



2023-2024 General Assembly

SENATE BILL 452: Insurance Law Amendments/Revise High School Athletics, Sec. 17-20: Revise Oversight of High School Interscholastic Athletics

Committee:
Introduced by:
Analysis of: Sec. 17-20 of S.L. 2023-133

Date: December 11, 2023
Prepared by: Kara McCraw
Staff Attorney

OVERVIEW: Sections 17-20 of S.L. 2023-133 make various changes to regulation of interscholastic athletics, including:

- Clarifying and modifying requirements for rules related to interscholastic athletics.
- Requiring the Superintendent of Public Instruction (Superintendent) to enter into memoranda of understanding (MOU) with administering organizations and oversee middle and high school athletics.
- Requiring administering organizations to meet certain requirements and restrictions related to oversight of high school interscholastic athletics.
- Making administering organizations a public body under the open meetings law.
- Requiring public school units to annually report on interscholastic expenses and receipts.
- Requiring the Superintendent to study and report on various matters related to interscholastic athletics.

Except as otherwise provided, these sections became effective October 3, 2023.

BILL ANALYSIS: Sections 17- 20 of S.L. 2023-133 make the following changes:

Oversight of High School Interscholastic Athletics (Effective beginning with the 2024-2025 School Year)

- Clarifies that the following rules must be adopted by the State Board of Education (SBE) and identifies rules that cannot be delegated, altered, or expanded by the administering organization:
 - Student participation rules cannot be delegated. Additionally:
 - Enrollment and transfer requirements must include certain restrictions on students attending a local school administrative unit (LEA) who live outside of that LEA, and charter school students given priority enrollment based on fraudulent parental employment with the charter school as determined by the Office of Charter Schools.
 - Biological participation requirements must be included.
 - Hardship exceptions can be included, but can only be granted by the independent appeals board.

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 452

Page 2

- Student amateur status requirements must be established, including rules related to use of a student's name, image and likeness.
 - Student health and safety rules cannot be delegated.
 - Penalty rules must apply to violations of student participation rules and gameplay, and cannot result in monetary penalties.
 - Appeals rules must provide due process for students, parents, and participating schools and cannot be delegated. The rules must require that the Superintendent appoint the independent appeal board, and that students and their parents be allowed to appeal any individual penalty that restricts participation in games. The appeals board can also grant hardship exceptions.
 - Fees charged to participate in interscholastic athletic activities cannot be delegated.
 - Administering organization rules cannot be delegated.
 - Reporting rules cannot be delegated and must include a process for reporting intimidation or harassment by an administering organization of a participating school, its employees, or its students.
- Effective July 1, 2024, administering organizations are deemed public bodies for the purposes of the State Open Meetings laws and must comply with those statutes.
 - The Superintendent must enter into an MOU with administering organizations that require the administering organization to meet the following requirements:
 - Apply, enforce, and administer all SBE rules without alteration or expansion.
 - If delegated, adopt, apply, enforce, and administer administrative, gameplay and penalty rules. Rules must be published on the organization's website before adoption to provide an opportunity for the public to comment. Rules must be provided to the Superintendent within 15 days of adoption for review. If the Superintendent determines the rule is unenforceable, the Superintendent must notify the SBE and the rule cannot be enforced. The SBE must either notify the administering organization to revise the rule or rescind the authority to make the rule.
 - Make publicly available at no cost the organization's handbook, rules, appeals process, and fees charged for membership and participation.
 - Ensure that board membership reflects equal representation from each education district and an appointment by the Superintendent.
 - Adopt an ethics policy to avoid conflicts of interest and the appearance of impropriety.
 - Adopt procedures comparable to the requirements of the Public Records laws and apply federal standards for privacy of student records.
 - Enter into contracts with participating schools on the monetary requirements for participation.
 - Agree to reduce fees by at least 20% when the organization's total fund balance reaches 250% of total expenses from the prior year, and not increase fees again until the fund balance reaches 150% of total expenses from the prior year.
 - Agree to retain no more than 33% of the net proceeds of State tournament games.

Senate Bill 452

Page 3

- Agree to be audited annually by a reputable independent auditing firm that meets the standards set by the Local Government Commission, as well as to be audited by the State Auditor when the Auditor deemed necessary.
- Agree to not establish, control, or receive funds from an associated entity unless the associated entity agrees to certain requirements, including annual audits, prohibitions on engaging in any activity the administering organization is prohibited from engaging in, and prohibitions on receipt of any of the administering organization's funds or proceeds of State tournament games. An associated entity is an entity that was established by the administering organization or officers of the administering organization, is controlled by the administering organization, raises funds in the name of the administering organization, has a primary purpose of providing services or conducting activities in furtherance of the administering organization's mission pursuant to an agreement, or has a tax exempt status that is based on being a support organization for the administering organization.
- Agree to not engage in any of the following:
 - Soliciting grant-funding or sponsorships from third-parties, except for State tournament games.
 - Providing grants to participating schools.
 - Providing scholarships, except when funded by donor-directed funds.
 - Designating use of specific or preferred vendors, or requiring the use of any single-source and vendor specific contracts.
 - Retaining game receipts, other than for the State tournament game.
 - Regulating or controlling the intellectual property of a participating school, including audio and video of games, other than the State tournament game.
 - Restricting recordings of State tournament games by parents of participating students or participating school employees.
 - Retaining any portion of receipts from ticket, merchandise, or concession sales by participating schools.
 - Retaliating against participating schools, employees, parents, or students for reporting rules violations or other wrongdoing to the organization, SBE, or other governmental entities.
 - Prohibiting scheduling nonconference games during the regular season or take any portion of ticket sales from those games.
- Annually report to the Superintendent on the prior year's activities, audit, schedule of fees, fees and gate receipts collected, and current fund balance.
- The Superintendent is authorized to terminate an MOU for noncompliance. In the event of termination, the organization must return a pro rata share of the fees provided in each participating school's annual contract. The Superintendent can renew MOUs for additional terms of four years. If either the Superintendent or administering organization does not intend to renew, six months written notice will be required to the other party.
- Public School Units (PSUs) must report annually to the Superintendent by June 15 on total dollar amounts spent and received on interscholastic athletic activities, broken down into certain

Senate Bill 452

Page 4

categories. The Superintendent must report annually on this information to the Joint Legislative Education Oversight Committee by October 15. The first report from PSUs is due by July 15, 2025, and must include data for the prior five years.

Reorganization and Recodification of Current Statutes

- PSUs must conduct all middle school interscholastic athletics in accordance with the SBE rules and under the administration of the Superintendent.
- Current laws related to interscholastic athletics, including laws on concussions, head injuries, emergency action plans, and athletic eligibility, are reorganized and recodified.

Implementation

- The SBE must adopt temporary rules for use in 2024-2025 and permanent rules for the following school years. By January 15, 2024, and prior to adoption of the temporary rule, the SBE must consult with the Joint Legislative Commission on Governmental Operations by providing a copy of the text of the rules being considered for adoption to the Commission.
- Effective September 22, 2023, the Superintendent assumes the role of the SBE in the current MOU with administering organizations.

Interim Studies

The Superintendent, in consultation with any administering organization, must study and report on the following to the Joint Legislative Education Oversight Committee by April 1, 2024:

- Whether an administering organization should be responsible for overseeing the conduct of middle school interscholastic athletics for PSUs.
- Factors that should be considered in participation in interscholastic athletics by the following:
 - Home school students.
 - Cooperative innovative high school students.
 - Nonpublic schools.

EFFECTIVE DATE: Except as otherwise provided, these sections became effective October 3, 2023.