

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 507 Education

**SPONSOR(S):** Post-Secondary Education & Lifelong Learning Subcommittee, Rizo and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1108

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Secondary Education & Career Development Subcommittee	16 Y, 0 N	Wolff	Sanchez
2) Post-Secondary Education & Lifelong Learning Subcommittee	14 Y, 0 N, As CS	Wolff	Kiner
3) Appropriations Committee			
4) Education & Employment Committee			

### SUMMARY ANALYSIS

Continuing Florida's dedication to empowering its students through instruction in civic literacy, the bill updates the postsecondary civic literacy requirements to include both passing a civic literacy assessment and completing a course in civic literacy. These requirements may be met in high school through the administration of the civic literacy assessment in the required U.S. Government course and completion of an approved civic literacy course through an articulated accelerated mechanism, such as dual enrollment.

To enable the Department of Education to protect assessments and other materials it develops, the bill provides the DOE with the authority to hold patents, trademarks, copyrights, and service marks. The bill provides additional protections for assessments by including more assessments under the protection of State Board of Education (SBE) test security rules. The bill deletes obsolete language relating to prior statewide standardized assessments and updates the assessment publication requirement in anticipation of the implementation of new state standards.

The bill provides, subject to appropriation, for school districts to select either the SAT or the ACT and administer the selected assessment for all grade 11 students.

The bill has a fiscal impact related to the provision of either the SAT or the ACT to all grade 11 students. See fiscal comments.

The bill provides an effective date of July 1, 2021.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **State Agency Authority to Hold Copyrights**

##### Present Situation

Current law provides that all patents, trademarks, or copyrights owned or held by the state, or any board, commission or agency of the state, is granted to and vested in the Department of State (DOS).<sup>1</sup> The DOS has the authority to take all necessary actions to secure patents, trademarks, and copyrights and to enforce such rights of the state.<sup>2</sup> An agency other than the DOS, does not have the authority to seek a patent, trademark, or copyright absent independent statutory authority to do so.<sup>3</sup> Additionally, the DOS does not have the authority to seek a patent, trademark, or copyright on behalf of a state agency that lacks independent statutory authority to seek a patent, trademark, or copyright.<sup>4</sup>

The following government entities have independent statutory authority to seek a patent, trademark, or copyright:

- the DOS;<sup>5</sup>
- the Department of the Lottery;<sup>6</sup>
- the Department of Citrus;<sup>7</sup>
- the Department of Transportation;<sup>8</sup>
- each water management district;<sup>9</sup>
- the Department of Law Enforcement;<sup>10</sup>
- each state university;<sup>11</sup> and
- each Florida College System (FCS) institution board of trustees.<sup>12</sup>

##### Effect of Proposed Changes

The bill grants the Department of Education (DOE) the authority to hold patents, copyrights, trademarks, and service marks. Additionally, the DOE is authorized to take any actions necessary to enforce its rights in regard to any such patent trademark, copyright, or service mark.

The bill requires that the DOE notify the DOS in writing when it secures a patent, trademark, copyright, or service mark. Except for educational materials and products, any proceeds received by the DOE from the exercise of such rights must be deposited in the DOE's Operating Trust Fund.

#### **Civic Literacy Requirements for K-12 and Postsecondary**

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<sup>1</sup> Section 286.021, F.S.

<sup>2</sup> Section 286.031, F.S.

<sup>3</sup> Op. Att'y Gen. Fla. 2000-13 (2000).

<sup>4</sup> *Id.*

<sup>5</sup> Sections 286.021 and 286.031, F.S.

<sup>6</sup> Section 24.105(10), F.S.

<sup>7</sup> Section 601.101, F.S.

<sup>8</sup> Section 334.049(1), F.S.

<sup>9</sup> Section 373.608, F.S.

<sup>10</sup> Section 943.146, F.S.

<sup>11</sup> Section 1004.23, F.S.

<sup>12</sup> Section 1004.726, F.S.

## Present Situation

As part of the 24 credits required to graduate from high school, students must earn three credits in social studies.<sup>13</sup> One-half credit of the three credits must be earned in the U.S. Government course.<sup>14</sup>

Each student entering a FCS institution or state university must demonstrate competency in civic literacy through two options: successful completion of a civic literacy course or achieving a passing score on an assessment.<sup>15</sup>

The chairs of the SBE and the Board of Governors (BOG), or their respective designees, must jointly appoint a faculty committee to:<sup>16</sup>

- develop a new course in civic literacy or revise an existing general education core course in American History or American Government to include civic literacy; and
- establish course competencies and identify outcomes that include, at a minimum:
  - an understanding of the basic principles of American democracy and how they are applied in our republican form of government;
  - an understanding of the United States Constitution,
  - knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance; and
  - an understanding of landmark Supreme Court cases and their impact on law and society.

The SBE must adopt in rule and the BOG must adopt in regulation at least one existing assessment that measures competencies consistent with the required course competencies.<sup>17</sup> The BOG has adopted the following assessments and passing scores to meet this requirement:<sup>18</sup>

<b>Assessment</b>	<b>Passing Score</b>
U.S. Citizenship Services Naturalization Test – Civics (with supplemental questions)	60
AP Government and Politics: United States	3
AP U.S. History	4
CLEP American Government	50

While the SBE has adopted the same Advanced Placement (AP) and College-Level Examination Program (CLEP) assessments and respective passing scores for students to meet this requirement, it has not adopted the U.S. Citizenship Services Naturalization Test.<sup>19</sup>

## Effects of Proposed Changes

The bill requires that, beginning with the 2021-2022 school year, students take the civic literacy assessment selected by the SBE and BOG during the required high school U.S. Government course. Students that pass the assessment are exempt from the postsecondary civic literacy assessment requirement.

For students first entering a FCS institution or state university in 2021-2022 school year and thereafter, the bill requires that they demonstrate civic literacy by passing a civic literacy assessment and completing a civic literacy course. These requirements may be satisfied prior to enrollment at a postsecondary institution through achieving a passing grade on the approved civic literacy assessment

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<sup>13</sup> Section 1003.4282(3)(d), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Section 1007.25(4), F.S.

<sup>16</sup> Section 1007.25(4)(a)-(b), F.S.

<sup>17</sup> Section 1007.25(4), F.S.

<sup>18</sup> Florida Board of Governors Regulation 8.006.

<sup>19</sup> See rule 6A-10.02413(2), F.S.

and completing an approved civics literacy course through an articulated accelerated mechanism, such as dual enrollment.

The SBE shall adopt rules and the BOG shall adopt regulations that:

- provide for the development of one or more new civic literacy courses that provide students, at a minimum, opportunities to engage synchronously in political discussion and civil debates with multiple points of view and master the ability to synthesize information to inform civic decisionmaking; and
- approve civic literacy assessments that address the competencies of:
  - the basic principles of American democracy and how they are applied in our republican form of government;
  - an understanding of the U.S. Constitution;
  - knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance; and
  - an understanding of landmark Supreme Court cases and their impact on law and society.

## Florida’s Statewide, Standardized Assessments

### Present Situation

In 2014, the Legislature amended the statutes relating to Florida’s assessment program to set forth the transition process from the prior statewide, standardized assessment (FCAT and FCAT 2.0) to the Florida Standards Assessment (FSA), including new English Language Arts (ELA) and mathematics assessments.<sup>20</sup> The SBE must adopt test security rules for the statewide, standardized assessment program.<sup>21</sup> Violation of the test security rules for assessments administered pursuant to the student assessment program for public schools is a misdemeanor in the first degree.<sup>22</sup>

Florida’s statewide, standardized assessments measure the extent to which students have mastered the Next Generation Sunshine State Standards (NGSSS).<sup>23</sup> The requirements for students in Florida are as follows:<sup>24</sup>

ELA	Mathematics	Science	Social Studies
Grades 3-10: annual participation in the ELA FSA	<ul style="list-style-type: none"> <li>• Grades 3-8: annual participation in the mathematics FSA</li> <li>• High school: Algebra I and Geometry EOC assessments</li> </ul>	<ul style="list-style-type: none"> <li>• Grades 5 and 8: Statewide Science Assessments</li> <li>• High school: Biology I EOC assessment</li> </ul>	<ul style="list-style-type: none"> <li>• Middle school: Civics EOC assessment</li> <li>• High school: U.S. History EOC assessment</li> </ul>

The Commissioner of Education (commissioner) assists and supports districts in measuring student performance on the state standards by maintaining a statewide item bank, facilitating the sharing of developed tests or test items among school districts, and providing technical assistance in best assessment practices.<sup>25</sup> The commissioner may discontinue the item bank if he or she determines that district participation is insufficient for its sustainability.<sup>26</sup>

To promote transparency in the statewide, standardized assessment program, the DOE must solicit cost proposals for publication of the state assessments on its website in any procurement for the

<sup>20</sup> Chapter 2014-39, L.O.F.

<sup>21</sup> Section 1008.24, F.S.

<sup>22</sup> *Id.*

<sup>23</sup> *See* s. 1008.22(3), F.S.

<sup>24</sup> *See* s. 1008.22(3)(a) and (b), F.S.

<sup>25</sup> Section 1008.22(6)(b), F.S.

<sup>26</sup> *Id.*

statewide, standardized ELA assessment in grades 3 through 10 and the statewide, standardized mathematics assessment in grades 3 through 8. Each statewide, standardized assessment<sup>27</sup> and EOC assessment,<sup>28</sup> excluding assessment retakes, must be published at least once on a triennial basis pursuant to a schedule determined by the commissioner.<sup>29</sup> The first set of assessments must be published no later than June 30, 2021, and must include, at a minimum, the statewide, standardized grade 3 ELA and mathematics assessments, the statewide, standardized grade 10 ELA assessment, and the Algebra I EOC assessment.<sup>30</sup>

In 2020, the SBE approved the NGSSS Benchmarks in Excellent Student Thinking Standards (BEST Standards).<sup>31</sup> The DOE will be implementing the new standards through the 2022-2023 school year, when the statewide, standardized assessment will be aligned to the new standards.<sup>32</sup>

### Effect of Proposed Changes

Beginning in the 2021-2022 school year and subject to appropriation, the bill requires each school district to select either the SAT or the ACT for districtwide administration to each public school student in grade 11, including students attending public high schools, alternative schools, and Department of Juvenile Justice education programs.

Throughout the statutes that implement Florida's statewide, standardized assessments, the bill removes obsolete language related to the transition from the FCAT 2.0 to the FSA assessments. Where necessary, the bill updates those statutes to conform to the current statewide, standardized assessment process described above. The bill retains the requirement that the statewide, standardized ELA and mathematics assessments for grades 3 through 6 must be provided in a paper-based format.

The bill requires that a student's results on the statewide, standardized science and social studies assessments be included in the mandatory report of assessment results provided to students, parents, and teachers. The mandatory report was previously only required to include the student's results on the statewide, standardized ELA and mathematics assessments.

The bill removes the requirement that the commissioner maintain a statewide item bank, facilitate the sharing of developed tests or test items among school districts, and provide technical assistance in best assessment practices.

The bill requires that publication of the new assessments aligned to the NGSSS BEST Standards, including the statewide, standardized ELA, mathematics, science, and social studies assessments, be initially published by June 30, 2024.

The bill removes the requirement that the DOE include data on students that enroll in adult education following 8<sup>th</sup> grade rather than other secondary education from the required annual report on assessments.

The bills adds additional assessments that are to be protected by the SBE test security rules to include:

- the statewide kindergarten screening;
- assessments administered by the Department of Juvenile Justice education programs;
- English language assessments for limited English proficient students;
- the postsecondary civic literacy assessment;
- the Preliminary SAT/National Merit Scholarship Qualifying Test and PreACT;

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<sup>27</sup> See s. 1008.22(3)(a), F.S.

<sup>28</sup> See s. 1008.22(3)(b)1., F.S.

<sup>29</sup> Section 1008.22(8)(a), F.S.

<sup>30</sup> Section 1008.22(8)(b), F.S.

<sup>31</sup> Florida Department of Education, *Adoptions and Implementation of Benchmarks for Excellent Student Thinking (B.E.S.T.) Standards Memorandum*, available at <https://info.fldoe.org/docushare/dsweb/Get/Document-8838/dps-2020-26.pdf> (last visited March 12, 2021)

<sup>32</sup> *Id.*

- assessments administered to students identified as having a substantial deficiency in reading; and
- educator certification examinations.

## Postsecondary Fees for Excess Courses

### Present Situation

Currently, state university students must pay an excess hour surcharge for credit hours exceeding baccalaureate degree program completion requirements.<sup>33</sup> The Legislature's intent is to encourage each undergraduate student who enrolls in a state university to complete the student's respective baccalaureate degree program in the most efficient way possible while providing for access to additional college coursework. Therefore, a policy was enacted that provides incentives for efficient baccalaureate degree completion.<sup>34</sup>

Specifically, the excess hour surcharge is effective for students who enter a state university for the first time and maintain continuous enrollment as follows:<sup>35</sup>

- For the 2009-2010 and 2010-2011 academic years, an excess hour surcharge equal to 50 percent of the tuition rate for each credit hour in excess of 120 percent.
- For the 2011-2012 academic year, an excess hour surcharge equal to 100 percent of the tuition rate for each credit hour in excess of 115 percent.
- For the 2012-2013 academic year through the 2019 spring term, an excess hour surcharge equal to 100 percent of the tuition rate for each credit hour in excess of 110 percent. For the 2019 summer term and thereafter, an excess hour surcharge equal to 100 percent of the tuition rate for each credit hour in excess of 120 percent. However, a state university must refund the fee for excess courses for up to 12 credit hours to any first-time-in-college student who completes a baccalaureate degree program within 4 years after his or her initial enrollment in a state university.

All credit hours taken at the state university from which the student is enrolled are included when calculating the number of hours taken by a student, including:<sup>36</sup>

- Failed courses.
- Courses that are dropped after the university's advertised last day of the drop and add period.
- Courses from which a student withdraws, except for courses not calculated as hours required to earn a baccalaureate degree, as described below.
- Repeated courses where, due to extenuating circumstances, the individual was exempted from paying 100 percent of tuition for repeating the course.

In addition, all credit hours earned at another institution and accepted for transfer by the state university and applied toward the student's baccalaureate degree program are included in the calculation.<sup>37</sup>

Credit hours earned under the following circumstances are not calculated as hours required to earn a baccalaureate degree:<sup>38</sup>

- College credits earned through an articulated accelerated mechanism identified in s. 1007.27, F.S.
- Credit hours earned through internship programs.
- Credit hours required for certification, recertification, or certificate programs.
- Credit hours in courses from which a student must withdraw due to reasons of medical or personal hardship.
- Credit hours taken by active-duty military personnel.

<sup>33</sup> Section 1009.286, F.S.

<sup>34</sup> Section 1009.286(1), F.S.

<sup>35</sup> Section 1009.286(2), F.S.

<sup>36</sup> Section 1009.286(3)(a), F.S.

<sup>37</sup> Section 1009.286(3)(b), F.S.

<sup>38</sup> Section 1009.286(4), F.S.

- Credit hours required to achieve a dual major taken while pursuing a baccalaureate degree.
- Remedial and English as a Second Language credit hours.
- Credit hours earned in military science courses that are part of the Reserve Officers' Training Corps program.

Each state university and FCS institution must implement a process for notifying students regarding the excess credit hour surcharge, and the notice must be provided upon a student's initial enrollment in the institution. Additionally, the notice must be provided a second time by a state university when a student has earned the credit hours required to complete the baccalaureate degree program in which the student is enrolled. The notice must include a recommendation that each student who intends to earn credit hours at the institution in excess of the credit hours required for the baccalaureate degree program in which the student is enrolled meet with his or her academic advisor.<sup>39</sup>

### Effect of Proposed Changes

The bill provides that courses taken to satisfy the civic literacy course requirements shall not be calculated as hours required to earn a baccalaureate degree for the purpose of determining excess courses fees.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 1001.23, F.S., authorizing the Department of Education to hold patents, copyrights, trademarks, and service marks; authorizing the department to take specified actions to enforce its rights under certain circumstances.

**Section 2.** Amends s. 1003.4282, F.S., deleting obsolete language; requiring certain students to take a specified assessment relating to civic literacy; providing that such assessment meets certain postsecondary requirements under specified circumstances; correcting a cross-reference to changes made by the act.

**Section 3.** Amends s. 1007.25, F.S., requiring certain postsecondary students to complete a civic literacy course and pass a specified assessment to demonstrate competency in civic literacy; authorizing students to meet the assessment requirements in high school; providing for rulemaking; authorizing the development of new civic literacy courses; providing requirements for such courses.

**Section 4.** Amends s. 1008.212, F.S., conforming cross-references to changes made by the act.

**Section 5.** Amends s. 1008.22, F.S., revising the purpose of the assessment program; removing obsolete language; requiring certain assessments be given in a paper-based format; requiring school districts to provide the SAT or ACT to grade 11 students beginning in a specified school year; requiring school districts to choose which assessment to administer; deleting specified reporting requirements; deleting a requirement that the Commissioner of Education maintain a specified item bank; deleting specified requirements for the date of the administration of specified assessments; revising a deadline for the publication of certain assessments.

**Section 6.** Amends s. 1008.24, F.S., revising the tests which are included under test administration and security rules.

**Section 7.** Amends s. 1008.34, F.S., conforming cross-reference to changes made by this act.

**Section 8.** Amends s. 1008.3415, F.S., conforming cross-reference to changes made by this act.

**Section 9.** Amends s. 1009.286, F.S., providing an additional exception to credit hours used when calculating baccalaureate degrees.

**Section 10.** Provides an effective date of July 1, 2021.

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<sup>39</sup> Section 1009.286(5), F.S.  
**STORAGE NAME:** h0507c.PEL  
**DATE:** 3/17/2021

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill authorizes the DOE to hold patents, copyrights, trademarks and service marks of various educational materials it develops. The DOE would then be allowed to receive proceeds from transactions to sell, lease, license or transfer such rights. Any proceeds from the exercise of these rights, except for educational materials and products, would be deposited in the DOE's Operating Trust Fund. The amount of revenue generated as a result of these transactions is indeterminate, but is likely de minimis.

#### 2. Expenditures:

The bill has a projected \$8,000,000 fiscal impact related to the provision of either the SAT or ACT for each student in grade 11. See fiscal comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill requires that school districts provide the ACT or SAT to all grade 11 students. As there are approximately 200,000 grade 11 students and the cost per test is roughly \$40, the bill has a projected \$8,000,000 fiscal impact.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

None.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill requires the SBE to adopt rules, and the BOG to adopt regulations, relating to the civic literacy assessment and course requirement.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.



#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 16, 2021, the Post-Secondary Education & Lifelong Learning Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment replaces the language “centers of the Department of Juvenile Justice” with “Department of Juvenile Justice education programs.”

The bill analysis is drafted to the committee substitute adopted by the Post-Secondary Education & Lifelong Learning Subcommittee.