

Leaders

A Newsletter for Florida School Board Members

FSBA set to challenge new charter school law

F SBA is readying a legal action against the recently-passed state legislation that gives a new, appointed commission authority over public charter schools.

HB 135, which is now Chapter 2006-302 in Florida Statutes, creates a seven-member, Florida Schools of Excellence Commission which was recently appointed by the State Board of Education.

FSBA's directors unanimously voted in August to fight the new law in court, claiming that the law is unconstitutional in that it violates both Florida law and its constitution.

The controversial law calls the commission "...an independent, state-level charter school authorizing entity working in collaboration with the Department of Education and the State Board of Education." This is the law that FSBA considers unconstitutional and will be challenging in court.

Here are the commission's seven members:

Two year term: Liza Jane McFadden, president, Volunteer Florida Foundation; Judith Budnick, former Broward County School Board member, retired; Reginald Gaffney, executive director, Community Rehabilitation Center, Inc.; Rudy Rodriguez, independent contractor, real estate associate, Keyes Company/Realtor.

One year term: Alejandro "Alex" Sanchez, president and CEO, Florida Bankers Association; John Washington Lewis, president, Lewis & Lewis of Jacksonville, and president, Republic Capital Real Estate Investments, Inc.; Ricardo "Richard" Moreno, Brandon Home Furnishings.

"The creation of the Commission raises several constitutional questions as it relates to the power of elected school boards throughout the State of Florida to approve the establishment of charter schools within a school district," said FSBA Executive Director Wayne Blanton.

See this issue's Special Report for a look at the constitutional issues surrounding the new law, the 10 factors school boards must meet if they're to have "exclusive authority" over charter schools, and a sample resolution school boards can adopt if they wish to participate in the coming legal action.

FSBA/FADSS Joint Conference coming

The 61st annual joint conference of school board members, superintendents, administrators and six other organizations is scheduled for Nov. 28 to Dec. 1 at the Grand Hyatt Tampa Bay, Tampa.

One of the keynote speakers will be education reformer Kati Haycock, director of the Education Trust. Established in 1992, the Trust attempts to speak up for what's right for young people, especially those who are poor or members of minority groups. The Trust also provides hands-on assistance to educators who want to work together to improve student achievement, pre-kindergarten through college. Prior to joining the Education Trust, Ms. Haycock served as executive vice president of the Children's Defense Fund, the nation's largest child advocacy organization.

Also at this year's conference, FADSS will honor its superintendent of the year and FSBA will present its 2006 Legislator of the Year awards, which will go to: Sen. JD Alexander, R-Lake Wales, Education Appropriations chair; Sen. Jim King, R-Jacksonville, Education Appropriations vice chair; Sen. Evelyn Lynn, R-Ormond Beach, Education Committee chair; Rep. Mike Davis, R-Naples, Growth Management vice chair; Rep. Joe Negron, R-Stuart, Fiscal Committee chair; and Rep. Joe Pickens, R-Palaska, Education Appropriations chair.

There will also be plenty of concurrent education sessions, subjects still to be determined. One of the highlights of this year's conference will be dinner at the world-famous Columbia Restaurant in Tampa.

More specific conference information will be made available soon.

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Special Report

**Charter School Commission:
Unconstitutional?**

Leadership Calling

Oscar D. Redd wing named

The new wing at Wewahitchka Middle School has been named in honor of long time Gulf County School Board member Oscar Redd, Sr., who died last year from lung cancer.

Led by Gulf County Supt. Tim Wilder and Wewahitchka Middle School Principal Pam Lister, the school's new Oscar D. Redd Wing was formally dedicated in ceremonies in August that included the unveiling of a plaque bearing Mr. Redd's picture.

"There was always that attitude that whatever it takes we'll get it done," Ms. Lister said of Mr. Redd during the ceremonies. "There is no better tribute to Mr. Redd than this plaque."

A 23-year veteran of the Gulf County School Board, Mr. Redd served as its chair for five terms and was one of the leading proponents in pushing for creation of a separate middle school.

The Oscar D. Redd Wing includes six classrooms and a computer lab.

"Oscar Redd was a fine man," added Supt. Wilder. "He was somebody who as a new superintendent...I looked up to."

"What you saw was what you got," he said. "If you asked Mr. Redd a question you wouldn't get a lot of fluff. He'd tell you the answer."

Still 37 board seats to be filled

Of the 210 school board races up for grabs this year, just 37 seats remain to be filled following the September primary. In fact, some of the seats were filled even before the primary.

Here is a breakdown of Florida school board races post-primary:

- ✓ 435 candidates were seeking election to those 210 seats.
- ✓ 66 school board members were re-elected without opposition at qualifying.
- ✓ 4 new school board members were elected without opposition at qualifying.
- ✓ 35 school board members did not seek re-election to the school board.
- ✓ 67 school board members were re-elected in the Primary Election.
- ✓ 36 new school board members were elected in the Primary Election.
- ✓ 17 incumbent school board members were defeated in the Primary Election.
- ✓ 37 school board seats remain to be determined in the November General Election.
- ✓ 2 superintendent elections remain to be determined in the General Election.

The two superintendent seats include Leon, to fill the seat vacated by Bill Montford, who is now CEO of the Florida Association of District School Superintendents, and Okaloosa County to fill the seat left vacant by Don Gaetz, who was elected, without opposition, to the Florida Senate.

Upcoming Events



Growth Management Workshops

Oct. 12, Hilton Daytona Beach Oceanfront Resort, Daytona Beach
Oct. 26, Crowne Plaza Hotel, West Palm Beach
Dec. 1, Grand Hyatt Tampa Bay, Tampa
Jan. 11, 2007, Sandestin Golf and Beach Resort, Sandestin, Florida

Nov. 28-Dec. 1

FSBA Joint Fall Conference, Grand Hyatt Tampa Bay, Tampa



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Scrap voucher plan, fully fund NCLB, says NSBA president

Taking issue with the Bush administration's national school voucher proposal, NSBA President Jane Gallucci wrote in a letter to USA Today that it's "an idea that even advocates have pronounced dead on arrival..."

The letter appeared in the Aug. 21 issue. "The plan to provide taxpayer-financed vouchers of \$4,000 per student a year to fund private school tuition would not raise student achievement, improve public education or provide taxpayers with public accountability," Ms. Gallucci, Pinellas County School Board member and former FSBA president, wrote.

She added: "Objective research suggests that despite built-in screening advantages for private voucher schools, their students do not outperform public school students. Even the U.S. Department of Education recently released a study that showed when comparing similar students, public schools perform as well as, or better than, their private counterparts that can pick and choose which students to accept."

She also took issue with U.S. Education Secretary Margaret Spellings' belief that vouchers "complement" the No Child Left Behind Act. In reality, "they actually would render the law obsolete because private schools receiving tax dollars at the expense of public schools would not face the rigid public accountability standards to which public schools must adhere," Ms. Gallucci wrote.

"Vouchers would gut a core tenet of NCLB and make a mockery of the very accountability the law stresses. A better approach is to focus on boosting the achievement of all students by fully funding NCLB, ensuring all schools have well-trained teachers and avoiding unnecessary distractions such as vouchers," she concluded.



Jane Gallucci

Snapshots of Success

Polk celebrates its Florida Teacher of the Year

Dr. Samuel Bennett stepped into the spotlight in 2005-2006 when he was named Polk County Teacher of the Year, Florida Teacher of the Year and eventually as a finalist for National Teacher of the Year. Long before any public accolades came his way, however, he was a leader in and outside of the classroom. In the 1970's Sam was a police officer and realized that his scope of influence would be much broader if he could affect lives prior to the need for law enforcement intervention. He left his career to pursue teaching, and taught in Polk County for 11 years before being recognized by the county, the state, and eventually the nation.

When Dr. Bennett was named Florida Teacher of the Year, media stories on numerous television and radio stations, newspapers, magazines and websites highlighted his engaging classroom behavior, civic responsibility, and a sincere love of students. His students were drawn to him as a caring person, an innovator who made them laugh and smile with creative learning techniques including songs and costumes. After school hours, he contin-



ued to display that same level of caring, taking initiative to begin an association for single parents to advise and connect them with available resources and best practices from others in similar situations.

Now, after a full year of touring the state and the country, traveling thousands upon thousands of miles to promote public education, Dr. Bennett will transition from leader in the public school classroom to a leader in the university system. As Dean of Education for a local university, Dr. Bennett will use his talents to encourage and inspire young teachers, igniting in them the same enthusiasm and optimism that has marked his career as a classroom educator. He promises to "keep them in Polk County" and we can expect that his zeal for students will be reflected in Polk County teachers for years to come.



Florida's 2005-2006 Teacher of the Year, Dr. Samuel Bennett, above, and right, in one of his many personas, during a speech he recently gave at the leadership conference of the Panhandle Area Educational Consortium in Panama City.

From the Executive Director

By WAYNE BLANTON

Education and school boards: Changing with the times



WAYNE BLANTON

With an election not too far off—which will mean more new legislators we will have to get to know, not to mention new school board members—the next few months are going to be busy ones for your association.

Your board of directors recently took an in-depth look at the various routes your association can, and should take, over the coming months and years. Those paths include improving FSBA's technological know-how and what we can offer our members, contending with Florida's changing educational demographics, and what will be asked of our schools in the future as far as producing not only college-ready students, but those graduates who are ready to enter the workforce right out of high school.

Those of you who attended our spring conference participated in a mini poll in which we asked you to state some of the objectives you want from FSBA in the coming years. Of course, some of these were obvious, such as board training and board support, continuing with our focus on diversity and helping districts deal with concurrency and growth management issues. For the latter, you'll see that we've scheduled a series of growth management workshops around the state over the next few months. (See our calendar on Page 2.)

Some of the other association roles your board discussed during its south Florida retreat earlier this month included FSBA continuing as a lead advocate for public education, getting more involved in federal issues and providing more networking opportunities for our members.

As many of you already know, FSBA is moving into the 21st century in a big way as we maximize our technology plan, providing members with even more information via our redesigned web site. With just a couple clicks on your keyboard or mouse, you'll be able to stay abreast of the major issues facing education and school boards. You'll be hearing lots more about this in the coming months.

We also are looking at how we can help school boards plan for the future. This includes more training on issues, litigation, if necessary (see page 1) to make sure our rights are protected, more elaborate board member training and, as mentioned, expanding the wealth of information and data that we can supply you via our web site.

I've written about this before and you'll be seeing a lot more about it in the future: We'll be working hard in the

next months at trying to solve—or at least alleviate—the severe insurance crisis that has struck every single school district in Florida. We'll be dealing with this issue, maybe as soon as next month if Gov. Bush calls a special session, as he is expected to.

As I mentioned earlier, your board also looked at Florida's changing demographics. For example, 17 school districts are now majority/minority. By that, I mean that whites are no longer the majority in 17 of our districts. Thirty eight percent of the students in Miami-Dade were born outside of the U.S. And two more districts are expected to become majority/minority next year.

Your board also heard an interesting discussion from Dr. Ed Massey, president of Indian River Community College, who spoke about creating a world class comprehensive career and technical education system in Florida.

"Over the next two years, we will have been given a tremendous opportunity to engage what it will take to change the face of career education for thousands of students and employers in our great state for many years to come," Dr. Massey said. "To begin that conversation, we need a world class vision. We need to set our vision high. This will be a multi-year plan with the ultimate goal to create that world class comprehensive career and technical education system in Florida."

This can only begin in the public schools. That's why Dr. Massey made his presentation to school boards. As he pointed out, 60% of the new jobs of the 21st century require skills held by only one third of America's workforce.

"There is a shift in the need for an unskilled to skilled workforce," he said. Businesses don't think of secondary and postsecondary when it comes to training their employees.

"Your districts are doing great things, as are the community colleges, but we can't have isolated pockets of excellence. We must spread out statewide and in a consistent manner," added Dr. Massey.

So yes, your board and the association are heading in the right direction. We need to consider all of these elements if our school boards of today and tomorrow are to remain relevant. Times are changing and we must change with them.

Dr. Blanton is executive director of the Florida School Boards Association.

Special Report

Constitutional issues surrounding Florida Schools of Excellence Commission

As defined by the new law, Chapter 2006-302, Florida Statutes, the Florida Schools of Excellence Commission is “an independent, state-level charter school authorizing entity working in collaboration with the Department of Education and under the supervision of the State Board of Education.”

The commission has the power to:

- ◆ Authorize and act as a sponsor of charter schools, including the approval or denial of charter school applications and the non-renewal or termination of charter schools...
- ◆ Authorize municipalities, state universities, community colleges, and regional educational consortia to act as cosponsors of charter schools, including the approval or denial of cosponsor appli-

cations pursuant to State Board of Education rule...

- ◆ Approve or deny Florida Schools of Excellence (FSE) charter school applications and renew or terminate charters of FSE charter schools.
- ◆ Conduct facility and curriculum reviews of charter schools approved by the commission or one of its cosponsors.

The State Board can grant school districts “exclusive authority to sponsor charter schools within its boundaries” if it determines that the school district “has provided fair and equitable treatment to its charter schools” for the past four years. The Department of Education has also listed some 10 factors (*see below*) that will help the board decide if the school district should have that “exclusive authority.”

Continued on Back

Here are the ten factors, outlined in DOE’s Technical Assistance Paper No. 2006-15, that school boards must meet if they’re to receive exclusive chartering authority.

- ◆ Compliance with the provisions of the charter school statute, s. 1002.33, F.S.
- ◆ Compliance with full and accurate accounting practices and charges for central administrative overhead costs.
- ◆ Compliance with requirements allowing a charter school, at its discretion, to purchase certain services or a combination of services at actual cost to the district.
- ◆ Absence of a district school board moratorium regarding charter schools or the absence of any district-wide charter school enrollment limits.
- ◆ Compliance with valid orders of the SBE.
- ◆ Provision of assistance to charter schools to meet their facilities needs by including those needs in local bond issues or otherwise providing available land and facilities that are comparable to those provided to other public school students in the same grade levels within the school district.
- ◆ Distribution to charter schools authorized by the district school board of a pro rata share of

federal and state grants received by the district school board, except for any grant received for a particular purpose which, by its express terms, is intended to benefit a student population not able to be served by, or a program not able to be offered at, a charter school that did not receive a proportionate share of such grant proceeds.

- ◆ Provision of adequate staff and other resources to serve charter schools authorized by the district school board, which services are provided by the district school board at a cost to the charter schools that does not exceed their actual cost to the district school board.

- ◆ Lack of policy or practice of imposing individual charter school enrollment limits, except as otherwise provided by law.

- ◆ Provision of an adequate number of educational choice programs to serve students exercising their rights to transfer pursuant to the “No Child Left Behind Act of 2001,” Public Law No. 107-110, and a history of charter school approval that encourages chartering.

The Palm Beach County School Board has already adopted a resolution seeking to “retain exclusive authority to authorize charter schools” within its district. The resolution answered each of the 10 “factors” outlined by the State Board, but also included this caveat: That by submitting this resolution, the district is “not waiving the constitutional powers, rights, and authority of the school board under Florida Constitution, Article IX, Section 4, which vests in school boards the sole authority to operate, control, and supervise all free public schools within their districts, and that this constitutional provision applies to charter schools...”

As outlined earlier by FSBA’s attorney, Ron Meyer, Meyer and Brooks, Tallahassee, “The powers bestowed upon the Commission render meaningless the plain language and purpose of Article IX, Section 4 of the Florida Constitution.”

The section in question is this: “The school board shall operate, control and supervise all free public schools within the school district and determine the rate of school taxes within the limits prescribed therein.”

This provision clearly states that elected school boards “would be considered the exclusive entities empowered to ‘operate, control and supervise all free public schools within the school district,’ ” said Mr. Meyer.

Not only that, but section 1002.33(1) F.S. includes charter schools within the definition of public schools. However, the new law “wholly and unconstitutionally removes the powers of elected school districts conferred by the Florida Constitution. Indeed, the...language (in the law) essentially strips all authority from the

school boards to have any role in the operation, control or supervision of charter schools in their district,” added Mr. Meyer.

In addition, school boards “are constitutionally and statutorily charged with funding the operation of public schools within the school district” and they have the authority to “determine the rate of school district taxes.” Yet, the new law “not only contravenes the right of the school board to approve or disapprove

the establishment of a charter school, but...it simultaneously forces the district to finance the operation of such school, regardless of whether it would be financially feasible to do so.”

Since the new law creates a statewide, independent commission appointed by the State Board of Education, which itself is an appointed board, “Essentially, the elected school boards would be displaced by appointees,” added Mr. Meyer.

A recent circuit court decision that said the State Board had the right to overrule a school board decision (in this case, Osceola County’s) that had denied a charter school request, thus forcing the school district to grant the charter is similar, but “the issue we will address is different,” wrote Mr. Meyer.

“Under Chapter 2006-302, the school board is fully bypassed in the decision-making process, and thus its authority to ‘operate, control and supervise’ charter schools is interdicted entirely. Thus, we believe that Chapter 2006-302 is unconstitutional and denies elected school boards of important rights guaranteed in the Florida Constitution,” added Dr. Wayne Blanton, FSBA executive director.

“The powers bestowed upon the Commission render meaningless the plain language and purpose of Article IX, Section 4 of the Florida Constitution.”