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CS/HB 7029, Engrossed 1

2013 Legislature

1
2 An act relating to education; amending s. 1002.321,
3 F.S.; requiring the Department of Education to develop
4 an online catalog of digital learning courses;
5 amending s. 1002.37, F.S.; providing reporting
6 requirements relating to Florida Virtual School
7 Global; requiring the Auditor General to conduct an
8 operational audit of the Florida Virtual School and
9 submit a report to the Legislature; amending s.
10 1003.01, F.S.; removing Florida approved courses and
11 blended learning courses provided by a traditional
12 public school, a charter school, or a district
13 innovation school from the definition of the term
14 "core-curricula courses" for purposes of class size
15 requirements; amending s. 1003.498, F.S.; requiring
16 the Department of Education to provide identifiers for
17 courses to designate their use for blended learning
18 courses; removing restrictions on students' taking
19 online courses across district lines; providing
20 students' access to courses; prohibiting a school
21 district from requiring a public school student to
22 take an online course at certain times or places;
23 creating s. 1003.499, F.S.; creating the Florida
24 Approved Course Initiative; providing the purpose of
25 the initiative; providing legislative intent;
26 providing that implementing the initiative allows
27 students to expand their choices in selecting online
28 courses; requiring the department to annually publish



ENROLLED

CS/HB 7029, Engrossed 1

2013 Legislature

29 | online a list of providers; defining the term "Florida
30 | approved courses" as it relates to the initiative;
31 | requiring that Florida approved courses be annually
32 | identified, approved, published, and shared for
33 | consideration by certain students and school
34 | districts; requiring the Commissioner of Education to
35 | approve each Florida approved course; providing
36 | requirements for approval as a provider for the
37 | initiative; requiring an approved provider to
38 | participate in the statewide assessment program and
39 | the education performance accountability system;
40 | creating s. 1004.0961, F.S.; requiring the State Board
41 | of Education and the Board of Governors to adopt rules
42 | that enable students to earn academic credit toward
43 | online courses; providing requirements for the rules;
44 | amending s. 1008.24, F.S.; authorizing a school
45 | district to contract with qualified contractors to
46 | administer and proctor statewide standardized
47 | assessments or assessments associated with Florida
48 | approved courses; providing that assessments may be
49 | administered or proctored by qualified contractors at
50 | sites that meet certain criteria; requiring
51 | exceptional students to have access to testing sites;
52 | requiring the Department of Education and school
53 | districts to adopt policies; requiring the department
54 | to contract with a qualified contractor to review and
55 | provide recommendations for improving access to online
56 | courses, and approving, funding, holding providers



ENROLLED

CS/HB 7029, Engrossed 1

2013 Legislature

57 | accountable, and awarding credit for online courses
58 | for K-12 and postsecondary education; requiring the
59 | department to identify measures of quality based upon
60 | student outcomes; requiring the department to provide
61 | findings and recommendations to the Governor and the
62 | Legislature by a specified date; providing an
63 | effective date.

64 |

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

66 |

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

69 | 1002.321 Digital learning.—

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

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

79 | 1002.37 The Florida Virtual School.—

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

84 | (a) The operations and accomplishments of the Florida



ENROLLED

CS/HB 7029, Engrossed 1

2013 Legislature

85 | Virtual School within the state and those occurring outside the
86 | state as Florida Virtual School Global.

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

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

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

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

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

110 | (9)

111 | (c) Unless an alternative testing site is mutually agreed
112 | to by the Florida Virtual School and the school district or as



ENROLLED
CS/HB 7029, Engrossed 1

2013 Legislature

113 contracted under s. 1008.24, all statewide assessments must be
114 taken at the school to which the student would be assigned
115 according to district school board attendance areas. A school
116 district must provide the student with access to the school's
117 testing facilities.

118 (11) The Auditor General shall conduct an operational
119 audit of the Florida Virtual School, including Florida Virtual
120 School Global. The scope of the audit shall include, but not be
121 limited to, the administration of responsibilities relating to
122 personnel; procurement and contracting; revenue production;
123 school funds, including internal funds; student enrollment
124 records; franchise agreements; information technology
125 utilization, assets, and security; performance measures and
126 standards; and accountability. The final report on the audit
127 shall be submitted to the President of the Senate and the
128 Speaker of the House of Representatives no later than January
129 31, 2014.

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

132 1003.01 Definitions.—As used in this chapter, the term:

133 (14) "Core-curricula courses" means:

134 (a) Courses in language arts/reading, mathematics, social
135 studies, and science in prekindergarten through grade 3,
136 excluding any extracurricular courses pursuant to subsection
137 (15);

138 (b) Courses in grades 4 through 8 in subjects that are
139 measured by state assessment at any grade level and courses
140 required for middle school promotion, excluding any



ENROLLED

CS/HB 7029, Engrossed 1

2013 Legislature

141 extracurricular courses pursuant to subsection (15);

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

148 (d) Exceptional student education courses; and

149 (e) English for Speakers of Other Languages courses.

150

151 The term is limited in meaning and used for the sole purpose of
152 designating classes that are subject to the maximum class size
153 requirements established in s. 1, Art. IX of the State
154 Constitution. This term does not include courses offered under
155 ss. 1002.321(4)(e), 1002.33(7)(a)2.b., 1002.37, 1002.415, and
156 1002.45, and 1003.499.

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

159 **1003.498 School district virtual course offerings.-**

160 **(1) School districts may deliver courses in the**
161 **traditional school setting by personnel certified pursuant to s.**
162 **1012.55 who provide direct instruction through virtual**
163 **instruction or through blended learning courses consisting of**
164 **both traditional classroom and online instructional techniques.**
165 **Students in a blended learning course must be full-time students**
166 **of the school and receive the online instruction in a classroom**
167 **setting at the school.** The funding, performance, and
168 accountability requirements for blended learning courses are the



ENROLLED
CS/HB 7029, Engrossed 1

2013 Legislature

169 same as those for traditional courses. To facilitate the
170 delivery and coding of blended learning courses, the department
171 shall provide identifiers for courses to designate courses that
172 are used for blended learning for the efficient reporting of
173 such courses.

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

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

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

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

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

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

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



ENROLLED
CS/HB 7029, Engrossed 1

2013 Legislature

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

202 2. For purposes of this paragraph, the combined total of
203 all school district reported FTE may not be reported as more
204 than 1.0 full-time equivalent student in any given school year.
205 The Department of Education shall establish procedures to enable
206 interdistrict coordination for the delivery and funding of this
207 online option.

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

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

215 1003.499 Florida Approved Courses and Tests (FACT)
216 Initiative.-

217 (1) PURPOSE.-

218 (a) The purpose of the initiative shall be to make
219 available multiple options to suit unique student interests,
220 satisfy educational requirements, and accelerate student
221 accomplishment of goals in a productive and effective manner.
222 The Legislature intends that state and local rules, policies,
223 and administrative decisions are flexible in interpreting and
224 implementing the requirements in this section in order to



ENROLLED
CS/HB 7029, Engrossed 1

2013 Legislature

225 encourage creative, innovative, resourceful, and forward-
226 thinking practices that can be modeled throughout this state and
227 the country.

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

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

245 (a) As used in this section, the term "Florida approved
246 courses" means online courses provided by individuals which
247 include, but are not limited to, massive open online courses or
248 remedial education associated with the courses that are measured
249 pursuant to s. 1008.22. Massive open online courses may be
250 authorized in the following subject areas: Algebra I, biology,
251 geometry, and civics. Courses may be applied toward requirements
252 for promotion or graduation in whole, in subparts, or in a



ENROLLED
CS/HB 7029, Engrossed 1

2013 Legislature

253 combination of whole and subparts. A student may not be required
254 to repeat subparts that are satisfactorily completed.

255 (b) A Florida approved course must be annually identified,
256 approved, published, and shared for consideration by interested
257 students and school districts. The Commissioner of Education
258 shall approve each Florida approved course for application in K-
259 12 public schools in accordance with rules of the State Board of
260 Education.

261 (3) PROVIDER REQUIREMENTS.-

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

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

267 2. Complies with the antidiscrimination provisions of s.
268 1000.05.

269 3. Requires all instructional staff to be Florida-
270 certified teachers under chapter 1012 or certified as adjunct
271 educators under s. 1012.57 and conducts background screenings
272 for all employees or contracted personnel, as required by s.
273 1012.32, using state and national criminal history records.

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

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

280 b. How to contact technical support via telephone, e-mail,



ENROLLED
CS/HB 7029, Engrossed 1

2013 Legislature

281 or online messaging tools.

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

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

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

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

307 a. Courses and programs that meet the standards of the
308 International Association for K-12 Online Learning and the



ENROLLED
CS/HB 7029, Engrossed 1

2013 Legislature

- 309 Southern Regional Education Board.
- 310 b. Instructional content and services that align with, and
311 measure student attainment of, student proficiency in the Next
312 Generation Sunshine State Standards.
- 313 c. Mechanisms that determine and ensure that a student has
314 satisfied requirements for grade level promotion and high school
315 graduation with a standard diploma, as appropriate.
- 316 7. Publishes for the general public, in accordance with
317 disclosure requirements adopted in rule by the State Board of
318 Education, as part of the application as a provider and in all
319 contracts negotiated pursuant to this section all of the
320 following information:
- 321 a. Certification status and physical location of all
322 administrative and instructional personnel.
- 323 b. Hours and times of availability of instructional
324 personnel.
- 325 c. Student-teacher ratios.
- 326 d. Student completion and promotion rates.
- 327 e. Student, educator, and school performance
328 accountability outcomes.
- 329 (b) Each approved provider contracted under this section
330 must participate in the statewide assessment program under s.
331 1008.22 and in the state's education performance accountability
332 system under s. 1008.31.

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

335 1004.0961 Credit for online courses.—Beginning in the
336 2015-2016 school year, the State Board of Education and the



ENROLLED

CS/HB 7029, Engrossed 1

2013 Legislature

337 Board of Governors shall adopt rules that enable students to
 338 earn academic credit for online courses, including massive open
 339 online courses, prior to initial enrollment at a postsecondary
 340 institution. The rules of the State Board of Education and rules
 341 of the Board of Governors must include procedures for credential
 342 evaluation and the award of credit, including, but not limited
 343 to, recommendations for credit by the American Council on
 344 Education; equivalency and alignment of coursework with
 345 appropriate courses; course descriptions; type and amount of
 346 credit that may be awarded; and transfer of credit.

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

349 1008.24 Test administration and security.-

350 (1) A person may not ~~It is unlawful for anyone~~ knowingly
 351 and willfully ~~to~~ violate test security rules adopted by the
 352 State Board of Education for mandatory tests administered by or
 353 through the State Board of Education or the Commissioner of
 354 Education to students, educators, or applicants for
 355 certification or administered by school districts pursuant to s.
 356 1008.22, or, with respect to any such test, knowingly and
 357 willfully to:

358 (a) Give examinees access to test questions prior to
 359 testing;

360 (b) Copy, reproduce, or use in any manner inconsistent
 361 with test security rules all or any portion of any secure test
 362 booklet;

363 (c) Coach examinees during testing or alter or interfere
 364 with examinees' responses in any way;



ENROLLED

CS/HB 7029, Engrossed 1

2013 Legislature

- 365 (d) Make answer keys available to examinees;
- 366 (e) Fail to follow security rules for distribution and
 367 return of secure test as directed, or fail to account for all
 368 secure test materials before, during, and after testing;
- 369 (f) Fail to follow test administration directions
 370 specified in the test administration manuals; or
- 371 (g) Participate in, direct, aid, counsel, assist in, or
 372 encourage any of the acts prohibited in this section.
- 373 (2) A ~~Any~~ person who violates this section commits a
 374 misdemeanor of the first degree, punishable as provided in s.
 375 775.082 or s. 775.083.
- 376 (3) A school district may contract with qualified
 377 contractors to administer and proctor statewide standardized
 378 assessments required under s. 1008.22 or assessments associated
 379 with Florida approved courses under s. 1003.499, as approved by
 380 the Department of Education in accordance with rules of the
 381 State Board of Education. Assessments may be administered or
 382 proctored by qualified contractors at sites that meet criteria
 383 established by rules of the State Board of Education and adopted
 384 pursuant to ss. 120.536(1) and 120.54 to implement the
 385 contracting requirements of this subsection.
- 386 ~~(4)~~(3)(a) A district school superintendent, a president of
 387 a public postsecondary educational institution, or a president
 388 of a nonpublic postsecondary educational institution shall
 389 cooperate with the Commissioner of Education in any
 390 investigation concerning the administration of a test
 391 administered pursuant to state statute or rule.
- 392 (b) The identity of a school or postsecondary educational



ENROLLED

CS/HB 7029, Engrossed 1

2013 Legislature

393 institution, the personally identifiable information of any
394 personnel of any school district or postsecondary educational
395 institution, or any specific allegations of misconduct obtained
396 or reported pursuant to an investigation conducted by the
397 Department of Education of a testing impropriety are
398 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and
399 s. 24(a), Art. I of the State Constitution until the conclusion
400 of the investigation or until such time as the investigation
401 ceases to be active. For the purpose of this paragraph, an
402 investigation shall be deemed concluded upon a finding that no
403 impropriety has occurred, upon the conclusion of any resulting
404 preliminary investigation pursuant to s. 1012.796, upon the
405 completion of any resulting investigation by a law enforcement
406 agency, or upon the referral of the matter to an employer who
407 has the authority to take disciplinary action against an
408 individual who is suspected of a testing impropriety. For the
409 purpose of this paragraph, an investigation shall be considered
410 active so long as it is ongoing and there is a reasonable, good
411 faith anticipation that an administrative finding will be made
412 in the foreseeable future. This paragraph is subject to the Open
413 Government Sunset Review Act in accordance with s. 119.15 and
414 shall stand repealed on October 2, 2014, unless reviewed and
415 saved from repeal through reenactment by the Legislature.

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

420 Section 8. By August 30, 2013, the Department of Education



ENROLLED

CS/HB 7029, Engrossed 1

2013 Legislature

421 shall contract with a qualified contractor to review and provide
422 recommendations for online courses, including massive open
423 online courses, and competency-based online courses for K-12 and
424 postsecondary education. The recommendations must, at a minimum,
425 include the following components: improving access to the online
426 courses, and approving, funding, holding providers accountable,
427 and awarding credit for such courses. The department shall
428 identify measures of quality based upon student outcomes, such
429 as completion and achievement rates correlated appropriately to
430 each delivery model; measures for students to demonstrate
431 competency, such as prior learning assessments, end-of-course
432 exams, assessments established by regionally accredited public
433 institutions which may be applied as one whole assessment or as
434 two or more discrete subassessments such that when combined, the
435 subassessments are equivalent to a whole assessment; and
436 opportunities to use online courses, including massive open
437 online courses using blended learning or other tools delivered
438 in modules or segments to provide instruction pursuant to s.
439 1003.499(2)(a) for students in K-12 education. The department
440 shall provide findings and recommendations to the Executive
441 Office of the Governor, the President of the Senate, and the
442 Speaker of the House of Representatives by February 1, 2014.

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