

1989

Session Law 89-330

Florida Senate & House of Representatives

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**H 1152 GENERAL BILL/CS by Governmental Operations; Young
(Identical CS/CS/S 1052)**

Seminole & Miccosukee Indian Council; authorizes Seminole & Miccosukee Indian tribal councils to contract for education & other programs for their members; provides for contract with certain district school boards. Amends 285.18. Effective Date: 07/05/89.

03/21/89 HOUSE Prefiled
03/24/89 HOUSE Referred to Governmental Operations
04/04/89 HOUSE Introduced, referred to Governmental Operations
-HJ 109; On Committee agenda—Governmental Operations,
04/06/89, 3:30 pm, 314-HOB—For ratification of referral to subcommittee
04/21/89 HOUSE On subcommittee agenda—Governmental Operations,
04/25/89, 3:45 pm, 314-HOB
04/25/89 HOUSE Subcommittee Recommendation: Favorable with 1 amendment;
On Committee agenda, pending subcommittee action—Governmental Operations,
04/27/89, 8:30 am, 314-HOB
04/27/89 HOUSE Preliminary Committee Action by Governmental Operations:
Favorable as a CS
05/02/89 HOUSE Comm. Report: CS by Governmental Operations, placed on
Calendar -HJ 338; CS read first time -HJ 336
05/09/89 HOUSE Placed on Special Order Calendar; Read second time
-HJ 433
05/10/89 HOUSE Read third time; CS passed; YEAS 111 NAYS 0 -HJ 447
05/11/89 SENATE In Messages
05/16/89 SENATE Received, referred to Governmental Operations; Education
-SJ 362
05/26/89 SENATE Extension of time granted Committee Governmental Operations
06/01/89 SENATE Withdrawn from Governmental Operations; Education;
Substituted for CS/CS/SB 1052; CS passed; YEAS 36 NAYS 0 -SJ 828
06/01/89 Ordered enrolled
06/20/89 Signed by Officers and presented to Governor
07/05/89 Approved by Governor; Chapter No. 89-330

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

8d-330

STORAGE NAME: h1152-f.go

DATE: July 6, 1989

**HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENTAL OPERATIONS
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 1152

RELATING TO: Seminole and Miccosukee Tribal Councils; educational benefits

SPONSOR(S): Committee on Governmental Operations and Representative Young

EFFECTIVE DATE: July 1, 1989 or upon becoming law, whichever occurs later

DATE BECAME LAW: July 5, 1989

CHAPTER #: 89-330, Laws of Florida

COMPANION BILL(S):

OTHER COMMITTEES OF REFERENCE: (1)

(2)

I. SUMMARY:

A. SHORT SUMMARY:

Current law provides that the Seminole and Miccosukee tribal councils (which serve as the governing bodies of their respective special improvement districts) shall have the power to plan and implement programs for the benefit of their members. These programs include law enforcement, housing, health care, and social services; however, educational programs are not included.

This bill provides that the Seminole and Miccosukee tribal councils shall have the power to plan, contract with, and implement programs with adjoining district school boards to provide public education to their members.

B. PRESENT SITUATION:

Special improvement districts have been created by law for each of the areas contained within the Seminole and Miccosukee reservations. The tribal councils, which serve as the governing bodies of these special improvement districts, have been given the authority, among other things, to plan and implement programs for the benefit of their members in law enforcement, housing, health care, and other social services which include delivery of health services, manpower training, child services, and other programs designed to improve the health and economic opportunities of its members. However, educational programs are not included.

The Brighton Reservation is a Seminole reservation located in Glades County. Until 1954, most of the Brighton Reservation children attended the Bureau of Indian Affairs School located on the reservation. After the school was closed, the children were transferred between public schools located in Glades and Okeechobee counties. In 1978, the children were allowed to remain in Okeechobee County public schools as a result of the Glades County School Board establishing an Out-of-County Transfer Agreement for the Brighton Reservation children.

However, in 1985, the Glades County School Board decided that out-of-county school buses would no longer be able to cross its county lines, making it impossible for Okeechobee County school buses to transport the Brighton Reservation children to the Okeechobee County schools. At that time, the Seminole Tribe purchased school buses to transport the reservation children so that they could remain in Okeechobee County public schools.

Enrollment in public schools in Glades County has been decreasing considerably over the last decade, dropping from 1,300 students in the mid-1970s to 845 students for the 1987-88 school year. Because of this decrease, state funds for the public school district (approximately \$2,000 per child) have declined.

In 1987, Glades County School Board reevaluated its attendance area. Glades County, which has the smallest of Florida's 67 public school districts, determined that the Seminole children on the reservation should be included in its attendance area and therefore should attend school in Glades County (Policy 88-1, Glades County School Board). Through this policy, the school board sought to limit the attendance choice of students residing on the reservation. The policy would require that all Brighton Reservation children who attend grades K-4 must transfer to Glades County public schools over the next ten-year period.

The Okeechobee School Board refused to agree to such terms and wanted all students (K-12) to be allowed the choice of which public school district (Okeechobee or Glades) to attend.

The general consensus of the Seminoles was to allow the children to remain in Okeechobee County schools, as they had been doing since the early 1980s. The reasons for wanting to remain in the Okeechobee County school system varied; however, the reasons most prevalent were that the Brighton Reservation children felt better received and accepted, received more educational opportunities, and had more kinship and community with Okeechobee County public schools. In addition, the Seminoles feel that Okeechobee County public schools have served their educational needs in an exemplary manner over the past decade, and the stability afforded to the Seminole children by remaining in the same schools would enhance their academic, social, and emotional environment.

Current law relating to school districts provides that adjoining school districts may enter into agreements concerning the school attendance areas and these agreements would provide for joint maintenance of the district-line schools or other schools which

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are to serve those attendance areas. These agreements are effected by annual resolutions which set out the territorial limits of the areas from which children are to attend the school and the plan to be followed in maintaining and operating the school.

If settlement of these disagreements between the adjoining school districts concerning the territorial limits cannot be reached, the matter may be jointly referred by the cooperating school boards or by either school board to the Department of Education for decision under regulations of the state board, and its decision shall be binding on both school boards.

In August of 1988, when no agreement had been reached by the Glades and Okeechobee counties, the Superintendent of the Glades County School District requested the Commissioner of Education to resolve the question of Okeechobee and Glades county boundary disputes for the purpose of determining if the children of the Brighton Reservation should attend public school in Glades County or whether they should have the option to attend school in either county. This case was presented to a hearing officer for the Florida Department of Education on August 10, 1988.

The Glades County School Board, in presenting its case to the hearing officer, sought an agreement to require the Brighton Reservation children to attend school in Glades County, with financial need the most cited reason. If the Brighton Reservation students were required to go to Glades County schools, it would increase enrollment by 50 or more students for grades K-4, which in turn would increase the state revenue for the county.

The conclusion of the hearing officer was that the welfare of the students was of paramount importance and that the financial loss or gain to either county was secondary. Therefore, it was recommended to the Commissioner of Education that a final order be issued in this proceeding stating that Glades and Okeechobee counties enter into a student exchange cooperative agreement.

The Commissioner of Education, based on the evidence presented to the hearing officer, ordered that the Brighton Reservation children be allowed to remain in the Okeechobee County public schools. Until further evidence is provided to the contrary, this decision will remain in effect. However, the Seminoles are concerned that this decision may be the subject of dispute in the future, and that statutory language addressing this issue would ensure that they will continue to receive educational benefits offered by Okeechobee County public schools.

C. EFFECT OF PROPOSED CHANGES:

This bill would provide the authority to the tribal councils of the Seminole and Miccosukee Tribes to contract for educational programs which would benefit their members in adjoining school districts. This bill would not preclude any student from attending a public or private school chosen by the parent of the

student.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None. The moneys received by counties for enrolled students would shift if enrollment levels were to shift from one county to another.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None. Counties whose enrollment levels increased would receive an increase in state appropriated funds.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Not applicable.

2. Direct Private Sector Benefits:

Not applicable.

3. Effects on Competition, Private Enterprise, and Employment Markets:

The opportunity to attend public schools in adjoining counties may provide students an option to attending public schools in either the school district where they currently reside or an adjoining school district. Therefore, private

schools, which currently have these students enrolled, may experience a decrease in enrollment.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

(1) EDUCATION.--

(a) Goal.--The creation of an educational environment which is intended to provide adequate skills and knowledge for students to develop their full potential, embrace the highest ideas and accomplishments, make a positive contribution to society, and promote the advancement of knowledge and human dignity.

(b) Policies.--

16. Education K-12:

- a. Expand early learning experiences to enhance student achievement.
- b. Provide access to a comprehensive curriculum for all high school students.
- g. Identify and encourage policies which raise the expectations, performance, and motivation of socioeconomically and academically disadvantaged students.

(21) GOVERNMENTAL EFFICIENCY.--

(a) Goal.--Florida governments shall economically and efficiently provide the amount and quality of services required by the public.

(b) Policies.--

1. Encourage greater cooperation between, among, and within all levels of Florida government through the use of appropriate interlocal agreements and mutual participation for mutual benefit.

IV. COMMENTS:

The language of the bill authorizes the tribal councils to contract with a school board to provide education, but it does not modify any existing laws requiring children to attend schools within the district of residence absent an agreement by the districts.

The issue addressed in this bill is not specifically addressed in the Issues Conference Statement or the Committee Mission Statement.

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V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:



Hunter L. Barnett

Staff Director:


Barry Kling

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Hosack</u>	<u>Stengle</u>	1. <u>GO</u>	<u>Fav/CS</u>
2. <u>White</u>	<u>O'Farrell</u>	2. <u>ED</u>	<u>Fav/CS for CS</u>
3. _____	_____	3. <u>AP</u>	_____
4. _____	_____	4. _____	_____

SUBJECT:

Indian Reservations; Education

BILL NO. AND SPONSOR:

CS/CSSB 1052 by Education Committee & Senator McPherson

I. SUMMARY:

A. Present Situation:

Chapter 285, F.S., relates to Florida's Native Americans, and identifies land set aside as reservations for the Seminole and Miccosukee Indian Tribes. Generally the lands are either held in trust by the federal government or are leased by the Board of Trustees of the Internal Improvement Trust Fund (the Governor and the Cabinet) for the Indians to use perpetually.

Section 285.17, F.S., establishes special improvement districts for the reservations. These districts are political subdivisions of the state (s. 1.01, F.S.), and their governing bodies are the tribal councils of the Seminole and Miccosukee Indian Tribes (s. 285.18, F.S.). The law directs and authorizes each governing board to plan and implement programs in law enforcement, housing, health care, and other programs to improve the tribe's health and economic opportunities. Education is not specifically listed among these responsibilities.

In Article IX, section 4, the Florida Constitution designates each county as a school district unless the voters in two contiguous counties vote to combine them into one school district. According to s. 230.23, F.S., 1988 Supplement, adjoining school districts may establish school attendance areas for certain territories within their districts and maintain schools jointly to serve those areas. If two districts cannot agree about such attendance areas, the matter may be referred by either school board to the Department of Education for resolution. The department's decision is binding on both school boards.

The seven reservations designated for the Seminole and Miccosukee Indian Tribes are in five county school districts: Glades, Hendry, Broward, Collier, and Dade. Most of the approximately 750 school-age children currently attend the public schools in the school districts in which they live. But about 145 Seminole Indian children who live on the Brighton Reservation in Glades County are attending schools in Okeechobee County.

Until 1954, most children on the Brighton Reservation attended the Bureau of Indian Affairs school on the reservation. When the school closed, the children were transferred back and forth between the public schools located in Okeechobee and Glades county school districts. In 1978 Glades and Okeechobee school boards developed an agreement that allowed the children to remain in the Okeechobee County public schools.

Glades County is the smallest public school district, and enrollment has decreased considerably over the last decade, dropping from 1,300 students in the mid-1970's to 845 students

for the 1987-88 school year. Because of this decrease, state funds for the public school district (approximately \$2,300 per child) have declined.

In 1988 the Glades County School Board decided that the children on the Brighton Reservation should be included in its attendance area, and thus should be required to attend school in Glades County. In Policy 88-1, the Glades County School Board outlined a plan by which Brighton Reservation children would transfer a few grades per year to Glades County public schools. In 10 years, all of the reservation children would be attending schools in Glades County.

The Okeechobee School Board refused to agree to such terms and said that all students (K-12) should be allowed the choice of attending public school in either the Okeechobee or the Glades county district. In August of 1988, the Glades County School Board requested the Commissioner of Education to resolve the county boundary dispute. The case was presented to a hearing officer designated by the Florida Department of Education.

In presenting its case to the hearing officer, the Glades County School Board cited financial need as the most important reason to require the Brighton Reservation children to attend school in Glades County. The Seminole Tribe's reasons for wanting the option to remain in the Okeechobee County school system were that the Brighton Reservation children felt better received and accepted, received more educational opportunities, and had more kinship and community with Okeechobee County public schools. In addition, the Seminole Tribe maintained that Okeechobee County public schools have served their educational needs in an exemplary manner over the past decade, and that the stability afforded to the Seminole children by remaining in the same schools would enhance their academic, social, and emotional environment.

The Commissioner of Education adopted the recommended order of the hearing officer, and found that the Brighton Reservation children should be allowed to choose whether to attend school in Okeechobee County or in Glades County. The Commissioner therefore ordered a student exchange cooperative agreement between Glades and Okeechobee counties with a condition authorizing Okeechobee County to provide public school education to any student residing on the Seminole Reservation.

The Seminole Tribe is concerned that this decision may be disputed in the future, however, and believe that the law should ensure that Indian children could continue their educations in Okeechobee County public schools.

B. Effect of Proposed Changes:

The proposed committee substitute would amend s. 285.18, F.S., to expand the authority of the tribal councils of the Seminole and Miccosukee Indian Tribes so they could contract for and implement educational programs for their members. It would clarify that this authority would take precedence over s. 230.23, F.S., which authorizes school boards to establish attendance areas and approve plans for attendance in other districts.

Students would be not be precluded from attending any private school or public school in an adjoining school district. The law would not require that the state provide funds to private schools attended by such students.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The school districts in which the children of the Seminole or Miccosukee Tribes attended school would be entitled to about \$2,300 per student per year. If students moved away from a district they formerly attended, that district would lose the \$2,300 it formerly earned, but also would not have the expense of educating the children.

III. COMMENTS:

None.


IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1052

Committee Substitute for Committee Substitute for Senate
Bill 1052 would clarify that children on Indian reservations
could attend school in other districts regardless of the
requirement in s. 230.23, F.S., that school boards must have
attendance areas and an agreement before children in those
areas could attend school in another school district.

Committee on Education


Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)