

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7117 PCB EDC 14-02 School Accountability

SPONSOR(S): Education Committee, Adkins

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	15 Y, 2 N, As CS	Brink	Mizereck
1) Education Appropriations Subcommittee		Seifert	Heflin

SUMMARY ANALYSIS

On February 24, 2014, the Commissioner of Education (commissioner), pursuant to an executive order issued by Florida Governor Rick Scott, presented to the House Education Committee various recommended changes to the school accountability and teacher evaluation systems in Florida, including, among other things, simplifying school grades calculations to focus on graduation, earning college credit, and student performance in core subjects; establishing a transition year for purposes of school grades and teacher evaluations as the state administers new statewide assessments in the 2014-2015 school year; and providing greater district and school control in developing local assessments.

Based on the commissioner's recommendations, this bill:

- Simplifies the school grades calculations for elementary, middle, and high schools by eliminating extraneous point categories and focusing on student performance, graduation, and eligibility for college credit;
- Requires development of a district report card which includes indicators of success, such as student performance, closing of the achievement gap among high- and low-performing subgroups, and grade-level promotion of low achieving students;
- Establishes a hold harmless provision for the 2015-2016 school year that insulates schools and districts from any penalty or reclassification based on 2014-2015 grades as new statewide, standardized assessments in mathematics and English language arts are implemented;
- Restructures school improvement rating provisions to make sure alternative schools and exceptional student education (ESE) centers receive ratings and to focus on learning gains for students in alternative schools and ESE centers;
- Authorizes district school boards to adopt teacher- or principal-selected assessments for certain hard-to-measure courses and subjects such as Band or Art;
- Authorizes district school boards to establish performance standards for teacher evaluation ratings for the 2014-2015 school year as new statewide, standardized assessments are implemented and requires the State Board of Education (SBE) to establish performance levels for teacher evaluation ratings beginning with the 2015-2016 school year; and
- Provides for bonus money, subject to appropriation, to school districts that more effectively align teacher evaluations to student performance and utilize local assessments.

In addition, the bill removes the Department of Education's rulemaking authority and instead requires the Hillsborough County School District superintendent to attest annually to the SBE that the district meets criteria relating to the approval of certain personnel evaluation and performance pay provisions.

The bill provides that a student with a medical complexity as documented by a licensed physician may not participate in the state assessment program under certain circumstances.

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

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

On September 23, 2013, Florida Governor Rick Scott issued an executive order establishing the Florida Plan for Education Accountability.¹ The order directs the Commissioner of Education (commissioner) take certain actions with respect to four aspects of the education system in Florida, including procurement of the next statewide, standardized assessments, student data security, the school accountability system, and teacher evaluations.²

With respect to the school accountability system, the order requires the commissioner to recommend to the State Board of Education (SBE) that certain changes be made to the school accountability system in order to “provide stability and clarity to Florida’s students, parents, and teachers during the 2013-14 and 2014-15 school years when schools will transition to new state assessments”³ The order provides that changes during this period would be “limited to inclusion of the U.S. History end of course (EOC) exam, other technical changes directed by statute, and the adoption of [SBE] emergency rules meant to ensure a stable transition.”

The order also directed the commissioner to immediately recommend that the SBE resubmit Florida’s Elementary and Secondary Education Act (ESEA) waiver to “make it clear that Florida will not comply with terms involving Federal overreach into the handling of ELL (English language learners) and ESOL (English for Speakers of Other Languages) student achievement measures in the school accountability system.” The order stated that the commissioner and SBE must “continue to make any necessary recommendations to the Governor and Florida Legislature to further ensure that Florida’s education accountability system is fair and transparent.”⁴

With respect to teacher evaluations, the order directs the commissioner to review participant contributions to the Governor’s education accountability summit⁵ and provide a recommended action plan to ensure successful implementation of teacher evaluations to the Governor, the SBE, and the Legislature.⁶

On February 24, 2014, Commissioner Pam Stewart presented to the House of Representatives Education Committee a proposed Florida School Accountability Plan, which includes recommendations related to school grades, teacher evaluations, and stability during the transition to new state assessments.⁷ Recommendations for school grades are intended to simplify the grading calculations to

- Focus on student success measures, including achievement, learning gains, graduation, and earned college credit and/or industry certifications;
- Require students scoring below grade level to grow toward grade level performance and students already scoring at grade level to progress beyond grade level performance; and
- Ensure that the level of performance associated with an A-F school is transparent.⁸

¹ Executive Order No. 13-276 (2013).

² *Id.*

³ *Id.* at 2.

⁴ *Id.* at 3.

⁵ The education accountability summit, August 26-28, 2013, was a three-day event that in which a panel of Florida education leaders gathered to discuss the sustainability and transparency of the state’s accountability system to ensure each student has the opportunity to succeed. The summit focused discussion on four strategic priorities: state standards, state standard assessments, school grades, and teacher evaluations, a/k/a, “The Four Horsemen.” See Florida Department of Education, Media Advisory, http://www.fldoe.org/news/2013/2013_08_26.asp (last visited March 3, 2014).

⁶ Exec. Order No. 13-276 (2013).

⁷ Commissioner of Education, *Proposed School Accountability Plan: hearing before the House Education Committee* (Feb. 24, 2014).

⁸ *Id.*

In addition, the commissioner recommended establishing baseline scores in the first year of implementation of new state assessments in the 2014-2015 school year. This would delay by one year consequences based upon student performance and learning gains on the new assessments. The commissioner's presentation included proposed calculations for elementary schools, middle schools, and high schools.⁹

With respect to teacher evaluation, the commissioner's recommendations are to:

- Allow districts to set teacher performance standards through the 2014-2015 transitional school year to help stabilize implementation for local teacher and principal evaluations;
- Provide districts that are showing student success with flexibility in deciding a portion of the student performance component of the evaluation; and
- Further define options for implementing local student assessments to ensure best choices for students in all courses. This is intended to support evaluations based on actual teacher course assignments and evaluation systems that are locally sustainable.¹⁰

School Grades

Present Situation

Each year, the commissioner must prepare reports of the statewide assessment program which describe student achievement in the state, each district, and each school. The reports must include descriptions of the performance of all schools participating in the assessment program and all of their major student populations.¹¹

The annual reports must identify schools as having one of the following grades:

- "A," for schools making excellent progress;
- "B," for schools making above average progress;
- "C," for schools making satisfactory progress;
- "D," schools making less than satisfactory progress; and
- "F," for schools failing to make adequate progress.¹²

In addition to annual reports prepared by the commissioner, school grades are reported using school report cards, which are developed by the Florida Department of Education (DOE) in collaboration with school districts.¹³ The school report cards are provided by the school district to parents within the district. Each school's report card must include the school's grade, information regarding school improvement, an explanation of school performance as evaluated by the Elementary and Secondary Education Act (ESEA),¹⁴ and indicators of return on investment. Each report card must be published annually on the DOE's website.¹⁵

The school grade calculations are different for elementary schools (kindergarten to grade five), middle schools (grades six to eight), and high schools (grades nine to 12), but each is based on the total points earned across all calculation components. In addition, a school's grade is lowered one letter grade if:

- Fewer than 50 percent of the lowest performing 25 percent demonstrate gains or show annual improvement on statewide assessments for reading and mathematics;
- Fewer than 25 percent of the school's students are reading at or above grade level; or

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 1008.34(1), F.S.

¹² Section 1008.34(2), F.S.

¹³ Section 1008.34(5), F.S.

¹⁴ 20 U.S.C. ss. 6301 *et seq.* The ESEA, as reenacted through the No Child Left Behind of 2001 (NCLB), establishes state student assessment program requirements. *See* Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002).

¹⁵ Section 1008.34(5), F.S.

- If an “A” school, fewer than 95 percent of eligible students take the state assessments.¹⁶

If less than 90 percent of a school’s students take the state assessments, then the commissioner must withhold designation of the school’s grade until the data are determined, after investigation, to accurately represent the performance of the school.¹⁷ A school is ineligible to earn a grade of “D,” “C,” or “B” if fewer than 90 percent of its students are assessed.¹⁸ The commissioner is authorized to designate a school grade for each school that has at least 10 eligible students with valid assessment score in reading and at least 10 eligible students with valid assessment scores in mathematics in both the current year and the previous year for each subject.¹⁹

Current Elementary School Grade Calculation (800 possible points)²⁰

Reading	Math	Writing	Science
Achievement			
(100 points)	100 points)	(100 points)	(100 points)
Learning Gains – with additional weights for certain types of gains			
(100 points)	(100 points)		
Low 25% Learning Gains – with additional weights for certain types of gains			
(100 points)	(100 points)		
(300 points)	(300 points)	(100 points)	(100 points)
A school grade is lowered one letter grade below what the point total indicate if: <ul style="list-style-type: none">Fewer than 50% of the Low 25% demonstrate gains in reading and mathematics (or show annual improvement)Fewer than 25% of students are reading at or above grade levelFewer than 95% of eligible students are tested, and the school earned enough points for an “A”			

Current Middle School Grade Calculation (900 possible points)

Reading	Math	Writing	Science	Acceleration
Achievement				Middle School Students’
(100 points)	(100 points)	(100 points)	(100 points)	

¹⁶ See rule 6A-1.09981, F.A.C.

¹⁷ Rule 6A-1.09981(9)(b)1., F.A.C. The commissioner must also withhold designation of a school grade if circumstances identified before, during, or following the administration of any state assessment where the validity or integrity of the test results are called into question and are subject to an investigation or review as determined by the DOE. During such time, the school grade is incomplete (“I”) until such time as the investigation is complete and the data are determined to accurately represent the performance of the school.

Rule 6A-1.09981(9)(b)2., F.A.C.

¹⁸ Rule 6A-1.09981(1)(a)4., F.A.C.

¹⁹ Rule 6A-1.09981(3)(a)3., F.A.C.

²⁰ This calculation also serves as the basic calculation upon which the calculations for middle and high schools are based. See section 1008.34(3)(b), F.S.; rule 6A-1.09981(5)(a), F.A.C.

Learning Gains - with additional weights for certain types of gains				Participation in and Performance on High School Level EOC assessments and Industry Certifications (100 points)
(100 points)	(100 points)			
Low 25% Learning Gains - with additional weights for certain types of gains				
(100 points)	(100 points)			
(300 points)	(300 points)	(100 points)	(100 points)	(100 points)
A school grade is lowered one letter grade below what the point total indicate if: <ul style="list-style-type: none">Fewer than 50% of the Low 25% demonstrate gains in reading and mathematics (or show annual improvement)Fewer than 25% of students are reading at or above grade levelFewer than 95% of eligible students are tested, and the school earned enough points for an “A”				

Current High School Grade Calculation (1,600 possible points)

Assessment Components – 50%				“Other” Components – 50%			
Reading	Mathematics (Algebra, Geometry)	Writing	Science (Biology)	Acceleration	Graduation Rate	College Readiness	Social Studies (US History)
Achievement				Participation & Performance in AP, IB, AICE, dual enrollment, and/or industry certification – with additional weights for multiple participation & performance (100 points for Participation) (100 points for Performance)	A total of four graduation rates (200 points) Overall, 4-year (100 points) Overall, 5-year (100 points) At-Risk, 4-year (50 points) At-risk, 5-year (50 points)	Percent of graduates that are “college ready” based on SAT, ACT, and/or PERT Reading (100 points) Math (100 points)	Student achievement on U.S. History EOC Assessment (100 points)
(100 points)	(100 points)	(100 points)	(100 points)				
Learning Gains - with additional weights for certain types of gain							
(100 points)	(100 points)						
Low 25% Learning Gains – with additional weights for certain types of gains							
(100 points)	(100 points)						
(300 points)	(300 points)	(100 points)	(100 points)	(200 points)	(300 points)	(200 points)	(100 points)
A school grade is lowered one letter grade below what the point total indicate if: <ul style="list-style-type: none">Fewer than 50% of the Low 25% demonstrate gains in reading and mathematics (or show annual improvement)Fewer than 25% of students are reading at or above grade levelFewer than 65% of at-risk students graduate from high school, and the school earned enough points for an “A”Fewer than 95% of eligible students are tested, and the school earned enough points for an “A”							

Each public high school is currently required to provide for the administration of either the Preliminary SAT/National Merit Scholarship Qualifying Test or Preliminary ACT to all enrolled 10th grade students.²¹ Results from these tests provide each high school with a database of student assessment data which certified school counselors use to identify students who are prepared or who need additional work to be prepared to enroll and be successful in Advanced Placement (AP) courses or other advanced high school courses.²² Funding for these tests is contingent upon annual funding in the GAA.²³

²¹ Section 1007.35(5), F.S.

²² Section 1007.35(a), F.S.

²³ Section 1007.35(5)(b), F.S.

Effect of Proposed Changes

The bill defines the following terms for purposes of the statewide, standardized assessment and school grades systems:

- "Achievement level," "student achievement," or "achievement" describes the level of content mastery a student has acquired in a particular subject as measured by a statewide, standardized assessment. There are five achievement levels. Level 1 is the lowest achievement level, level 5 is the highest achievement level, and level 3 indicates satisfactory performance. A student passes an assessment if the student achieves a level 3, level 4, or level 5. For purposes of the Florida Alternate Assessment, the SBE must provide, in rule, the number of achievement levels and identify the achievement levels that are considered passing.
- "Learning Gains," "annual learning gains," or "student learning gains" means the degree of student learning growth occurring from one school year to the next as required by state board rule for purposes of calculating school grades.
- "Student performance," "student academic performance," or "academic performance" includes, but is not limited to, student learning growth, achievement levels, and Learning Gains on statewide, standardized assessments.

Rather than basing school grades on a total of points earned across the various school grade components, the bill requires grades to be based on the percentage of total points earned by a school. In addition, the bill, pursuant to the commissioner's recommendations, eliminates certain components of the school grade calculations to focus more closely on graduation, earning college credits and/or industry certifications, and student performance in the core subjects of English language arts, mathematics, science, and social studies.

The revised calculations are as follows:

Revised Elementary School Grade Calculation (700 possible points, compared to current 800)

English Language Arts (ELA)	Math	Science
Achievement		
(0% to 100%) (100 points)	(0% to 100%) (100 points)	(0% to (100%) (100 points)
Learning Gains All Students		
(0% to 100%) (100 points)	(0% to 100%) (100 points)	
Lowest 25% Learning Gains		
(0% to 100%) (100 points)	(0% to 100%) (100 points)	
(300 points)	(300 points)	(100 points)

Revised Middle School Grade Calculation (800 possible points, compared to current 900)

ELA	Math	Social Studies (Civics)	Science	Acceleration
Achievement				Percent of Students with an Acceleration Success (0% to 100%) (100 points)
(0% to 100%) (100 points)	(0% to 100%) (100 points)	(0% to 100%) (100 points)	(0% to 100%) (100 points)	
Learning Gains All Students				
(0% to 100%) (100 points)	(0% to 100%) (100 points)			

Low 25% Learning Gains				
(0% to 100%) (100 points)	(0% to 100%) (100 points)			
(300 points)	(300 points)	(100 points)	(100 points)	(100 points)

Revised High School Grade Calculation (1,000 possible points, compared to current 1600)

Assessment Components				Grad Rate	Acceleration
ELA	Math (Algebra, Geometry)	Social Studies (U.S. History)	Science (Biology)		
Achievement				4 Year Graduation Rate (0% to 100%) (100 points)	Percent of Students with an Acceleration Success (0% to 100%) (100 points)
(0% to 100%) (100 points)	(0% to 100%) (100 points)	(0% to 100%) (100 points)	(0% to 100%) (100 points)		
Learning Gains All Students					
(0% to 100%) (100 points)	(0% to 100%) (100 points)				
Low 25% Learning Gains					
(0% to 100%) (100 points)	(0% to 100%) (100 points)				
(300 points)	(300 points)	(100 points)	(100 points)	(100 points)	(100 points)

With respect to student learning gains in English language arts and mathematics, the SBE must require that learning growth toward achievement levels 3, 4, and 5 be demonstrated by students who scored below each of those levels in the prior year.

In addition, the bill establishes the following requirements relating to school grades:

- The calculation must be based on the percentage of points earned;
- There must not be any provision that would raise or lower the school's grade beyond the percentage of points earned;
- Extra weight may not be added to the calculation of any components; and
- For a school that does not have at least ten students with complete data for one or more of the components that comprise the school grade, those components may not be used in the calculation.

The bill requires the SBE to periodically review the school grading scale to determine if the scale should be adjusted upward to meet raised expectations and encourage increased student performance. The SBE must also adopt in rule a school grading scale that sets the percentage of points needed to earn each school grade. There must be at least five percentage points to separate the percentage thresholds needed to earn each school grade.

The bill provides school districts discretion to allow schools that receive a grade of "A" or improve at least two letter grades greater budgetary authority. This discretion was originally granted to the SBE to be specified in state board rule; however, no state board rule was ever adopted.

The bill eliminates redundant annual reporting requirements for the commissioner. Instead, the bill retains preparation of school report cards and requires the development of district report cards. The bill requires each school report card to include, among other items already required by law, student performance in English language arts, mathematics, science, and social studies.

District Grades

Present Situation

The annual report prepared by the commissioner for each school district must include a grade for the district.²⁴ The grade is calculated using district student performance and learning gains data on state assessments in reading and mathematics and student performance on science and writing state assessments.²⁵

Effect of Proposed Changes

The bill requires the DOE to develop a district report card, rather than an annual report by the commissioner, that includes the district's grade as well as:

- Measures of the district's progress in closing the achievement gap between higher- and lower-performing subgroups;
- Measures of the district's progress in demonstrating learning gains of its highest-performing students;
- Measures of the district's success in improving student attendance;
- The district's grade-level promotion of students scoring achievement levels 1 and 2 on statewide, standardized English language arts and mathematics assessments; and
- Measure of the district's performance in preparing students for the transition from elementary to middle school, middle to high school, and high school to postsecondary institutions and careers.

School Improvement Rating

Present Situation

The commissioner's annual report must identify each school's performance as having improved, remained the same, or declined.²⁶ The school improvement rating must be based on a comparison of current year and previous year student and school performance data. Schools that improve their ratings by at least one level are eligible for school recognition awards.²⁷

An alternative school or exceptional student education (ESE) center may opt for a school improvement rating instead of a school grade. For charter schools that meet the definition of an alternative school, i.e., charter alternative schools, the decision to receive a school grade is the decision of the charter school governing board.²⁸ The school improvement rating must consider:

- The aggregate scores on statewide assessments for all eligible students who were assigned to and enrolled in the school during the October or February FTE count and who have statewide assessment scores for the preceding school year;²⁹ and
- The aggregate scores on statewide assessments for all eligible students who were assigned to and enrolled in the school during the October or February FTE count and who have scored in the lowest 25th percentile of students in the state on the statewide reading assessment.³⁰

The achievement scores and learning gains of eligible students attending alternative schools that receive a school improvement rating are credited back to the home school for inclusion the home school's grade calculation. "Home school" means the school to which the student would be assigned if

²⁴ Section 1008.34(7), F.S.

²⁵ *Id.* The calculation includes students who transfer between schools in the district or who are enrolled in a school that does not receive a grade.

²⁶ Section 1008.34(4), F.S.

²⁷ *Id.*

²⁸ Section 1008.34(3)(a)2., F.S.

²⁹ Section 1008.341(3)(a), F.S.

³⁰ Section 1008.341(3)(b), F.S.

the student were not assigned to an alternative school.³¹ Alternative schools include ESE Centers for the purposes of school accountability.

The three possible school improvement ratings include:

- “Improving” – students are making more academic progress at the alternative school than when the students were served in their home schools;
- “Maintaining” – students are making progress at the alternative school equivalent to academic progress made when the students were served in their home schools; or
- “Declining” – students are making less academic progress at the alternative school than when the students were served in their home schools.³²

In order to receive a school improvement rating, an alternative school must have a minimum of 10 students with valid statewide assessment scores in reading for the current and previous two years and a minimum of 10 students with valid statewide assessment scores in mathematics for the current and previous two years.³³ Only alternative schools that test at least 80 percent of their students may receive a school improvement rating, and if an alternative school tests less than 90 percent of its students, the school may not earn a rating higher than “maintaining.”

The achievement scores and learning gains of students attending ESE centers who were not enrolled in or in attendance at a public school other than an ESE center within the school district during the previous three years are not included in the grade of the students’ home school.³⁴

Effect of Proposed Changes

To more accurately describe the progress of alternative schools and ESE centers, the bill changes the school improvement rating designations of “improving” and “declining” to “commendable” and “unsatisfactory,” respectively. The bill retains the “maintaining” designation. In addition, the bill eliminates comparison to previous student performance at a student’s home school for purposes of calculating the alternative school’s or ESE center’s school improvement rating. Instead, the bill amends the components of the school improvement rating for alternative schools and ESE centers. The components include:

- The percentage of eligible students who make learning gains in English language arts as measured by statewide, standardized assessments; and
- The percentage of eligible students who make learning gains in mathematics as measured by statewide, standardized assessments.

The bill amends the calculation to no longer take into consideration the performance of students who have scored in the lowest 25th percentile of students in the state on the reading statewide, standardized assessment.

To provide focus on student learning gains at alternative schools, the bill provides that, beginning with the 2016-2017 school year, an alternative school that does not meet the requirements for issuance of a school improvement rating and has not received a rating for the past two consecutive years must receive a rating for the current year based on all student learning gains for all grades levels at the school for those three years.

The bill provides that if an alternative school does not have at least 10 students with complete data for a school improvement rating component, that component may not be used in calculating the school’s

³¹ Section 1008.34(3)(c)3., F.S.; cf. rule 6A-1.099822(6), F.A.C. (stating that the student performance of eligible students shall be included in the students’ home school’s grade as well as the school’s school improvement rating, if the school is not a charter alternative school). This presumes that students are not assigned to charter alternative schools.

³² *Id.*

³³ Rule 6A-1.099822(5)(a), F.A.C.

³⁴ Section 1008.3415(2), F.S.

improvement rating. To make certain that the school still receives a rating, the bill requires the rating to be calculated based on the percentage of points earned from the English language arts and mathematics learning gains components.

Transition Year

The 2013-2014 school year is the final year in which the current statewide assessments,³⁵ are used to calculate school grades, school improvement ratings, and district grades and evaluate public education personnel. This coincides with the transition to full instruction based on Florida's new state standards, adopted by the SBE on February 18, 2014, in the 2014-2015 school year.³⁶ In addition, the SBE is currently reviewing proposals by several third party test developers for the development of new statewide assessments aligned to the new state standards.³⁷

When Florida students take the new assessments for the first time during the 2014-2015 school year, student performance level expectations, also called "cut scores," will not yet exist. Because the 2014-2015 assessments will be different than the 2013-2014 assessments, basing school accountability measures and evaluations on growth in student performance and learning gains compared to the 2013-2014 assessments may result in consequences that do not accurately reflect the actual performance of students.

Accordingly, based on recommendations the commissioner made to the House Education Committee on February 24, 2014,³⁸ the bill establishes a hold harmless provision that insulates schools from any penalty or reclassification that would otherwise result from the school's 2014-2015 grade. The bill establishes the 2014-2015 school year as an informational baseline for schools to work toward improved performance in future years. Thus, a school may not be required to select and implement a turnaround option³⁹ in the 2015-2016 school year based on the school's 2014-2015 grade or school improvement rating. In addition, a school or virtual instruction program that receives the same or a lower school grade or school improvement rating for the 2014-2015 school year compared to the 2013-2014 school year would not be subject to sanctions or penalties that would otherwise occur as a result of the 2014-2015 school grade or rating. Furthermore, a charter school system or a school district designated as high performing may not lose its designation based on the 2014-2015 school grades of any of the schools within the charter school system or school district. The Florida School Recognition Program⁴⁰ will continue to be implemented as otherwise provided by the General Appropriations Act.

Beginning with the 2016-2017 school year, schools would again be subject to consequences related to school grades and improvement ratings earning in the 2015-2016 school year.

Student Participation in the Statewide Assessment Program

Present Situation

The commissioner is required to design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of public schools, including schools operating for the purpose of providing educational services to youth in Department of

³⁵ Statewide assessments include FCAT writing, FCAT 2.0, and end of course (EOC) assessments. *See* Section 1008.22, F.S.

³⁶ Florida State Board of Education, Minutes of Feb. 18, 2014 State Board of Education Meeting (2014), *available at* http://www.fldoe.org/board/meetings/2014_02_18/agenda.asp.

³⁷ Commissioner of Education, *Proposed Florida Education Plan for 2014-2016; hearing before the House Education Committee* (Feb. 6, 2014).

³⁸ *See supra* text accompanying note 7.

³⁹ A school that earns a grade of "F" or earns a grade of "D" for three consecutive years must select and implement a turnaround option. Turnaround options include converting the school to a district-managed turnaround school; reassigning students to another school and monitoring the progress of each reassigned student; closing the school and reopening the school as one or more charter schools, each with a governing board with a demonstrated record of effectiveness; contracting with an outside entity that has a demonstrated record of effectiveness to operate the schools; or implementing a hybrids turnaround options. *See* Section 1008.33(4), F.S.

⁴⁰ Section 1008.36, F.S.

Juvenile Justice programs. The student achievement and assessment program includes the Florida Comprehensive Assessment Test (FCAT), end-of-course assessments, and the Florida Alternate Assessment (FAA), which measure student content knowledge and skills, as adopted by the State Board of Education, and measure and report student performance levels of all students assessed in reading, writing, mathematics, and science.⁴¹

Participation in the assessment program is mandatory for all students attending public schools, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner.⁴² Pursuant to an agreement between the DOE and the U.S. Department of Education, state board rule requires that 95 percent of a school's students be tested under the assessment program in order for the school to be eligible to earn a school grade of "A."⁴³

The Individuals with Disabilities Education Act (IDEA) requires each state to have in effect policies and procedures to assess progress toward achieving goals for the academic performance of children with disabilities, including measuring annual objectives under the state assessment program.⁴⁴ Such students are assessed under a state assessment program either with accommodations or by using an alternate assessment, as determined by a student's Individual Education Plan (IEP) team.⁴⁵

The DOE has implemented the FAA to accurately measure the core curricular content established in the state academic standards for students with disabilities under s. 1003.438.⁴⁶ An IEP team may determine that a student with a significant cognitive disability meets the criteria for participating in the FAA based on specified criteria.⁴⁷ In addition, assessment results for a student with a disability may be waived if the student's IEP team determines that assessments under Florida's assessment program⁴⁸ cannot accurately measure the student's abilities, taking into consideration all allowable accommodations, for the purpose of receiving a course grade or standard high school diploma.⁴⁹

Although federal law generally requires all children with disabilities to participate in state assessment programs,⁵⁰

There could be rare situations . . . where the IEP team, after careful deliberation, may determine that an alternate assessment based on alternate academic achievement standards is not appropriate. We believe that this situation would be extremely rare, particularly because such determinations are individualized based on a child's particular circumstances, and IEP Teams have flexibility in determining how to assess a student's academic performance and functional achievement Therefore, it would be inconsistent with the IDEA to create an across-the-board exemption from taking an alternate assessment for a category of children, even those with . . . extremely rare types of disabilities . . . , as this is a determination that the IDEA assigns to each child's IEP Team.⁵¹

Under Florida law, if a student's IEP team determines that certain circumstances⁵² or conditions⁵³ prevent the student from physically demonstrating the mastery of skills that have been acquired and

⁴¹ Section 1008.22(3), F.S.; rule 6A-1.09981(1), F.A.C. The Florida Alternate Assessment is used to measure student performance in reading, mathematics, science, and writing. *Id.*

⁴² Section 1008.22(3), F.S.

⁴³ See Letter from Arne Duncan, Sec'y, U.S. Dep't of Educ., to Gerard Robinson, Comm'r, Fla. Dep't of Educ. (Feb. 9, 2012), available at <http://www.fldoe.org/esea/pdf/WaiverApprovalLetter.pdf>; rule 6A-1(a)4., F.A.C.

⁴⁴ See 20 U.S.C. s. 1412(a)(15)(B).

⁴⁵ 20 U.S.C. s. 1412(a)(16)(A).

⁴⁶ Section 1008.22(3)(c)13, F.S.

⁴⁷ Rule 6A-1.0943(5), F.A.C.

⁴⁸ Section 1008.22, F.S.

⁴⁹ Section 1008.22(3)(c)2., F.S.

⁵⁰ 20 U.S.C. 1412(a)(16)(A).

⁵¹ Email, U.S. Dep't of Educ., Office of Special Education and Rehabilitative Services (May 4, 2013).

⁵² "Circumstance" is defined as a situation in which accommodations allowable for use on the statewide standardized assessment, a statewide standardized end-of-course assessment, or an alternate assessment are not offered to a student during the current year's assessment administration due to technological limitations in the testing administration program which lead to results that reflect the

are measured under the assessment program, including the FAA, the IEP team may apply for an extraordinary exemption from administration of the assessment using a procedure, culminating in a final decision made by the Florida Commissioner of Education, established by state law and state board rule.⁵⁴

Effect of Proposed Changes

The bill defines the term “child with medical complexity” to mean a child who is medically fragile and needs intensive care due to a condition such as a congenital or acquired multisystem disease or who has a severe neurologic condition with marked functional impairment.

The bill provides that a student may not participate in statewide, standardized assessments, including taking the FAA, if the student’s IEP team, with parental consent, determines that it is inappropriate for the child to participate. The amendment requires the IEP team’s determination to be based upon compelling medical documentation from a physician licensed under chapter 458 stating that the student is a child with a medical complexity and lacks the capacity to take or perform on an assessment. The determination is subject to approval by the district school superintendent, who must report annually to the district school board and the DOE the number of students with medical complexity that are not participating in the assessment program.

Public School Personnel Evaluations

Evaluation Requirements and Components

All instructional personnel⁵⁵ and school administrators employed by Florida’s public school districts must undergo an annual performance evaluation based on sound educational principles and contemporary research in effective educational practices.⁵⁶ The evaluation criteria for instructional personnel include student performance, instructional practice, and professional and job responsibilities.⁵⁷ Likewise, the evaluation criteria for school administrators include student performance and professional and job responsibilities. Instructional leadership practices are also included in school administrator evaluations.⁵⁸

Each district superintendent must establish procedures for evaluating the performance of all instructional personnel and school administrators employed by the school district.⁵⁹ The superintendents must also report evaluation results to the DOE by December 1 each year.⁶⁰ The DOE approves all district evaluation systems and monitors implementation for compliance with law.⁶¹

student’s impaired sensory, manual, or speaking skills rather than the student’s achievement of the benchmarks. Section 1008.212(1)(a), F.S.

⁵³ “Condition” is defined as an impairment, whether recently acquired or longstanding, which affects a student’s ability to communicate in modes deemed acceptable for statewide assessments, even with accommodations provided, and results in reflecting the student’s impaired sensory, manual, or speaking skills rather than the student’s achievement of the benchmarks. Section 1008.212(1)(b), F.S.

⁵⁴ Section 1008.212(2), F.S.; rule 6A-1.0943, F.A.C.

⁵⁵ Instructional personnel include classroom teachers and other instructional personnel, such as certified school counselors, librarians, and learning resource specialists. Section 1012.01(2), F.S. Although substitute teachers are classified as classroom teachers, the law specifically excludes them from performance evaluation requirements. Section 1012.34(3)(a), F.S.

⁵⁶ Section 1012.34(3)(a), F.S. Newly hired classroom teachers are evaluated twice in their first year of teaching in a school district.

Id.

⁵⁷ Section 1012.34(3)(a)1., 2., and 4., F.S. School administrator evaluation criteria include instructional leadership. Section 1012.34(3)(a)3., F.S.

⁵⁸ Section 1012.34(3)(a)3., F.S.

⁵⁹ Section 1012.34(1)(a), F.S.

⁶⁰ Section 1012.34(1)(c), F.S.

⁶¹ Section 1012.34(1)(b), F.S.

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Public school personnel evaluations must be used to designate instructional personnel and school administrators as “highly effective,” “effective,” “needs improvement” (or, for instructional personnel in the first three years of employment who need improvement, “developing”), or “unsatisfactory.”⁶² Evaluations occur annually, except classroom teachers newly hired by a district are evaluated twice during their first year.⁶³

Evaluations must be comprised of the following components:

Student Performance

Student performance includes data and indicators of student learning growth based on student performance on annual statewide assessments or, for subjects and grade levels not tested by statewide assessments, school district assessments.⁶⁴ Student performance must constitute at least 50 percent of a classroom teacher’s or school administrator’s evaluation.⁶⁵ Student learning growth is measured under a formula approved by the Commissioner of Education and to be adopted in rule by the State Board of Education (SBE).⁶⁶ The formula is known as the “value added model” (VAM).⁶⁷

For classroom teachers, student performance must include student learning growth data for students assigned to the teacher over the course of at least 3 years. If less than 3 years of data are available, then student performance may comprise no less than 40 percent of the evaluation.⁶⁸

For other instructional personnel who are not classroom teachers, student performance must include student learning growth data on statewide assessments for assigned students over the course of at least 3 years⁶⁹ and must comprise at least 30 percent of the evaluation or, if less than 3 years of data are available, then not less than 20 percent.⁷⁰

For school administrators, student performance must include student learning growth data for students assigned to the school over the course of at least 3 years. If less than 3 years of data are available, then student performance may comprise no less than 40 percent of the evaluation.⁷¹

Measurement of student learning growth for classroom teacher evaluations varies according to the subjects and grades taught by the teacher, as follows:⁷²

- For classroom teachers of courses tested by a statewide assessment, student learning growth on such assessments must be used.⁷³
- For classroom teachers of courses measured by a school district assessment, student learning growth on such assessments must be used; however, school districts may request DOE approval to use:

⁶² Section 1012.34(2)(e), F.S.

⁶³ Section 1012(3)(a), F.S.

⁶⁴ Sections 1012.34(3)(a)1. and 1008.22(6), F.S. Each school district must publish on its website schedules for the administration of district assessments and report the schedule to the DOE each year by October 1. Section 1008.22(6)(d), F.S.

⁶⁵ *Id.*

⁶⁶ Section 1012.34(8), F.S.

⁶⁷ Section 1012.34(7)(a), F.S. The DOE has promulgated Rule 6A-5.0411, Calculations of Student Learning Growth Using Statewide Assessment Data for Use in School Personnel Evaluations. However, the rule has not yet been adopted by the SBE. Among other things, the rule must establish a student learning growth standard that must be met in order for an employee to receive a highly effective rating and a student learning growth standard that must be met in order for an employee to receive an effective rating. Section 1012.34(8), F.S.

⁶⁸ Section 1012.34(3)(a)1.a., F.S.

⁶⁹ The student performance component for instructional personnel who are not classroom teachers may include student learning growth data and other measurable student outcomes specific to the position. Section 1012.34(1)(a)1.b., F.S.

⁷⁰ Section 1012.34(3)(a)1.b., F.S.

⁷¹ Section 1012.34(3)(a)1.c.

⁷² School districts must implement assessments for subjects not tested by statewide assessments by the 2014-15 school year. *See s.* 1008.22(8), F.S.

⁷³ Section 1012.34(7)(a)-(b), F.S.

- A student achievement measure or a combination of student learning growth and achievement;⁷⁴ or
- A combination of student learning growth on a school district assessment and on the FCAT Reading or FCAT Mathematics assessments, as long as learning growth on the district assessment is given greater weight.⁷⁵

Instructional Practice

Instructional practice is a component of instructional personnel evaluations which consists of evaluation criteria used in classroom teacher observations.⁷⁶ The evaluation criteria must include indicators based on each of Florida Educator Accomplished Practices (FEAP) established by the SBE in rule.⁷⁷ For instructional personnel who are not classroom teachers, the evaluation criteria must be based on FEAP and may include specific job expectations related to student support.⁷⁸

Instructional Leadership

Instructional leadership is a component of school administrator evaluations and consists of indicators based on each of the principal leadership standards established in state board rule.⁷⁹

Professional and Job Responsibilities

The professional and job responsibilities component of an evaluation must include additional professional and job responsibilities identified in state board rule. District school boards may identify professional and job responsibilities in addition to those identified by the SBE.⁸⁰

School District Assessments

Present Situation

School districts are responsible for measuring student performance in all subjects and grade levels that are not assessed using statewide, standardized assessments.⁸¹ Beginning with the 2014-2015 school year, school districts must administer for each course offered in the district an assessment, referred to either as a district assessment or local assessment, that measures mastery of course content. Such assessments may include:

- Statewide assessments;
- Other standardized assessments, including nationally recognized standardized assessments;
- Industry certification examinations; and
- District-developed or district-selected end-of-course (EOC) assessments.⁸²

The DOE has provided technical assistance and used Race to the Top⁸³ funds for the development of test item banks, a test platform, and grants to school districts for developing assessments for hard-to-measure courses that can be shared across the state.⁸⁴

⁷⁴ Section 1012.34(7)(c), F.S.

⁷⁵ Section 1012.34(7)(d), F.S.

⁷⁶ Section 1012.34(3)(a)2., F.S.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Section 1012.34(3)(a)3., F.S.

⁸⁰ Section 1012.34(3)(a)4., F.S.

⁸¹ Section 1008.22(6)(a), F.S.

⁸² Sections 1008.22(8) and 1012.34(7)(b), F.S. The Commissioner of Education must identify methods to support school districts in the development or acquisition of assessments. Such methods include developing test item banks, facilitating the sharing of assessments among districts, acquiring assessments from state and national curriculum-area organizations, and technical assistance. Section 1008.22(8)(c), F.S.

⁸³ American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009)

Effect of Proposed Changes

Pursuant to the commissioner's recommendation to provide flexibility with respect to hard-to-assess subjects and courses, e.g., Band and Art, the bill authorizes district school boards to adopt teacher- or principal-selected local assessments that, along with district-selected local assessments, may include a variety of assessment formats. These formats include, but are not limited to, project-based assessments, adjudicated performances, and practical application assessments. The bill requires each district school board to adopt policies for the selection, development, administration, and scoring of local assessments and for collection of assessment results. The bill specifies that school districts may not use teacher- or principal-selected assessments for English language arts, mathematics, science, and social studies courses that are used to meet graduation requirements and are not otherwise assessed by statewide, standardized assessments.

The bill also requires each district school superintendent to report student rosters for the purpose of calculating district and statewide student performance and provide instructional personnel the opportunity to review their class rosters for accuracy and to correct any mistakes.

Student Learning Targets

Present Situation

Until July 1, 2015, if a school district, for courses not tested on statewide assessments, has not implemented an assessment or a student learning growth formula for that assessment, the district may use two alternative growth measures—student learning growth on statewide assessments or measurable learning targets. Learning targets must be identified by the school principal based upon the goals of the school improvement plan. Additionally, a district school superintendent may assign student learning growth on statewide assessments to an instructional team, i.e., classroom teachers who serve a common group of students.⁸⁵

Effect of Proposed Changes

The bill retains school district authority through the 2014-2015 school year to establish measurable learning targets for local assessments, including teacher- and principal-selected assessments.

Local Performance Standards

Effect of Proposed Changes

Pursuant to the commissioner's recommendation to promote stability in the education personnel evaluation system during the transition to a new statewide assessment, the bill authorizes school districts, for the 2014-2015 school year only, to establish their own performance standards for teacher evaluation ratings.

Bonus Awards for Districts

Effect of Proposed Changes

⁸⁴ Florida Department of Education, *American Recovery and Reinvestment Act, Procurements*, <http://www.fldoe.org/arra/procurements.asp> (last visited March 5, 2014).

⁸⁵ Section 1012.34(7)(e), F.S.

The bill provides that districts that make outstanding progress toward educator effectiveness are eligible for bonus rewards as provided in the 2014 General Appropriations Act. Districts can demonstrate outstanding progress toward educator effectiveness through implementation of instructional personnel salaries based on performance results and the use of local assessment results in personnel evaluations when statewide, standardized assessments are not administered.

Hillsborough School District Exemption

Present Situation

The Hillsborough County School District is currently allowed to base only 40 percent of an education personnel's evaluation on student performance as a result of its participation in a grant with the Bill and Melinda Gates Foundation⁸⁶ and exemption from certain Race to the Top requirements.⁸⁷ In addition, the Hillsborough County School District is exempt from performance pay provisions.⁸⁸ These exemptions were originally designed to be extended annually with SBE approval based on statutory criteria⁸⁹ and procedures established in state board rule. However, no rules were adopted relating to approval of continued exemptions and, accordingly, no subsequent approval of the exemptions by the SBE has occurred. The statutory exemptions which reflect Hillsborough County School District's partnership with the Bill and Melinda Gates Foundation and its exemption from certain Race to the Top requirements will expire on August 1, 2017, unless reviewed and reenacted by the Legislature.⁹⁰

Effect of Proposed Changes

The bill expressly identifies the Hillsborough County School District as the district permitted to base 40 percent of education personnel evaluations on student performance and exempted from any changes made in 2011 regarding pay for performance. Instead of requiring annual approval by the SBE to extend the exemptions, the bill requires the Hillsborough district school superintendent to attest in writing, by October 1, 2014, and each year thereafter, that the criteria for annual approval has been met. The bill provides that failure to comply with this requirement is grounds for the SBE to revoke the exemption at a public hearing.

The bill deletes language requiring the SBE to adopt rules relating to annual approval of the Hillsborough exemption.

B. SECTION DIRECTORY:

⁸⁶ On November 19, 2009, the Hillsborough County School District received a \$100 million grant award from the Bill and Melinda Gates Foundation. Funds from this grant are to be used to implement several instructional personnel and school administrator quality reforms, including development of a performance evaluation system that is at least 40 percent based upon student performance, use of a value-added student learning growth formula, consideration of performance before instructional personnel tenure is awarded, implementation of performance pay linked to performance evaluations, and granting greater authority to school principals to recruit and dismiss instructional personnel based upon performance. See Staff of the Florida House of Representatives, *Legislative Bill Analysis for CS/HB 7019* (2011), n. 80.

⁸⁷ Florida Department of Education, *Florida's Race to the Top Memorandum of Understanding for Phase 2*, at 10-13 (May 3, 2010), available at <http://www.fldoe.org/arra/pdf/phase2mou.pdf>.

⁸⁸ See section 1012.341(1), F.S.

⁸⁹ Section 1012.341(2) requires the SBE to annually continue the exemptions afforded the Hillsborough County School District upon demonstration by the district that: the instructional personnel and school administrator evaluation systems base at least 40 percent of an employee's performance evaluation upon student performance and that student performance is the single greatest component of an employee's evaluation; the instructional personnel and school administrator evaluation systems adopt the Commissioner of Education's student learning growth formula for statewide assessments as provided by state law; the school district's instructional personnel and school administrator compensation system awards salary increases based upon sustained student performance; the school district's contract system awards instructional personnel and school administrators based upon student performance and removes ineffective employees; and beginning with the 2014-2015 school year and each school year thereafter, student learning growth based upon performance on statewide assessments have significantly improved compared to student learning growth in the district in 2011-2012 and significantly improved compared to other school districts.

⁹⁰ Section 1012.341, F.S.

Section 1. Amends s. 1008.34, F.S., providing definitions for the statewide, standardized assessment program and school grading system; deleting annual reports; revising authority over allocation of a school's budget based on school grades; revising the basis for the calculation of school grades; deleting requirements for a school improvement rating; revising contents of the school report card; deleting provisions relating to performance-based funding policy; revising the basis for the calculation of district grades; requiring the Department of Education to develop a district report card; providing for transition to the revised school grading system.

Section 2. Amends s. 1008.341, F.S., revising the basis for the calculation of the school improvement rating for alternative schools; revising the rating designations and criteria upon which the ratings are determined.

Section 3. Amends s. 1008.3415, F.S., correcting cross-references.

Section 4. Amends s. 1001.42, F.S., revising criteria that necessitate a school's improvement plan to include certain strategies for improving student performance.

Section 5. Amends s. 1002.33, F.S.; revising cross-references.

Section 6. Amends s. 1003.621, F.S., revising cross-references.

Section 7. Amends s. 1008.31, F.S., revising legislative intent for the K-20 education performance accountability system.

Section 8. Amends s. 1008.33, F.S., conforming provisions relating to the state system of school improvement and education accountability.

Section 9. Amends s. 1011.64, F.S., correcting a cross-reference.

Section 10. Amends s. 1008.22, F.S., authorizing use of teacher-selected or principal-selected assessments as a form of local assessment; requiring a district school board to adopt policies relating to selection, development, administration, and scoring of local assessments; defining the term "child with medical complexity"; providing that such a child may not participate in statewide, standardized assessments under certain circumstances.

Section 11. Amends s. 1012.34, F.S., providing information to be included in annual reports on the approval and implementation status of school district personnel evaluation systems; revising provisions relating to the measurement of student learning growth for purposes of personnel evaluation; conforming State Board of Education rulemaking relating to performance evaluations; providing for transition to new statewide, standardized assessments; authorizing bonus rewards to school districts for progress toward educator effectiveness.

Section 12. Amends s. 1012.341, F.S., removing rulemaking authority and establishing a compliance verification process for the exemption from performance evaluation system, compensation, and salary schedule requirements.

Section 13. Provides an effective date of July 1, 2014.

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:

The House budget provides \$5 million for school districts that provided teacher salary increases based on performance results under section 1012.34, F.S., as required in specific appropriation 87, Chapter 2013-14, Laws of Florida.

The restructuring of the school grades process will redistribute the school recognition funds generated by districts and allow the funds to be rewarded to all schools at the same time of year. The redistribution is indeterminate at this time.

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:

The bill requires the SBE to adopt rules relating to the statewide, standardized assessment program and school accountability provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 12, 2014, the Education Committee adopted two amendments and reported the bill favorably as a committee substitute. The first amendment defines the term "child with medical complexity" and provides that a student may not participate in statewide, standardized assessments, including taking the FAA, if the student's IEP team, with parental consent, determines that it is inappropriate for the child to participate. The amendment requires the IEP team's determination to be based upon compelling medical documentation from a physician licensed under chapter 458 stating that the student is a child with a medical complexity and lacks the capacity to take or perform on an assessment. The determination is subject to approval by the district school superintendent, who must report annually to the district school board and the DOE the number of students with medical complexity that are not participating in the assessment program.

The second amendment requires the district school superintendent, in addition to reporting student rosters for the purpose of calculating district and statewide student performance, to provide instructional personnel the opportunity to review their class rosters for accuracy and to correct any mistakes.