

CHAPTER 2018-5

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 1279

An act relating to school district accountability; amending s. 11.45, F.S.; revising the duties of the Auditor General; amending s. 112.313, F.S.; prohibiting former appointed district school superintendents from conducting certain lobbying activities; amending s. 112.31455, F.S.; requiring the governing body of a district school board be notified if an officer or employee of the body owes a certain fine; requiring the governing body of a district school board to take specified actions under such circumstances; amending s. 1001.20, F.S.; requiring the Office of Inspector General to investigate certain allegations and reports made by specified individuals; amending s. 1001.39, F.S.; requiring certain district school board member travel outside of the school district to be preapproved and meet certain criteria; providing requirements for a school board member's request for travel outside of the state; providing an opportunity for the public to speak on such travel; amending s. 1001.395, F.S.; providing that certain requirements for the salaries of district school board members apply every fiscal year, rather than one specific fiscal year; amending s. 1001.42, F.S.; providing that the standards of ethical conduct apply to administrative personnel and school officers; authorizing district school board members to request and receive specified budget information; requiring employment of internal auditors in certain school districts; revising provisions relating to the scope of such internal auditors; amending s. 1010.20, F.S.; requiring each school district to report certain expenditures to the Department of Education; providing department responsibilities; amending s. 1010.30, F.S.; requiring certain entities to provide an audit overview under certain circumstances; providing the contents of the overview; amending ss. 1011.01 and 1011.03, F.S.; conforming cross-references; amending s. 1011.035, F.S.; requiring each district school board to post on its website certain graphical representations and a link to a certain web-based tool on the department's website; providing requirements for such graphical representations; amending s. 1011.051, F.S.; requiring a district school board to limit certain expenditures by a specified amount if certain financial conditions exist for a specified period of time; requiring the department to contract with a third party to conduct an investigation under certain circumstances; providing requirements for such investigation; requiring the results of such investigation to include certain information and be provided to certain entities; amending s. 1011.06, F.S.; requiring each district school board to approve certain expenditures by amending its budget and provide a public explanation for such budget amendments; amending s. 1011.09, F.S.; providing certain expenditure limitations for a school district that meets specified criteria; amending s. 1011.10, F.S.; requiring certain school districts to withhold certain district school board member and school district superintendent salaries until certain conditions are met; amending s. 1011.60, F.S.;

conforming cross-references; repealing s. 1011.64, F.S., relating to school district minimum classroom expenditure requirements; amending s. 1012.23, F.S.; prohibiting a school district superintendent and district school board from appointing or employing certain individuals in certain positions; providing an exception; requiring the Commission on Ethics to investigate alleged violations; amending s. 1002.395, F.S.; conforming a cross-reference; providing a contingent appropriations; providing effective dates.

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

Section 1. Paragraph (k) of subsection (2) of section 11.45, Florida Statutes, is redesignated as paragraph (l), and a new paragraph (k) is added to that subsection, to read:

11.45 Definitions; duties; authorities; reports; rules.—

(2) DUTIES.—The Auditor General shall:

(k) Contact each district school board, as defined in s. 1003.01(1), with the findings and recommendations contained within the Auditor General's previous operational audit report. The district school board shall provide the Auditor General with evidence of the initiation of corrective action within 45 days after the date it is requested by the Auditor General and evidence of completion of corrective action within 180 days after the date it is requested by the Auditor General. If the district school board fails to comply with the Auditor General's request or is unable to take corrective action within the required timeframe, the Auditor General shall notify the Legislative Auditing Committee.

The Auditor General shall perform his or her duties independently but under the general policies established by the Legislative Auditing Committee. This subsection does not limit the Auditor General's discretionary authority to conduct other audits or engagements of governmental entities as authorized in subsection (3).

Section 2. Subsection (14) of section 112.313, Florida Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.—A person who has been elected to any county, municipal, special district, or school district office or appointed superintendent of a school district may not personally represent another person or entity for compensation before the government body or agency of which the person was an officer for a period of 2 years after vacating that office. For purposes of this subsection:

(a) The “government body or agency” of a member of a board of county commissioners consists of the commission, the chief administrative officer or employee of the county, and their immediate support staff.

(b) The “government body or agency” of any other county elected officer is the office or department headed by that officer, including all subordinate employees.

(c) The “government body or agency” of an elected municipal officer consists of the governing body of the municipality, the chief administrative officer or employee of the municipality, and their immediate support staff.

(d) The “government body or agency” of an elected special district officer is the special district.

(e) The “government body or agency” of an elected school district officer is the school district.

Section 3. Subsection (1) of section 112.31455, Florida Statutes, is amended to read:

112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.—

(1) Before referring any unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) to the Department of Financial Services, the commission shall attempt to determine whether the individual owing such a fine is a current public officer or current public employee. If so, the commission may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, district school board, or special district of the total amount of any fine owed to the commission by such individual.

(a) After receipt and verification of the notice from the commission, the Chief Financial Officer or the governing body of the county, municipality, district school board, or special district shall begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the commission until the fine is satisfied.

(b) The Chief Financial Officer or the governing body of the county, municipality, district school board, or special district may retain an amount of each withheld payment, as provided in s. 77.0305, to cover the administrative costs incurred under this section.

Section 4. Paragraph (e) 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:

(e) Office of Inspector General.—Organized using existing resources and funds and responsible for promoting accountability, efficiency, and effectiveness and detecting fraud and abuse within school districts, the Florida School for the Deaf and the Blind, and Florida College System institutions in Florida. If the Commissioner of Education determines that a district school board, the Board of Trustees for the Florida School for the Deaf and the Blind, or a Florida College System institution board of trustees is unwilling or unable to address substantiated allegations made by any person relating to waste, fraud, or financial mismanagement within the school district, the Florida School for the Deaf and the Blind, or the Florida College System institution, the office shall conduct, coordinate, or request investigations into such substantiated allegations. The office shall investigate allegations or reports of possible fraud or abuse against a district school board made by any member of the Cabinet; the presiding officer of either house of the Legislature; a chair of a substantive or appropriations committee with jurisdiction; or a member of the board for which an investigation is sought. The office shall have access to all information and personnel necessary to perform its duties and shall have all of its current powers, duties, and responsibilities authorized in s. 20.055.

Section 5. Subsection (1) of section 1001.39, Florida Statutes, is amended to read:

1001.39 District school board members; travel expenses.—

(1) In addition to the salary provided in s. 1001.395, each member of a district school board shall be allowed, from the district school fund, reimbursement of travel expenses as authorized in s. 112.061, ~~except as provided that in subsection (2).~~ any travel outside the district that exceeds \$500 requires prior approval by the district school board to confirm that such travel is for official business of the school district and complies with shall also be governed by the rules of the State Board of Education. Any request for travel outside the state must include an itemized list detailing all anticipated travel expenses, including, but not limited to, the anticipated costs of all means of travel, lodging, and subsistence. Immediately preceding a request, the public must have an opportunity to speak on the specific travel agenda item.

Section 6. Subsection (3) of section 1001.395, Florida Statutes, is amended to read:

1001.395 District school board members; compensation.—

(3) Notwithstanding the provisions of this section and s. 145.19, ~~for the 2010-2011 fiscal year,~~ the salary of each district school board member shall be the amount calculated pursuant to subsection (1) or the district's

beginning salary for teachers who hold baccalaureate degrees, whichever is less.

Section 7. Subsections (6) and (7), paragraphs (b) and (l) of subsection (12), and paragraph (b) of subsection (17) of section 1001.42, Florida Statutes, are amended to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(6) STANDARDS OF ETHICAL CONDUCT FOR INSTRUCTIONAL PERSONNEL, ADMINISTRATIVE PERSONNEL, AND SCHOOL OFFICERS ADMINISTRATORS.—Adopt policies establishing standards of ethical conduct for instructional personnel, administrative personnel, and school officers administrators. The policies must require all instructional personnel, administrative personnel, and school officers administrators, as defined in s. 1012.01, to complete training on the standards; establish the duty of instructional personnel, administrative personnel, and school officers administrators to report, and procedures for reporting, alleged misconduct by other instructional or administrative personnel and school officers school administrators which affects the health, safety, or welfare of a student; and include an explanation of the liability protections provided under ss. 39.203 and 768.095. A district school board, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed instructional or administrative personnel or school officers administrators, or ~~personnel or administrators~~ who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional personnel, administrative personnel, or school officers administrators with employment references or discuss the personnel's or officers' administrators' performance with prospective employers in another educational setting, without disclosing the personnel's or officers' administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel, administrative personnel, or school officers administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

(7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify instructional personnel and administrative personnel school administrators, as defined in s. 1012.01, from employment in any position that requires direct contact with students if the personnel or ~~administrators~~ are ineligible for such employment under s. 1012.315. An elected or appointed school board official forfeits his or her salary for 1 year if:

(a) The school board official knowingly signs and transmits to any state official a report of alleged misconduct by instructional personnel or administrative personnel school administrators which affects the health, safety, or welfare of a student and the school board official knows the report to be false or incorrect; or

(b) The school board official knowingly fails to adopt policies that require instructional personnel and administrative personnel school administrators to report alleged misconduct by other instructional personnel and administrative personnel school administrators, or that require the investigation of all reports of alleged misconduct by instructional personnel and administrative personnel school administrators, if the misconduct affects the health, safety, or welfare of a student.

(12) FINANCE.—Take steps to assure students adequate educational facilities through the financial procedure authorized in chapters 1010 and 1011 and as prescribed below:

(b) Annual budget.—

1. Cause to be prepared, adopt, and have submitted to the Department of Education as required by law and rules of the State Board of Education, the annual school budget, such budget to be so prepared and executed as to promote the improvement of the district school system.

2. An individual school board member may request and shall receive any proposed, tentative, and official budget documents, including all supporting and background information.

(1) Internal auditor.—May or, in the case of a school district receiving annual federal, state, and local funds in excess of \$500 million, shall employ an internal auditor. The scope of the internal auditor shall not be restricted and shall include every functional and program area of the school system.

1. The internal auditor shall to perform ongoing financial verification of the financial records of the school district, a comprehensive risk assessment of all areas of the school system every 5 years, and other audits and reviews as the district school board directs for determining:

a. The adequacy of internal controls designed to prevent and detect fraud, waste, and abuse.

b. Compliance with applicable laws, rules, contracts, grant agreements, district school board-approved policies, and best practices.

c. The efficiency of operations.

d. The reliability of financial records and reports.

e. The safeguarding of assets.

f. Financial solvency.

g. Projected revenues and expenditures.

h. The rate of change in the general fund balance.

2. The internal auditor shall prepare audit reports of his or her findings and report directly to the district school board or its designee.

3. Any person responsible for furnishing or producing any book, record, paper, document, data, or sufficient information necessary to conduct a proper audit or examination which the internal auditor is by law authorized to perform is subject to the provisions of s. 11.47(3) and (4).

(17) PUBLIC INFORMATION AND PARENTAL INVOLVEMENT PROGRAM.—

(b) Adopt rules to strengthen family involvement and empowerment pursuant to s. 1002.23. The rules shall be developed in collaboration with administrative personnel ~~school administrators~~, parents, teachers, and community partners.

Section 8. Subsection (2) of section 1010.20, Florida Statutes, is amended to read:

1010.20 Cost accounting and reporting for school districts.—

(2) COST REPORTING.—

(a) Each district shall report on a district-aggregate basis expenditures for inservice training pursuant to s. 1011.62(3) and for categorical programs as provided in s. 1011.62(6).

(b) Each district shall report to the department on a school-by-school and on an aggregate district basis expenditures for:

- 1. Each program funded in s. 1011.62(1)(c).
- 2. Total operating costs as reported pursuant to s. 1010.215.
- 3. Expenditures for classroom instruction pursuant to the calculation in s. 1010.215(4)(b)1. and 2.

(c) The department shall:

1. Categorize all public schools and districts into appropriate groups based primarily on average full-time equivalent student enrollment as reported on the most recent student membership survey under s. 1011.62 and in state board rule to determine groups of peer schools and districts.

2. Annually calculate for each public school, district, and for the entire state, the percentage of classroom expenditures to total operating expenditures reported in subparagraphs (b)2. and 3. The results shall be categorized pursuant to this paragraph.

3. Annually calculate for all public schools, districts, and the state, the average percentage of classroom expenditures to total operating

expenditures reported in subparagraphs (b)2. and 3. The results shall be categorized pursuant to this paragraph.

4. Develop a web-based fiscal transparency tool that identifies public schools and districts that produce high academic achievement based on the ratio of classroom instruction expenditures to total expenditures. The fiscal transparency tool shall combine the data calculated pursuant to this paragraph with the student performance measurements calculated pursuant to s. 1012.34(7) to determine the financial efficiency of each public school and district. The results shall be displayed in an easy to use format that enables the user to compare performance among public schools and districts.

(d)(e) The Commissioner of Education shall present to the Legislature, prior to the opening of the regular session each year, a district-by-district report of the expenditures reported pursuant to paragraphs (a) and (b). The report shall include total expenditures, a detailed analysis showing expenditures for each program, and such other data as may be useful for management of the education system. The Commissioner of Education shall also compute cost factors relative to the base student allocation for each funded program in s. 1011.62(1)(c).

Section 9. Subsection (2) of section 1010.30, Florida Statutes, is amended to read:

1010.30 Audits required.—

(2) If an audit contains a significant deficiency or material weakness finding, the district school board, the Florida College System institution board of trustees, or the university board of trustees shall conduct an audit overview during a public meeting. The audit overview shall describe the corrective action to be taken and a timeline for completion of such action.

Section 10. Paragraph (a) of subsection (3) of section 1011.01, Florida Statutes, is amended to read:

1011.01 Budget system established.—

(3)(a) Each district school board and each Florida College System institution board of trustees shall prepare, adopt, and submit to the Commissioner of Education an annual operating budget. Operating budgets shall be prepared and submitted in accordance with the provisions of law, rules of the State Board of Education, the General Appropriations Act, and for district school boards in accordance with the provisions of s. 200.065 ss. 200.065 and 1011.64.

Section 11. Subsection (2) of section 1011.03, Florida Statutes, is amended to read:

1011.03 Public hearings; budget to be submitted to Department of Education.—

(2) ~~The advertisement of a district that has been required by the Legislature to increase classroom expenditures pursuant to s. 1011.64 must include the following statement:~~

~~“This proposed budget reflects an increase in classroom expenditures as a percent of total current operating expenditures of XX percent over the (previous fiscal year) fiscal year. This increase in classroom expenditures is required by the Legislature because the district has performed below the required performance standard on XX of XX student performance standards for the (previous school year) school year. In order to achieve the legislatively required level of classroom expenditures as a percentage of total operating expenditures, the proposed budget includes an increase in overall classroom expenditures of \$XX,XXX,XXX above the amount spent for this same purpose during the (previous fiscal year) fiscal year. In order to achieve improved student academic performance, this proposed increase is being budgeted for the following activities: ...(list activities and amount budgeted)...”~~

Section 12. Subsection (2) of section 1011.035, Florida Statutes, is amended to read:

1011.035 School district fiscal budget transparency.—

(2) Each district school board shall post on its website a plain language version of each proposed, tentative, and official budget which describes each budget item in terms that are easily understandable to the public and includes:

(a) Graphical representations, for each public school within the district and for the school district, of the following:

- 1. Summary financial efficiency data.
- 2. Fiscal trend information for the previous 3 years on:
 - a. The ratio of full-time equivalent students to full-time equivalent instructional personnel.
 - b. The ratio of full-time equivalent students to full-time equivalent administrative personnel.
 - c. The total operating expenditures per full-time equivalent student.
 - d. The total instructional expenditures per full-time equivalent student.
 - e. The general administrative expenditures as a percentage of total budget.
 - f. The rate of change in the general fund’s ending fund balance not classified as restricted.

(b) A link to the web-based fiscal transparency tool developed by the department pursuant to s. 1010.20 to enable taxpayers to evaluate the financial efficiency of the school district and compare the financial efficiency of the school district with other similarly situated school districts.

This information must be prominently posted on the school district's website in a manner that is readily accessible to the public.

Section 13. Subsections (1) and (2) of section 1011.051, Florida Statutes, are amended to read:

1011.051 Guidelines for general funds.—The district school board shall maintain a general fund ending fund balance that is sufficient to address normal contingencies.

(1) If at any time the portion of the general fund's ending fund balance not classified as restricted, committed, or nonspendable in the district's approved operating budget is projected to fall below 3 percent of projected general fund revenues during the current fiscal year, the superintendent shall provide written notification to the district school board and the Commissioner of Education. If such financial condition exists for 2 consecutive fiscal years, the superintendent shall reduce the district's administration expenditures reported pursuant to s. 1010.215(4)(a) in proportion to the reduction in the general fund's ending balance or the reduction in student enrollment, whichever is greater.

(2)(a) If at any time the portion of the general fund's ending fund balance not classified as restricted, committed, or nonspendable in the district's approved operating budget is projected to fall below 2 percent of projected general fund revenues during the current fiscal year, the superintendent shall provide written notification to the district school board and the Commissioner of Education. Within 14 days after receiving such notification, if the commissioner determines that the district does not have a plan that is reasonably anticipated to avoid a financial emergency as determined pursuant to s. 218.503, the commissioner shall appoint a financial emergency board that shall operate under the requirements, powers, and duties specified in s. 218.503(3)(g).

(b) If any of the conditions identified in s. 218.503(1) existed in the 2015-2016 school year or thereafter, the department shall contract with an independent third party to conduct an investigation of all accounts and records to determine the cause of the deficit, what efforts, if any, were made to avoid the deficit, and whether any of the conditions identified in s. 1011.10 have occurred. The investigation must include a detailed review and analysis of documents and records, including, but not limited to, budget reports, journal entries, budget methodologies, staff emails, hard copy records, monthly financial statements, quarterly revenue and expenditure reports, finance staff job descriptions, and minutes from meetings. The results of the investigation must include recommendations for corrective action and controls to avoid a reoccurrence of a future budget shortfall. A

final report shall be provided to the district school board, the department, the Legislative Auditing Committee, and the district's financial emergency board, if applicable.

Section 14. Subsection (2) of section 1011.06, Florida Statutes, is amended to read:

1011.06 Expenditures.—

(2) EXPENDITURES FROM DISTRICT AND OTHER FUNDS.—Expenditures from district and all other funds available for the public school program of any district shall be authorized by law and must be in accordance with procedures prescribed by the district school board. A district school board may establish policies that allow expenditures to exceed the amount budgeted by function and object, provided that the district school board complies with s. 1011.09(4) and approves the expenditure by amending and amends the budget at the next scheduled public meeting. The district school board must provide a full explanation of any amendments at the public meeting within timelines established by school board policies.

Section 15. Subsection (4) of section 1011.09, Florida Statutes, is amended to read:

1011.09 Expenditure of funds by district school board.—All state funds apportioned to the credit of any district constitute a part of the district school fund of that district and must be budgeted and expended under authority of the district school board subject to the provisions of law and rules of the State Board of Education.

(4) If the financial conditions in s. 1011.051 exist, a district school board ~~During the 2009-2010 fiscal year, unless otherwise specifically approved by the district school board, public funds may not~~ make expenditures ~~be expended for out-of-state travel outside of the district or~~ cellular phones, cellular phone service, personal digital assistants, or any other mobile wireless communication device or service, including text messaging, whether through purchasing, leasing, contracting, or any other method, while the financial conditions exist. The expenditure of public funds for art programs, music programs, sports programs, and extracurricular programs for students is a higher priority than expending funds for employee travel and cellular phones.

Section 16. Subsection (3) is added to section 1011.10, Florida Statutes, to read:

1011.10 Penalty.—

(3) If any of the conditions identified in s. 218.503(1) exist within a school district, the salary of each district school board member and district superintendent, calculated pursuant to ss. 1001.395 and 1001.47, shall be withheld until the conditions are corrected. This subsection does not apply to a district school board member or district superintendent elected or

appointed within 1 year after the identification of the conditions in s. 218.503(1) if he or she did not participate in the approval or preparation of the final school district budget adopted before the identification of such conditions.

Section 17. Subsection (8) of section 1011.60, Florida Statutes, is amended to read:

1011.60 Minimum requirements of the Florida Education Finance Program.—Each district which participates in the state appropriations for the Florida Education Finance Program shall provide evidence of its effort to maintain an adequate school program throughout the district and shall meet at least the following requirements:

~~(8) MINIMUM CLASSROOM EXPENDITURE REQUIREMENTS.—Comply with the minimum classroom expenditure requirements and associated reporting pursuant to s. 1011.64.~~

Section 18. Section 1011.64, Florida Statutes, is repealed.

Section 19. Subsection (2) of section 1012.23, Florida Statutes, is amended to read:

1012.23 School district personnel policies.—

(2) Neither the district school superintendent nor a district school board member may appoint or not employ or appoint a relative, as defined in s. 112.3135, to work under the direct supervision of that district school board member or district school superintendent. The limitations of this subsection do not apply to employees appointed or employed before the election or appointment of a school board member or district school superintendent. The Commission on Ethics shall accept and investigate any alleged violations of this section pursuant to the procedures contained in ss. 112.322-112.3241.

Section 20. Paragraph (d) of subsection (9) of section 1002.395, Florida Statutes, is amended to read:

1002.395 Florida Tax Credit Scholarship Program.—

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of Education shall:

(d) Annually verify the eligibility of expenditures as provided in paragraph (6)(d) using the audit required by paragraph (6)(m) and s. 11.45(2)(l) ~~s. 11.45(2)(k)~~.

Section 21. Contingent upon CS/HB 7055 or similar legislation in the 2018 Regular Session of the Legislature or an extension thereof failing to become law, for the 2018-2019 fiscal year, the sum of \$100,000 in nonrecurring funds from the General Revenue Fund is appropriated to

the Department of Education to implement the provisions of s. 1011.051(2)(b), Florida Statutes, as amended by this act.

Section 22. Except for section 21 and except for s. 1011.051(2)(b), Florida Statutes, as amended by this act, which shall take effect July 1, 2018, this act shall take effect July 1, 2019.

Approved by the Governor March 11, 2018.

Filed in Office Secretary of State March 11, 2018.