutive full terms; however, this provision does not apply to a member appointed under paragraph (1)(c) or paragraph (1)(l).~~

(9) In addition to the other functions specified in this section, the council shall, after consulting with the board of directors of Workforce Florida, Inc.:

(a) Review, analyze, and advise the division regarding the performance of the responsibilities of the division under Title I of the act, particularly responsibilities relating to:

1. Eligibility, including order of selection.
2. The extent, scope, and effectiveness of services provided.
3. Functions performed by state agencies that affect or potentially affect the ability of individuals with who have disabilities in achieving employment outcomes to achieve rehabilitation goals and objectives under Title I.

(b) In partnership with the division:

1. Develop, agree to, and review state goals and priorities in accordance with 34 C.F.R. 361.29(c); and
2. Evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education in accordance with 34 C.F.R. 361.29(e).

(c) Advise the department and the division and assist in the preparation of the state plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by Title I.

(d) To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with:

1. The functions performed by state agencies and other public and private entities responsible for performing functions for individuals who have disabilities.

2. Vocational rehabilitation services:

a. Provided or paid for from funds made available under the act or through other public or private sources.

b. Provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals who have disabilities.

3. The employment outcomes achieved by eligible individuals receiving services under this part, including the availability of health or other employment benefits in connection with those employment outcomes.

(e) Prepare and submit an annual report on the status of vocational rehabilitation programs ~~services~~ in the state to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education and make the report available to the public.

(f) Coordinate with other councils within Florida, including the Florida Independent Living Council, the advisory panel established under s. ~~612(a)(21)~~ ~~613(a)(12)~~ of the Individuals with Disabilities Education Act, 20 U.S.C. s. ~~1412(a)(21)~~ ~~1413(a)(12)~~, the State Planning Council described in s. 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. s. ~~15024~~ ~~6024~~, the state mental health planning council established under s. ~~1914~~ ~~1916(e)~~ of the Public Health Service Act, 42 U.S.C. s. ~~300x-3~~ ~~300x-4(e)~~, and the board of directors of Workforce Florida, Inc.

(g) Advise the department and division and provide for coordination and the establishment of working relationships among the department, the division, the Florida Independent Living Council, and centers for independent living in the state.

(h) Perform ~~such~~ other functions that are consistent with the duties and responsibilities of ~~as the council determines to be appropriate that are comparable to functions performed by the council~~ under this section.

(10)(a) The council shall prepare, in conjunction with the division, a plan for the provision of such resources, including at least four staff persons, as may be necessary to carry out the functions of the council. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(b) ~~If there is~~ A disagreement between the council and the division ~~regarding in regard to the~~ amount of resources necessary to carry out the functions of the council as set forth in this section, ~~the disagreement shall be~~ resolved by the Governor.

(c) The council shall, consistent with law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions.

(d) While assisting the council in carrying out its duties, staff and other personnel may ~~shall~~ not be assigned duties by the division or any other state agency or office that would create a conflict of interest.

(11) The council shall convene at least four meetings each year in locations determined by. ~~These meetings shall occur in such places as the council to be deems~~ necessary to conduct council business. The council may conduct such forums or hearings as the council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the public unless there is a valid reason for an executive session. The council shall make a report of each meeting which shall include a record of its discussions and recommendations, all of which reports shall be made available to the public.

Section 8. Paragraph (a) of subsection (1) of section 413.407, Florida Statutes, is amended to read:

413.407 Assistive Technology Advisory Council.—There is created the Assistive Technology Advisory Council, responsible for ensuring consumer involvement in the creation, application, and distribution of technology-related assistance to and for persons who have disabilities. The council shall fulfill its responsibilities through statewide policy development, both state and federal legislative initiatives, advocacy at both the state and federal level, planning of statewide resource allocations, policy-level management, reviews of both consumer responsiveness and the adequacy of program service delivery, and by performing the functions listed in this section.

(1)(a) The council shall be composed of:

1. Individuals who have disabilities and who are assistive technology consumers or family members or guardians of those individuals.
2. Representatives of consumer organizations concerned with assistive technology.
3. Representatives of business and industry, including the insurance industry, concerned with assistive technology.
4. A representative of the Division of Vocational Rehabilitation.
5. A representative of the Division of Blind Services.
6. A representative of the Florida Independent Living Council.
7. A representative of Workforce Florida, Inc.
8. A representative of the Department of Education.

9. Representatives of other state agencies that provide or coordinate services for persons with disabilities.

Total membership on the council shall not exceed 27 at any one time. A majority of the members shall be appointed in accordance with subparagraph 1.

Section 9. Sections 413.206, 413.39, 413.70, 413.72, and 413.73, Florida Statutes, are repealed.

Section 10. Section 1013.05, Florida Statutes, is repealed.

Section 11. Paragraph (a) of subsection (1) and paragraph (a) of subsection (3) of section 163.31777, Florida Statutes, are amended to read:

163.31777 Public schools interlocal agreement.—

(1)(a) The county and municipalities located within the geographic area of a school district shall enter into an interlocal agreement with the district school board which jointly establishes the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated. The interlocal agreements shall be submitted to the state land planning agency and the Office of Educational Facilities ~~and the SMART Schools Clearinghouse~~ in accordance with a schedule published by the state land planning agency.

(3)(a) The Office of Educational Facilities ~~and SMART Schools Clearinghouse~~ shall submit any comments or concerns regarding the executed interlocal agreement to the state land planning agency within 30 days after receipt of the executed interlocal agreement. The state land planning agency shall review the executed interlocal agreement to determine whether it is consistent with the requirements of subsection (2), the adopted local government comprehensive plan, and other requirements of law. Within 60 days after receipt of an executed interlocal agreement, the state land planning agency shall publish a notice of intent in the Florida Administrative Weekly and shall post a copy of the notice on the agency's Internet site. The notice of intent must state whether the interlocal agreement is consistent or inconsistent with the requirements of subsection (2) and this subsection, as appropriate.

Section 12. Paragraph (c) of subsection (4) of section 1001.20, Florida Statutes, is amended to read:

1001.20 Department under direction of state board.—

(4) The Department of Education shall establish the following offices within the Office of the Commissioner of Education which shall coordinate their activities with all other divisions and offices:

(c) Office of Educational Facilities ~~and SMART Schools Clearinghouse~~. Responsible for validating all educational plant surveys and verifying

Florida Inventory of School Houses (FISH) data. The office shall provide technical assistance to public school districts when requested.

Section 13. Subsection (1) of section 1013.04, Florida Statutes, is amended to read:

1013.04 School district educational facilities plan performance and productivity standards; development; measurement; application.—

(1) The Office of Educational Facilities and ~~SMART Schools Clearinghouse~~ shall develop and adopt measures for evaluating the performance and productivity of school district educational facilities plans. The measures may be both quantitative and qualitative and must, to the maximum extent practical, assess those factors that are within the districts' control. The measures must, at a minimum, assess performance in the following areas:

- (a) Frugal production of high-quality projects.
- (b) Efficient finance and administration.
- (c) Optimal school and classroom size and utilization rate.
- (d) Safety.
- (e) Core facility space needs and cost-effective capacity improvements that consider demographic projections.
- (f) Level of district local effort.

Section 14. Paragraph (a) of subsection (1) of section 1013.21, Florida Statutes, is amended to read:

1013.21 Reduction of relocatable facilities in use.—

(1)(a) It is a goal of the Legislature that all school districts shall provide a quality educational environment for their students such that, by July 1, 2003, student stations in relocatable facilities exceeding 20 years of age and in use by a district during the 1998-1999 fiscal year shall be removed and the number of all other relocatable student stations at over-capacity schools during that fiscal year shall be decreased by half. The Legislature finds, however, that necessary maintenance of existing facilities and public school enrollment growth impair the ability of some districts to achieve the goal of this section within 5 years. Therefore, the Legislature is increasing its commitment to school funding in this act, in part to help districts reduce the number of temporary, relocatable student stations at over-capacity schools. The Legislature intends that local school districts also increase their investment toward meeting this goal. Each district's progress toward meeting this goal shall be measured annually by comparing district facilities work programs for replacing relocatables with the state capital outlay projections for education prepared by the Office of Educational Facilities and ~~SMART Schools Clearinghouse~~. District facilities work programs shall be

monitored by the Office of Educational Facilities SMART Schools Clearinghouse to measure the commitment of local school districts toward this goal.

Section 15. Paragraph (a) of subsection (2), paragraph (a) of subsection (4), and subsection (9) of section 1013.33, Florida Statutes, are amended to read:

1013.33 Coordination of planning with local governing bodies.—

(2)(a) The school board, county, and nonexempt municipalities located within the geographic area of a school district shall enter into an interlocal agreement that jointly establishes the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated. The interlocal agreements shall be submitted to the state land planning agency and the Office of Educational Facilities ~~and the SMART Schools Clearinghouse~~ in accordance with a schedule published by the state land planning agency.

(4)(a) The Office of Educational Facilities ~~and SMART Schools Clearinghouse~~ shall submit any comments or concerns regarding the executed interlocal agreement to the state land planning agency within 30 days after receipt of the executed interlocal agreement. The state land planning agency shall review the executed interlocal agreement to determine whether it is consistent with the requirements of subsection (3), the adopted local government comprehensive plan, and other requirements of law. Within 60 days after receipt of an executed interlocal agreement, the state land planning agency shall publish a notice of intent in the Florida Administrative Weekly and shall post a copy of the notice on the agency's Internet site. The notice of intent must state that the interlocal agreement is consistent or inconsistent with the requirements of subsection (3) and this subsection as appropriate.

(9) A board and the local governing body must share and coordinate information related to existing and planned school facilities; proposals for development, redevelopment, or additional development; and infrastructure required to support the school facilities, concurrent with proposed development. A school board shall use information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136 when preparing the district educational facilities plan pursuant to s. 1013.35, as modified and agreed to by the local governments, when provided by interlocal agreement, and the Office of Educational Facilities ~~and SMART Schools Clearinghouse~~, in consideration of local governments' population projections, to ensure that the district educational facilities plan not only reflects enrollment projections but also considers applicable municipal and county growth and development projections. The projections must be apportioned geographically with assistance from the local governments using local government trend data and the school district student enrollment data. A school board is precluded from siting a new school in a jurisdiction where the school board has failed to provide the annual educational facilities plan for the prior year required pursuant to s. 1013.35 unless the failure is corrected.

Section 16. Paragraph (c) of subsection (1) and paragraph (a) of subsection (2) of section 1013.35, Florida Statutes, are amended to read:

1013.35 School district educational facilities plan; definitions; preparation, adoption, and amendment; long-term work programs.—

(1) DEFINITIONS.—As used in this section, the term:

(c) “Tentative educational facilities plan” means the comprehensive planning document prepared annually by the district school board and submitted to the Office of Educational Facilities and ~~SMART Schools Clearinghouse~~ and the affected general-purpose local governments.

(2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL FACILITIES PLAN.—

(a) Annually, prior to the adoption of the district school budget, each district school board shall prepare a tentative district educational facilities plan that includes long-range planning for facilities needs over 5-year, 10-year, and 20-year periods. The plan must be developed in coordination with the general-purpose local governments and be consistent with the local government comprehensive plans. The school board’s plan for provision of new schools must meet the needs of all growing communities in the district, ranging from small rural communities to large urban cities. The plan must include:

1. Projected student populations apportioned geographically at the local level. The projections must be based on information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136, where available, as modified by the district based on development data and agreement with the local governments and the Office of Educational Facilities and ~~SMART Schools Clearinghouse~~. The projections must be apportioned geographically with assistance from the local governments using local development trend data and the school district student enrollment data.

2. An inventory of existing school facilities. Any anticipated expansions or closures of existing school sites over the 5-year, 10-year, and 20-year periods must be identified. The inventory must include an assessment of areas proximate to existing schools and identification of the need for improvements to infrastructure, safety, including safe access routes, and conditions in the community. The plan must also provide a listing of major repairs and renovation projects anticipated over the period of the plan.

3. Projections of facilities space needs, which may not exceed the norm space and occupant design criteria established in the State Requirements for Educational Facilities.

4. Information on leased, loaned, and donated space and relocatables used for conducting the district’s instructional programs.

5. The general location of public schools proposed to be constructed over the 5-year, 10-year, and 20-year time periods, including a listing of the proposed schools' site acreage needs and anticipated capacity and maps showing the general locations. The school board's identification of general locations of future school sites must be based on the school siting requirements of s. 163.3177(6)(a) and policies in the comprehensive plan which provide guidance for appropriate locations for school sites.

6. The identification of options deemed reasonable and approved by the school board which reduce the need for additional permanent student stations. Such options may include, but need not be limited to:

- a. Acceptable capacity;
- b. Redistricting;
- c. Busing;
- d. Year-round schools;
- e. Charter schools;
- f. Magnet schools; and
- g. Public-private partnerships.

7. The criteria and method, jointly determined by the local government and the school board, for determining the impact of proposed development to public school capacity.

Section 17. Subsections (3) and (4) of section 1013.41, Florida Statutes, are amended to read:

1013.41 SMART schools; Classrooms First; legislative purpose.—

(3) SCHOOL DISTRICT EDUCATIONAL FACILITIES PLAN.—It is the purpose of the Legislature to create s. 1013.35, requiring each school district annually to adopt an educational facilities plan that provides an integrated long-range facilities plan, including the survey of projected needs and the 5-year work program. The purpose of the educational facilities plan is to keep the district school board, local governments, and the public fully informed as to whether the district is using sound policies and practices that meet the essential needs of students and that warrant public confidence in district operations. The educational facilities plan will be monitored by the Office of Educational Facilities and ~~SMART Schools Clearinghouse~~, which will also apply performance standards pursuant to s. 1013.04.

(4) OFFICE OF EDUCATIONAL FACILITIES AND ~~SMART SCHOOLS CLEARINGHOUSE~~.—It is the purpose of the Legislature to require ~~create~~ s. 1013.05, ~~establishing~~ the Office of Educational Facilities and ~~SMART Schools Clearinghouse~~ to assist the school districts in building SMART

schools utilizing functional and frugal practices. The Office of Educational Facilities and ~~SMART Schools Clearinghouse~~ must review district facilities work programs and projects and identify districts qualified for incentive funding available through School Infrastructure Thrift Program awards; identify opportunities to maximize design and construction savings; develop school district facilities work program performance standards; and provide for review and recommendations to the Governor, the Legislature, and the State Board of Education.

Section 18. Paragraphs (a) and (b) of subsection (6) of section 1013.42, Florida Statutes, are amended to read:

1013.42 School Infrastructure Thrift (SIT) Program Act.—

(6)(a) Each school district may submit to the Office of Educational Facilities and ~~SMART Schools Clearinghouse~~, with supporting data, its request, based on eligibility pursuant to s. 1013.72 for an award of SIT Program dollars.

(b) The Office of Educational Facilities and ~~SMART Schools Clearinghouse~~ shall examine the supporting data from each school district and shall report to the commissioner each district’s eligibility pursuant to s. 1013.72. Based on the office’s report and pursuant to ss. 1013.04 and 1013.05, The office shall make recommendations, ranked in order of priority, for SIT Program awards to eligible districts. Priority shall be based on a review of the evaluations conducted under s. 1013.04, district facilities work programs, and proposed construction projects.

Section 19. Section 1013.72, Florida Statutes, is amended to read:

1013.72 SIT Program award eligibility; maximum cost per student station of educational facilities; frugality incentives; recognition awards.—

(1) It is the intent of the Legislature that district school boards that seek awards of SIT Program funds use due diligence and sound business practices in the design, construction, and use of educational facilities.

(2) A school district may seek an award from the SIT Program, pursuant to this section and s. 1013.42, based on the district’s new construction of educational facilities if the cost per student station is less than:

- (a) ~~\$17,952~~ ~~\$11,600~~ for an elementary school,
- (b) ~~\$19,386~~ ~~\$13,300~~ for a middle school, or
- (c) ~~\$25,181~~ ~~\$17,600~~ for a high school,

(January 2006) ~~(1997)~~ as adjusted annually by the Consumer Price Index. The award shall be up to 50 percent of such savings, as recommended by the Office of Educational Facilities and ~~SMART Schools Clearinghouse~~.

(3) A school district may seek a SMART school of the year recognition award for building the highest quality functional, frugal school. The commissioner may present a trophy or plaque and a cash award to the school recommended by the Office of Educational Facilities and SMART Schools Clearinghouse for a SMART school of the year recognition award.

Section 20. Subsection (1) of section 1013.73, Florida Statutes, is amended to read:

1013.73 Effort index grants for school district facilities.—

(1) The Legislature hereby allocates for effort index grants the sum of \$300 million from the funds appropriated from the Educational Enhancement Trust Fund by s. 46, chapter 97-384, Laws of Florida, contingent upon the sale of school capital outlay bonds. From these funds, the Commissioner of Education shall allocate to the four school districts deemed eligible for an effort index grant by the SMART Schools Clearinghouse the sums of \$7,442,890 to the Clay County School District, \$62,755,920 to the Miami-Dade County Public Schools, \$1,628,590 to the Hendry County School District, and \$414,950 to the Madison County School District. The remaining funds shall be allocated among the remaining district school boards that qualify for an effort index grant by meeting the local capital outlay effort criteria in paragraph (a) or paragraph (b).

(a) Between July 1, 1995, and June 30, 1999, the school district received direct proceeds from the one-half-cent sales surtax for public school capital outlay authorized by s. 212.055(6) or from the local government infrastructure sales surtax authorized by s. 212.055(2).

(b) The school district met two of the following criteria:

1. Levied the full 2 mills of nonvoted discretionary capital outlay authorized by s. 1011.71(2) during 1995-1996, 1996-1997, 1997-1998, and 1998-1999.

2. Levied a cumulative voted millage for capital outlay and debt service equal to 2.5 mills for fiscal years 1995 through 1999.

3. Received proceeds of school impact fees greater than \$500 per dwelling unit which were in effect on July 1, 1998.

4. Received direct proceeds from either the one-half-cent sales surtax for public school capital outlay authorized by s. 212.055(6) or from the local government infrastructure sales surtax authorized by s. 212.055(2).

Section 21. The Legislature recognizes that there is a need to conform the Florida K-20 Education Code to changes in terminology relating to community colleges that were enacted by chapter 2008-52, Laws of Florida, establishing the Florida College System, and chapter 2009-228, Laws of Florida, renaming the “Division of Community Colleges” as the “Division of Florida Colleges” and defining the term “Florida college.” Therefore, in the

interim between this act becoming a law and the 2011 Regular Session of the Legislature, the Division of Statutory Revision of the Office of Legislative Services shall prepare a reviser’s bill to substitute the term “Florida College System institution” for the terms “Florida college,” “community college,” and “junior college” where those terms appear in the Florida K-20 Education Code.

Section 22. Section 1004.87, Florida Statutes, is repealed.

Section 23. Section 1002.335, Florida Statutes, is repealed.

Section 24. Paragraphs (a) and (d) through (i) of subsection (6) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.—

(6) APPLICATION PROCESS AND REVIEW.—Charter school applications are subject to the following requirements:

(a) A person or entity wishing to open a charter school shall prepare and submit an application on a model application form prepared by the Department of Education which:

1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.

2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.

3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.

4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.

5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

6. Documents that the applicant has participated in the training required in subparagraph ~~(f)~~(g)2. A sponsor may require an applicant to provide

additional information as an addendum to the charter school application described in this paragraph.

~~(d) For charter school applications in school districts that have not been granted exclusive authority to sponsor charter schools pursuant to s. 1002.335(5), the right to appeal an application denial under paragraph (c) shall be contingent on the applicant having submitted the same or a substantially similar application to the Florida Schools of Excellence Commission or one of its cosponsors. Any such applicant whose application is denied by the commission or one of its cosponsors subsequent to its denial by the district school board may exercise its right to appeal the district school board's denial under paragraph (c) within 30 days after receipt of the commission's or cosponsor's denial or failure to act on the application. However, the applicant forfeits its right to appeal under paragraph (c) if it fails to submit its application to the commission or one of its cosponsors by August 1 of the school year immediately following the district school board's denial of the application.~~

(d)(e) The sponsor shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review in the district court of appeal.

(e)(f)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed, or whose charter contracts have been terminated by their sponsors.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint the members of the Charter School Appeal Commission. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in conjunction with their service. One-half of the members must represent currently operating charter schools, and one-half of the members must represent sponsors. The commissioner or a named designee shall chair the Charter School Appeal Commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

~~(f)~~^(g)1. The Department of Education shall offer or arrange for training and technical assistance to charter school applicants in developing business plans and estimating costs and income. This assistance shall address estimating startup costs, projecting enrollment, and identifying the types and amounts of state and federal financial assistance the charter school may be eligible to receive. The department may provide other technical assistance to an applicant upon written request.

2. A charter school applicant must participate in the training provided by the Department of Education before filing an application. However, a sponsor may require the charter school applicant to attend training provided by the sponsor in lieu of the department's training if the sponsor's training standards meet or exceed the standards developed by the Department of Education. The training shall include instruction in accurate financial planning and good business practices. If the applicant is a management company or other nonprofit organization, the charter school principal and the chief financial officer or his or her equivalent must also participate in the training.

~~(g)~~^(h) In considering charter applications for a lab school, a state university shall consult with the district school board of the county in which the lab school is located. The decision of a state university may be appealed pursuant to the procedure established in this subsection.

~~(h)~~⁽ⁱ⁾ The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor shall not impose unreasonable rules or regulations that violate the intent of giving charter schools greater

flexibility to meet educational goals. The sponsor shall have 60 days to provide an initial proposed charter contract to the charter school. The applicant and the sponsor shall have 75 days thereafter to negotiate and notice the charter contract for final approval by the sponsor unless both parties agree to an extension. The proposed charter contract shall be provided to the charter school at least 7 calendar days prior to the date of the meeting at which the charter is scheduled to be voted upon by the sponsor. The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter application and for any dispute relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge may rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial, a charter termination, or a charter nonrenewal and shall award the prevailing party reasonable attorney's fees and costs incurred to be paid by the losing party. The costs of the administrative hearing shall be paid by the party whom the administrative law judge rules against.

Section 25. Subsection (5) of section 1003.413, Florida Statutes, is repealed.

Section 26. Section 1003.62, Florida Statutes, is repealed.

Section 27. Subsection (2) of section 1011.69, Florida Statutes, is amended to read:

1011.69 Equity in School-Level Funding Act.—

(2) Beginning in the 2003-2004 fiscal year, district school boards shall allocate to schools within the district an average of 90 percent of the funds generated by all schools and guarantee that each school receives at least 80 percent of the funds generated by that school based upon the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy. Total funding for each school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the school during the full-time equivalent student survey periods designated by the Commissioner of Education. If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in the schools in the district shall be provided federal funds. ~~Only academic performance-based charter school districts, pursuant to s. 1003.62, are exempt from the provisions of this section.~~

Section 28. Paragraph (b) of subsection (6) of section 1013.64, Florida Statutes, is amended to read:

1013.64 Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(6)

(b)1. A district school board, ~~including a district school board of an academic performance-based charter school district,~~ must not use funds from the following sources: Public Education Capital Outlay and Debt Service Trust Fund; School District and Community College District Capital Outlay and Debt Service Trust Fund; Classrooms First Program funds provided in s. 1013.68; effort index grant funds provided in s. 1013.73; nonvoted 1.5-mill levy of ad valorem property taxes provided in s. 1011.71(2); Classrooms for Kids Program funds provided in s. 1013.735; District Effort Recognition Program funds provided in s. 1013.736; or High Growth District Capital Outlay Assistance Grant Program funds provided in s. 1013.738 for any new construction of educational plant space with a total cost per student station, including change orders, that equals more than:

- a. \$17,952 for an elementary school,
- b. \$19,386 for a middle school, or
- c. \$25,181 for a high school,

(January 2006) as adjusted annually to reflect increases or decreases in the Consumer Price Index.

2. A district school board must not use funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any new construction of an ancillary plant that exceeds 70 percent of the average cost per square foot of new construction for all schools.

Section 29. Section 1003.63 and subsection (7) of section 1008.345, Florida Statutes, are repealed.

Section 30. Subsection (2) of section 1004.68, Florida Statutes, is amended to read:

1004.68 Community college; degrees and certificates; tests for certain skills.—

(2) Each community college board of trustees shall require the use of scores on tests for college-level communication and computation skills provided in s. 1008.345(7)(8) as a condition for graduation with an associate in arts degree.

Section 31. Section 1006.67, Florida Statutes, is repealed.

Section 32. Section 1013.11, Florida Statutes, is amended to read:

1013.11 Postsecondary institutions assessment of physical plant safety. The president of each postsecondary institution shall conduct or cause to be conducted an annual assessment of physical plant safety. An annual report shall incorporate the findings obtained through such assessment and recommendations for the improvement of safety on each campus. The annual report shall be submitted to the respective governing or licensing board of jurisdiction no later than January 1 of each year. Each board shall compile the individual institutional reports and convey the aggregate institutional reports to the Commissioner of Education or the Chancellor of the State University System, as appropriate. The Commissioner of Education and the Chancellor of the State University System shall convey these reports and the reports required in s. 1006.67 to the President of the Senate and the Speaker of the House of Representatives no later than March 1 of each year.

Section 33. Sections 1009.63, 1009.631, 1009.632, 1009.633, 1009.634, and 1009.64, Florida Statutes, are repealed.

Section 34. Paragraph (a) of subsection (1) of section 1009.40, Florida Statutes, is amended to read:

1009.40 General requirements for student eligibility for state financial aid awards and tuition assistance grants.—

(1)(a) The general requirements for eligibility of students for state financial aid awards and tuition assistance grants consist of the following:

1. Achievement of the academic requirements of and acceptance at a state university or community college; a nursing diploma school approved by the Florida Board of Nursing; a Florida college, university, or community college which is accredited by an accrediting agency recognized by the State Board of Education; any Florida institution the credits of which are acceptable for transfer to state universities; any career center; or any private career institution accredited by an accrediting agency recognized by the State Board of Education.

2. Residency in this state for no less than 1 year preceding the award of aid or a tuition assistance grant for a program established pursuant to s. 1009.50, s. 1009.505, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54, s. 1009.56, s. 1009.57, s. 1009.60, s. 1009.62, ~~s. 1009.63~~, s. 1009.68, s. 1009.72, s. 1009.73, s. 1009.77, s. 1009.89, or s. 1009.891. Residency in this state must be for purposes other than to obtain an education. Resident status for purposes of receiving state financial aid awards shall be determined in the same manner as resident status for tuition purposes pursuant to s. 1009.21.

3. Submission of certification attesting to the accuracy, completeness, and correctness of information provided to demonstrate a student's eligibility

to receive state financial aid awards or tuition assistance grants. Falsification of such information shall result in the denial of any pending application and revocation of any award or grant currently held to the extent that no further payments shall be made. Additionally, students who knowingly make false statements in order to receive state financial aid awards or tuition assistance grants commit a misdemeanor of the second degree subject to the provisions of s. 837.06 and shall be required to return all state financial aid awards or tuition assistance grants wrongfully obtained.

Section 35. Paragraph (c) of subsection (2) of section 1009.94, Florida Statutes, is amended to read:

1009.94 Student financial assistance database.—

(2) For purposes of this section, financial assistance includes:

(c) Any financial assistance provided under s. 1009.50, s. 1009.505, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54, s. 1009.55, s. 1009.56, s. 1009.57, s. 1009.60, s. 1009.62, ~~s. 1009.63~~, s. 1009.68, s. 1009.70, s. 1009.701, s. 1009.72, s. 1009.73, s. 1009.74, s. 1009.77, s. 1009.89, or s. 1009.891.

Section 36. This act shall take effect July 1, 2010.

Approved by the Governor May 11, 2010.

Filed in Office Secretary of State May 11, 2010.