

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB KINS 11-04 Digital Learning

**SPONSOR(S):** K-20 Innovation Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-20 Innovation Subcommittee		Fudge	Sherry

### SUMMARY ANALYSIS

The bill increases the availability of online learning options by:

- Authorizing charter schools to offer blended learning courses to full-time students of the charter school who receive online instruction from the physical location of the charter school;
- Requiring at least one course necessary for high school graduation to contain online learning;
- Expanding part-time virtual instruction programs;
- Requiring school districts to offer at least three options for full-time virtual instruction for kindergarten through grade 12, and part-time virtual instruction for grades 9 through 12;
- Clarifying that school districts may fulfill its obligation to offer at least three options for full-time and part-time virtual instruction through agreements with more than one school district or through multidistrict contractual arrangements;
- Increasing the quality of virtual instruction providers by establishing new criteria for provider approval;
- Requiring greater transparency through new accountability measures as well as disclosure of school performance and accountability outcomes;
- Requiring all statewide end-of-course assessments to be administered on-line by the 2014-2015 school year;
- Revising the requirements for issuance of adjunct teaching certificates by school districts to encourage the use of experienced individuals to provide online instruction in Florida; and
- Requiring the Department of Education to issue a report by December 1, 2011, identifying and explaining the best methods and strategies for increasing student access to digital learning including implementing part-time virtual education in kindergarten through grade 5.

The bill is effective July 1, 2011.

The bill does not have a fiscal impact on state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Law

##### Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”<sup>1</sup> The charter exempts the school from many regulations applicable to traditional public schools in order to encourage the use of innovative learning methods.<sup>2</sup> One of the guiding principles of charter schools is to meet high standards of student achievement and increase parental choice and student learning opportunities.<sup>3</sup>

Charter schools are funded in the same manner as traditional public schools and may not charge tuition.<sup>4</sup> Like traditional public schools, a charter school’s students must take the statewide assessments and charter schools receive an annual school grade.<sup>5</sup> Teachers employed by or under contract with a charter school must be certified as those in traditional public schools.<sup>6</sup>

##### High School Graduation Requirements

To graduate, a student must earn credits in the required high school courses and achieve the required grade point average, with the number of credits, required courses, and required grade point average varying based upon which graduation option the student selects.<sup>7</sup> The three graduation options (traditional 24-credit option, accelerated 18-credit College Preparatory Program option, and accelerated 18-credit Career Preparatory Program option) are discussed below. Students may also receive a standard high school diploma in Florida by successfully completing the International Baccalaureate (IB) or Advanced International Certificate of Education (AICE) program curricula.

In addition, to receive a standard high school diploma, each student is currently required to pass the grade 10 Florida Comprehensive Assessment Test (FCAT) in Reading and Mathematics or attain concordant scores on either the SAT or ACT tests.<sup>8</sup>

##### District Virtual Instruction Program

A school district virtual instruction program is a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.<sup>9</sup> The purpose of the program is to make instruction available to students using online and distance learning technology in the nontraditional classroom.<sup>10</sup> In 2008, the Legislature required all school districts to provide a virtual instruction program beginning with the 2009-10 academic year.<sup>11</sup> In 2009, the Legislature significantly revised the program requirements.<sup>12</sup>

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<sup>1</sup> Section 1002.33(5)(a), (7) and (9)(a), F.S.

<sup>2</sup> Section 1002.33(2) and (16), F.S., *as amended by* s. 6, ch. 2010-154, L.O.F.

<sup>3</sup> Section 1002.33(2), F.S.

<sup>4</sup> Section 1002.33(9)(d) and (17), F.S.

<sup>5</sup> Section 1002.33(16)(a), F.S.

<sup>6</sup> Section 1002.33(12)(f), F.S.

<sup>7</sup> Sections 1003.428, 1003.429, and 1003.43, F.S.

<sup>8</sup> Sections 1003.428(4)(b), 1003.429(6)(a), 1003.43(5)(a), and 1008.22(3)(c)6. and (10), F.S.; Florida Department of Education, Office of Assessment and School Performance, *FCAT Graduation Requirements* (Nov. 2009), *available at* <http://fcats.fldoe.org/pdf/fcatpass.pdf> [hereinafter *FCAT Graduation Requirements*].

<sup>9</sup> Section 1002.45(1)(a), F.S.

<sup>10</sup> Section 1002.45(1)(b), F.S.

<sup>11</sup> Section 4, ch. 2008-147, L.O.F.

<sup>12</sup> Section 11, ch. 2009-59, L.O.F.

Each district must offer:

- A full-time virtual instruction program for students in kindergarten through grade 12;<sup>13</sup> and
- A full-time or part-time virtual instruction program for students in grades 9-12 enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-curricula courses to meet class size requirements, or community colleges offering a school district virtual instruction program.<sup>14</sup>

To provide its students with the opportunity to participate in a virtual instruction program, a school district may choose one or more of the following options:

- Contract with the Florida Virtual School (FLVS) or establish a franchise of the FLVS;<sup>15</sup>
- Contract with a provider approved by the Department of Education (DOE);<sup>16</sup>
- Contract with a community college;<sup>17</sup> or
- Enter into an agreement with another school district to allow its students to participate in a virtual instruction program provided by the other school district.<sup>18</sup>

Contracts with the FLVS or other providers may include multidistrict contractual arrangements executed by a regional consortium.<sup>19</sup> Additionally, a charter school may enter into an agreement with a district for the charter school's students to participate in the district's virtual instruction program.<sup>20</sup>

Each contract between a school district and a provider must include the following:

- A detailed curriculum plan;
- A method for determining that a student has satisfied the requirements for graduation, if the contract is for a full-time virtual instruction program in grades 9-12;
- A method for resolving conflicts among parties;
- Authorized reasons for termination of the contract;
- A requirement that the approved provider be responsible for all debts of the program if the contract is terminated or not renewed; and
- A requirement that the approved provider comply with all statutory requirements relating to the program.<sup>21</sup>

Each provider contracted to provide a school district virtual instruction program must participate in the statewide assessment program and the state's education performance accountability system.<sup>22</sup> Each provider receives a school grade or school improvement rating, which is based upon the aggregated assessment scores of all students served by the provider statewide.<sup>23</sup> School grades or school improvement ratings are published on DOE's website.<sup>24</sup>

If a provider receives a school grade of "D" or "F" or a school improvement rating of "Declining," the provider must file a school improvement plan for correcting low performance with the DOE. The school improvement plan must identify the causes of the low performance and propose a plan for

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<sup>13</sup> Section 1002.45(1)(b)1., F.S.

<sup>14</sup> Section 1002.45(1)(b)2., F.S.

<sup>15</sup> Section 1002.45(1)(c)1., F.S.; see Florida Virtual School Fact Sheet.

<sup>16</sup> Section 1002.45(1)(c)2., F.S.; see *supra* text accompanying note **Error! Bookmark not defined.**

<sup>17</sup> Section 9, ch. 2010-154, L.O.F.; s. 1002.45(1)(a) and (1)(c)2., F.S.

<sup>18</sup> Section 1002.45(1)(c)3., F.S.

<sup>19</sup> Section 1002.45(1)(c), F.S. Multidistrict consortia include Panhandle Area Educational Consortium (PAEC), Heartland Educational Consortium (HEC), and Northeast Florida Educational Consortium (NEFEC). See s. 1001.451, F.S.

<sup>20</sup> Section 1002.45(1)(d), F.S.

<sup>21</sup> Section 1002.45(4), F.S.

<sup>22</sup> Section 1002.45(8)(a)1., F.S.

<sup>23</sup> The performance of part-time 9-12 students is not included in the provider's school grade or school improvement rating. Performance of such students is included in the nonvirtual school that provides the student's primary instruction. Section 1002.45(8)(b), F.S.

<sup>24</sup> Section 1002.45(8)(a)2., F.S.

improvement. If a provider receives a school grade of "D" or "F" for any two years during a four-year period, the provider's contract must be terminated and the provider cannot be approved for at least one year.<sup>25</sup>

### Statewide Assessment Program

The Commissioner of Education must design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of public schools.<sup>26</sup> The statewide assessment program consists of the Florida Comprehensive Assessment Test (FCAT) and statewide, standardized end-of-course (EOC) assessments.<sup>27</sup>

The FCAT consists of comprehensive grade-level assessments in reading, writing, mathematics, and science.<sup>28</sup> Statewide, standardized EOC assessments are course-specific assessments.<sup>29</sup> The FCAT and statewide, standardized EOC assessments must be criterion-referenced tests<sup>30</sup> and must be aligned to the core curricular content established in the *Sunshine State Standards*, which specify the knowledge and skills that K-12 public school students are expected to acquire.<sup>31</sup>

In 2008, the Legislature required the State Board of Education to review the Sunshine State Standards and replace them with more specific, rigorous, and relevant Next Generation Sunshine State Standards.<sup>32</sup> In order to align the assessment program with the Next Generation Sunshine State Standards, the Department of Education (DOE) is developing new statewide assessments, including the FCAT 2.0 and EOC Assessments.<sup>33</sup> In 2010, the Legislature significantly revised the statewide assessment program requirements, replacing several FCAT assessments with EOC assessments.<sup>34</sup>

EOC assessments are subject-specific assessments that are administered at the end of a particular course. EOC assessments must be rigorous, statewide, standardized, and developed or approved by the DOE.<sup>35</sup> In 2010, the Legislature required the DOE to implement statewide, standardized EOC assessments in Algebra 1, Geometry, and Biology 1 at the high school level,<sup>36</sup> and an EOC assessment in Civics Education at the middle school level.<sup>37</sup> Contingent upon funding, the Legislature also required the commissioner to establish an implementation schedule for the development and administration of additional statewide, standardized EOC assessments in English/Language Arts II,<sup>38</sup> Currently, the DOE is developing an EOC in US History.<sup>39</sup>

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<sup>25</sup> Section 1002.45(8)(c) and (d), F.S.

<sup>26</sup> Section 1008.22(3), F.S.

<sup>27</sup> Section 1008.22(3)(c)1. and 2., F.S., *as amended by* s. 8, ch. 2010-22, L.O.F.

<sup>28</sup> Section 1008.22(3)(c)1., F.S., *as amended by* s. 8, ch. 2010-22, L.O.F.

<sup>29</sup> Section 1008.22(3)(c)2.a., F.S., *as amended by* s. 8, ch. 2010-22, L.O.F.

<sup>30</sup> Section 1008.22(3)(c)4., F.S., *as amended by* s. 8, ch. 2010-22, L.O.F. A criterion-referenced test (CRT) is an assessment in which an individual's performance is compared to a specific learning objective or performance standard and not to the performance of other students. CRTs show how well students performed on specific goals or standards rather than just telling how their performance compares to a norm group of students. Florida Department of Education, *FCAT Handbook: A Resource for Educators*, at 5 (2005), available at <http://fcats.fldoe.org/handbk/complete.pdf> [hereinafter *FCAT Handbook*]. Before 2008, the FCAT consisted of CRTs in reading, writing, mathematics, and science and norm-referenced tests (NRTs) in reading and mathematics. *Id.* In 2008, the Legislature repealed provisions authorizing use of the NRT. Section 7, ch. 2008-142 and s. 18, ch. 2008-235, L.O.F.

<sup>31</sup> Section 1008.22(3)(c)1. and 2.a., F.S., *as amended by* s. 8, ch. 2010-22, L.O.F.; *see also* Sunshine State Standards Fact Sheet.

<sup>32</sup> Section 1, ch. 2008-235, L.O.F., *codified at* s. 1003.41, F.S.

<sup>33</sup> State Board of Education, *Action Item: Approval for High School Accountability Assessments and High School Graduation Requirements* (May 18, 2010), available at [http://www.fldoe.org/board/meetings/2010\\_05\\_18/coveraccountability.pdf](http://www.fldoe.org/board/meetings/2010_05_18/coveraccountability.pdf).

<sup>34</sup> Chapters 2010-22 and 2010-48, L.O.F.

<sup>35</sup> Section 1008.22(3)(c)2.a., F.S., *as amended by* s. 8, ch. 2010-22, L.O.F.

<sup>36</sup> Section 8, ch. 2010-22, L.O.F.

<sup>37</sup> Section 3, ch. 2010-48, L.O.F.

<sup>38</sup> Priority must be given to the development of EOC assessments in English/Language Arts II. The commissioner must evaluate the feasibility and effect of transitions from the grade 9 and grade 10 FCAT Reading and high school level FCAT Writing to an EOC assessment in English/Language Arts II and report the results of the evaluation to the President of the Senate and the Speaker of the House of Representatives no later than July 1, 2011. Section 1008.22(3)(c)2.c., F.S., *as amended by* s. 8, ch. 2010-22, L.O.F.

<sup>39</sup> Rule 6A-1.09422(3)(e), F.A.C.

Beginning with the 2010-11 school year, the Department began transitioning to Computer Based Testing for statewide assessments. By 2014-2015, End-of-Course assessments will be provided online for Algebra 1, Geometry, Biology 1, US History, and Civics.<sup>40</sup>

## **Effect of Proposed Changes**

### **Blended Learning Courses**

The bill authorizes charter schools to offer blended learning courses to full-time students of the charter school who receive online instruction from the physical location of the charter school. The bill requires that blended learning courses be provided by part-time or full-time employees of the charter school or by contracted providers of the instructional service. The instructor must also be certified in the subject area of the course. Faculty members providing online instruction for blended courses may be in a remote location from the school. However, the students of the courses must be full-time students of the charter school and must receive online instruction from the physical location of the school. Blended learning courses are considered in the same manner as traditional courses for funding and accountability purposes.

### **Online Learning**

The bill requires entering grade 9 students in the 2013-14 school year to take at least one online course offered through the Florida Virtual School, through the high school that significantly integrates online content, or through an online dual enrollment course offered pursuant to a district interinstitutional articulation agreement. This requirement can also be met by enrollment in a full-time or part-time virtual instruction program offered by the school district.

### **District Virtual Instruction Program**

Beginning with the 2011-2012 school year, the bill requires each school district to provide part-time and full-time virtual instruction options and to directly notify parents of these options through an open enrollment period for full-time students of at least ninety days and not ending earlier than thirty days prior to the first day of the school year. The bill expands the district virtual instruction program to include part-time virtual instruction in grades 9 through 12 for courses that are measured by an evaluation system developed by the Department of Education. The evaluations will include the percentage of students making learning gains, the percentage of students successfully passing any required end-of-course assessments, and the percentage of students taking AP course exams, and the percentage of students scoring a three (3) or above on the AP course exam.

School districts must offer at least three options for full-time virtual instruction for kindergarten through grade 12, and part-time virtual instruction for grades 9 through 12. Currently, school districts may fulfill this requirement through contracts with the Florida Virtual School, contracts with approved providers, or through an agreement with another school district. The bill clarifies that school districts may fulfill this requirement through agreements with more than one school district and through multidistrict contractual arrangements.

The bill also increases the criteria by which the department approves providers. The provider must demonstrate student performance improvements for each subject area and grade level and provide a detailed curriculum and student performance accountability plan. The courses and programs offered by the provider must meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board. The instructional content of courses must be aligned with, and measure student attainment of, student proficiency in the Next Generation Sunshine State Standards. The provider must also publish information about each full-time and part-time program, school policies and procedures, certification status and physical location of all administrative and instructional personnel, student teacher ratios, student completion and promotion rates, and student, educator, and school performance accountability outcomes. Currently approved providers must re-apply for approval to provide part-time program for students in grades 9 through 12. A provider that has its contract terminated may not be an approved provider for a period of at least two years.

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<sup>40</sup> Florida Department of Education/ARM, *Transition to Next Generation and Computer-Based Tests in Florida*, available at: <http://fcat.fldoe.org/fcat2/cbt.asp>, last updated February 2011 (last visited March 24, 2011).

### Online Assessments

The bill requires all statewide end-of-course assessments to be administered online by the 2014-2015 school year.

### Adjunct Teaching Certificate

The bill revises the authority of school districts to issue adjunct certificates for part-time teaching positions. School districts would be able to utilize the expertise of individuals in this state to provide online instruction to Florida students. An adjunct teaching certificate is valid through the term of the annual contract between the adjunct and the school district and is renewable if the adjunct teacher is rated effective or highly effective pursuant to s. 1012.34, F.S.

### Reports

The bill requires the Department of Education to identify and explain the best methods and strategies for assisting district school boards in acquiring digital learning and for implementing part-time virtual education for kindergarten through fifth grade. This explanation must be made in a report to the Governor, the Senate President, and the Speaker of the House of Representatives. The report must contain criteria to enable school districts to differentiate between the levels of service and pricing for online courses. The criteria must include such factors as the level of student support, the frequency of teacher-student communications, instructional accountability standards, and academic integrity.

#### B. SECTION DIRECTORY:

Section 1: Amending s. 1002.33, F.S., authorizing blended learning charter schools.

Section 2: Amending s. 1002.45, F.S., revising requirements for district virtual instruction programs.

Section 3: Amending s. 1003.428, F.S., revising high school graduation requirements to include at least one course with online learning.

Section 4: Amending s. 1008.22, F.S., requiring all statewide end-of-course assessments be administered on-line.

Section 5: Amending s. 1012.57, F.S., revising requirements for issuance of adjunct teaching certificates.

Section 6: Requiring the Department of Education to submit a report on ways to expand digital learning statewide and strategies for implementing part-time virtual education in kindergarten through grade 5.

Section 7: Providing an effective date of July 1, 2011.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.