

CHAPTER 2013-225

Committee Substitute for House Bill No. 7029

An act relating to education; amending s. 1002.321, F.S.; requiring the Department of Education to develop an online catalog of digital learning courses; amending s. 1002.37, F.S.; providing reporting requirements relating to Florida Virtual School Global; requiring the Auditor General to conduct an operational audit of the Florida Virtual School and submit a report to the Legislature; amending s. 1003.01, F.S.; removing Florida approved courses and blended learning courses provided by a traditional public school, a charter school, or a district innovation school from the definition of the term “core-curricula courses” for purposes of class size requirements; amending s. 1003.498, F.S.; requiring the Department of Education to provide identifiers for courses to designate their use for blended learning courses; removing restrictions on students’ taking online courses across district lines; providing students’ access to courses; prohibiting a school district from requiring a public school student to take an online course at certain times or places; creating s. 1003.499, F.S.; creating the Florida Approved Course Initiative; providing the purpose of the initiative; providing legislative intent; providing that implementing the initiative allows students to expand their choices in selecting online courses; requiring the department to annually publish online a list of providers; defining the term “Florida approved courses” as it relates to the initiative; requiring that Florida approved courses be annually identified, approved, published, and shared for consideration by certain students and school districts; requiring the Commissioner of Education to approve each Florida approved course; providing requirements for approval as a provider for the initiative; requiring an approved provider to participate in the statewide assessment program and the education performance accountability system; creating s. 1004.0961, F.S.; requiring the State Board of Education and the Board of Governors to adopt rules that enable students to earn academic credit toward online courses; providing requirements for the rules; amending s. 1008.24, F.S.; authorizing a school district to contract with qualified contractors to administer and proctor statewide standardized assessments or assessments associated with Florida approved courses; providing that assessments may be administered or proctored by qualified contractors at sites that meet certain criteria; requiring exceptional students to have access to testing sites; requiring the Department of Education and school districts to adopt policies; requiring the department to contract with a qualified contractor to review and provide recommendations for improving access to online courses, and approving, funding, holding providers accountable, and awarding credit for online courses for K-12 and postsecondary education; requiring the department to identify measures of quality based upon student outcomes; requiring the department to provide findings and recommendations to the Governor and the Legislature by a specified date; providing an effective date.

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

Section 1. Subsection (6) is added to section 1002.321, Florida Statutes, to read:

1002.321 Digital learning.—

(6) ONLINE CATALOG.—The department shall develop an online catalog of available digital learning courses provided pursuant to ss. 1002.37, 1002.45, 1003.498, and 1003.499, which provides, for each course, access to the course description, completion and passage rates, and a method for student and teacher users to provide evaluative feedback.

Section 2. Subsection (6) and paragraph (c) of subsection (9) of section 1002.37, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

1002.37 The Florida Virtual School.—

(6) The board of trustees shall annually submit to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education a complete and detailed report setting forth:

(a) The operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global.

(b) The marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology.

(c) The assets and liabilities of the Florida Virtual School and Florida Virtual School Global at the end of the fiscal year.

(d) A copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.

(e) Recommendations regarding the unit cost of providing services to students through the Florida Virtual School and Florida Virtual School Global. In order to most effectively develop public policy regarding any future funding of the Florida Virtual School, it is imperative that the cost of the program is accurately identified. The identified cost of the program must be based on reliable data.

(f) Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.

(9)

(c) Unless an alternative testing site is mutually agreed to by the Florida Virtual School and the school district or as contracted under s. 1008.24, all statewide assessments must be taken at the school to which the student would be assigned according to district school board attendance areas. A school district must provide the student with access to the school’s testing facilities.

(11) The Auditor General shall conduct an operational audit of the Florida Virtual School, including Florida Virtual School Global. The scope of the audit shall include, but not be limited to, the administration of responsibilities relating to personnel; procurement and contracting; revenue production; school funds, including internal funds; student enrollment records; franchise agreements; information technology utilization, assets, and security; performance measures and standards; and accountability. The final report on the audit shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2014.

Section 3. Subsection (14) of section 1003.01, Florida Statutes, is amended to read:

1003.01 Definitions.—As used in this chapter, the term:

(14) “Core-curricula courses” means:

(a) Courses in language arts/reading, mathematics, social studies, and science in prekindergarten through grade 3, excluding any extracurricular courses pursuant to subsection (15);

(b) Courses in grades 4 through 8 in subjects that are measured by state assessment at any grade level and courses required for middle school promotion, excluding any extracurricular courses pursuant to subsection (15);

(c) Courses in grades 9 through 12 in subjects that are measured by state assessment at any grade level and courses that are specifically identified by name in statute as required for high school graduation and that are not measured by state assessment, excluding any extracurricular courses pursuant to subsection (15);

(d) Exceptional student education courses; and

(e) English for Speakers of Other Languages courses.

The term is limited in meaning and used for the sole purpose of designating classes that are subject to the maximum class size requirements established in s. 1, Art. IX of the State Constitution. This term does not include courses offered under ss. 1002.321(4)(e), 1002.33(7)(a)2.b., 1002.37, 1002.415, and 1002.45, and 1003.499.

Section 4. Section 1003.498, Florida Statutes, is amended to read:

1003.498 School district virtual course offerings.—

(1) School districts may deliver courses in the traditional school setting by personnel certified pursuant to s. 1012.55 who provide direct instruction through virtual instruction or through blended learning courses consisting of both traditional classroom and online instructional techniques. Students in a blended learning course must be full-time students of the school and receive the online instruction in a classroom setting at the school. The funding, performance, and accountability requirements for blended learning courses are the same as those for traditional courses. To facilitate the delivery and coding of blended learning courses, the department shall provide identifiers for courses to designate courses that are used for blended learning for the efficient reporting of such courses.

(2) School districts may offer virtual courses for students enrolled in the school district. These courses must be identified in the course code directory. Students who meet the eligibility requirements of s. 1002.455 may participate in these virtual course offerings.

(a) Any eligible student who is enrolled in a school district may register and enroll in an online course offered by his or her school district.

(b)1. Any eligible student who is enrolled in a school district may register and enroll in an online course offered by any other school district in the state, ~~except as limited by the following:~~

~~1. A student may not enroll in a course offered through a virtual instruction program provided pursuant to s. 1002.45.~~

~~2. A student may not enroll in a virtual course offered by another school district if:~~

~~a. The course is offered online by the school district in which the student resides; or~~

~~b. The course is offered in the school in which the student is enrolled. However, a student may enroll in an online course offered by another school district if the school in which the student is enrolled offers the course but the student is unable to schedule the course in his or her school.~~

~~3. The school district in which the student completes the course shall report the student's completion of that course for funding pursuant to s. 1011.61(1)(c)1.b.(VI), and the home school district shall not report the student for funding for that course.~~

2. For purposes of this paragraph, the combined total of all school district reported FTE may not be reported as more than 1.0 full-time equivalent student in any given school year. The Department of Education shall

establish procedures to enable interdistrict coordination for the delivery and funding of this online option.

(3) Access to courses shall be available to students during the normal school day. A school district may not require a public school student to take a course outside the school day which is in addition to the student's courses for a given term or on school grounds.

Section 5. Section 1003.499, Florida Statutes, is created to read:

1003.499 Florida Approved Courses and Tests (FACT) Initiative.—

(1) PURPOSE.—

(a) The purpose of the initiative shall be to make available multiple options to suit unique student interests, satisfy educational requirements, and accelerate student accomplishment of goals in a productive and effective manner. The Legislature intends that state and local rules, policies, and administrative decisions are flexible in interpreting and implementing the requirements in this section in order to encourage creative, innovative, resourceful, and forward-thinking practices that can be modeled throughout this state and the country.

(b) Beginning in the 2015-2016 school year, the Florida Approved Courses and Tests (FACT) Initiative shall be implemented to expand student choices in selecting high-quality online courses, including, but not limited to, massive open online courses and instruction included under subsection (2) for promotion or graduation. Such courses and instruction may be provided using a blended learning model that shall include components such as differentiated instruction, flexible scheduling, differentiated teaching, and self-paced learning. Instruction through the blended learning model may be provided using online instructional videos, online class forums, and online homework assignments and projects, coupled with one-on-one direct instructional support to students.

(2) FLORIDA APPROVED COURSES.—The Department of Education shall annually publish online a list of providers approved to offer Florida approved courses which shall be listed in the online catalog pursuant to s. 1002.321(6).

(a) As used in this section, the term “Florida approved courses” means online courses provided by individuals which include, but are not limited to, massive open online courses or remedial education associated with the courses that are measured pursuant to s. 1008.22. Massive open online courses may be authorized in the following subject areas: Algebra I, biology, geometry, and civics. Courses may be applied toward requirements for promotion or graduation in whole, in subparts, or in a combination of whole and subparts. A student may not be required to repeat subparts that are satisfactorily completed.

(b) A Florida approved course must be annually identified, approved, published, and shared for consideration by interested students and school districts. The Commissioner of Education shall approve each Florida approved course for application in K-12 public schools in accordance with rules of the State Board of Education.

(3) PROVIDER REQUIREMENTS.—

(a) To be approved by the Department of Education, an individual provider must provide all the following documentation that demonstrates that he or she:

1. Is nonsectarian regarding courses, enrollment policies, employment practices, and operations.

2. Complies with the antidiscrimination provisions of s. 1000.05.

3. Requires all instructional staff to be Florida-certified teachers under chapter 1012 or certified as adjunct educators under s. 1012.57 and conducts background screenings for all employees or contracted personnel, as required by s. 1012.32, using state and national criminal history records.

4. Provides to parents and students specific information posted and accessible online which includes, but is not limited to, the following teacher-parent and teacher-student contact information for each course:

a. How to contact the instructor via telephone, e-mail, or online messaging tools.

b. How to contact technical support via telephone, e-mail, or online messaging tools.

c. How to contact the administration office or an individual offering online courses, including, but not limited to, massive open online courses, via telephone, e-mail, or online messaging tools.

d. Any requirement for regular contact with the instructor for the course and clear expectations for meeting the requirement.

5. Possesses prior, successful experience offering online courses to elementary, middle, or high school students as demonstrated by quantified student learning gains or student growth in each subject area and grade level provided for consideration as an instructional program option. However, for a provider without sufficient prior, successful experience offering online courses, the department may conditionally approve the provider to offer courses measured by the statewide assessment program pursuant to s. 1008.22. Conditional approval is valid for 1 year. Renewal of provider approval is contingent on sufficient performance data available demonstrating success in accordance with this section and State Board of Education rule.

6. Ensures instructional and curricular quality through a detailed curriculum and student performance accountability plan that addresses every subject and grade level that the provider intends to provide through contract with the school district, including all of the following:

a. Courses and programs that meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board.

b. Instructional content and services that align with, and measure student attainment of, student proficiency in the Next Generation Sunshine State Standards.

c. Mechanisms that determine and ensure that a student has satisfied requirements for grade level promotion and high school graduation with a standard diploma, as appropriate.

7. Publishes for the general public, in accordance with disclosure requirements adopted in rule by the State Board of Education, as part of the application as a provider and in all contracts negotiated pursuant to this section all of the following information:

a. Certification status and physical location of all administrative and instructional personnel.

b. Hours and times of availability of instructional personnel.

c. Student-teacher ratios.

d. Student completion and promotion rates.

e. Student, educator, and school performance accountability outcomes.

(b) Each approved provider contracted under this section must participate in the statewide assessment program under s. 1008.22 and in the state's education performance accountability system under s. 1008.31.

Section 6. Section 1004.0961, Florida Statutes, is created to read:

1004.0961 Credit for online courses.—Beginning in the 2015-2016 school year, the State Board of Education and the Board of Governors shall adopt rules that enable students to earn academic credit for online courses, including massive open online courses, prior to initial enrollment at a postsecondary institution. The rules of the State Board of Education and rules of the Board of Governors must include procedures for credential evaluation and the award of credit, including, but not limited to, recommendations for credit by the American Council on Education; equivalency and alignment of coursework with appropriate courses; course descriptions; type and amount of credit that may be awarded; and transfer of credit.

Section 7. Section 1008.24, Florida Statutes, is amended to read:

1008.24 Test administration and security.—

(1) ~~It is unlawful for anyone~~ A person may not knowingly and willfully to violate test security rules adopted by the State Board of Education for mandatory tests administered by or through the State Board of Education or the Commissioner of Education to students, educators, or applicants for certification or administered by school districts pursuant to s. 1008.22, or, with respect to any such test, knowingly and willfully to:

- (a) Give examinees access to test questions prior to testing;
- (b) Copy, reproduce, or use in any manner inconsistent with test security rules all or any portion of any secure test booklet;
- (c) Coach examinees during testing or alter or interfere with examinees' responses in any way;
- (d) Make answer keys available to examinees;
- (e) Fail to follow security rules for distribution and return of secure test as directed, or fail to account for all secure test materials before, during, and after testing;
- (f) Fail to follow test administration directions specified in the test administration manuals; or
- (g) Participate in, direct, aid, counsel, assist in, or encourage any of the acts prohibited in this section.

(2) Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A school district may contract with qualified contractors to administer and proctor statewide standardized assessments required under s. 1008.22 or assessments associated with Florida approved courses under s. 1003.499, as approved by the Department of Education in accordance with rules of the State Board of Education. Assessments may be administered or proctored by qualified contractors at sites that meet criteria established by rules of the State Board of Education and adopted pursuant to ss. 120.536(1) and 120.54 to implement the contracting requirements of this subsection.

~~(4)(3)~~(a) A district school superintendent, a president of a public postsecondary educational institution, or a president of a nonpublic postsecondary educational institution shall cooperate with the Commissioner of Education in any investigation concerning the administration of a test administered pursuant to state statute or rule.

(b) The identity of a school or postsecondary educational institution, the personally identifiable information of any personnel of any school district or postsecondary educational institution, or any specific allegations of misconduct obtained or reported pursuant to an investigation conducted by the

Department of Education of a testing impropriety are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the conclusion of the investigation or until such time as the investigation ceases to be active. For the purpose of this paragraph, an investigation shall be deemed concluded upon a finding that no impropriety has occurred, upon the conclusion of any resulting preliminary investigation pursuant to s. 1012.796, upon the completion of any resulting investigation by a law enforcement agency, or upon the referral of the matter to an employer who has the authority to take disciplinary action against an individual who is suspected of a testing impropriety. For the purpose of this paragraph, an investigation shall be considered active so long as it is ongoing and there is a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2014, unless reviewed and saved from repeal through reenactment by the Legislature.

(5) Exceptional students with disabilities, as defined in s. 1003.01(3), shall have access to testing sites. The Department of Education and each school district shall adopt policies that are necessary to ensure such access.

Section 8. By August 30, 2013, the Department of Education shall contract with a qualified contractor to review and provide recommendations for online courses, including massive open online courses, and competency-based online courses for K-12 and postsecondary education. The recommendations must, at a minimum, include the following components: improving access to the online courses, and approving, funding, holding providers accountable, and awarding credit for such courses. The department shall identify measures of quality based upon student outcomes, such as completion and achievement rates correlated appropriately to each delivery model; measures for students to demonstrate competency, such as prior learning assessments, end-of-course exams, assessments established by regionally accredited public institutions which may be applied as one whole assessment or as two or more discrete subassessments such that when combined, the subassessments are equivalent to a whole assessment; and opportunities to use online courses, including massive open online courses using blended learning or other tools delivered in modules or segments to provide instruction pursuant to s. 1003.499(2)(a) for students in K-12 education. The department shall provide findings and recommendations to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2014.

Section 9. This act shall take effect July 1, 2013.

Approved by the Governor June 27, 2013.

Filed in Office Secretary of State June 27, 2013.