

Education Committee

Friday, March 22, 2013

8:00 AM – 10:00 AM

102 HOB

Meeting Packet

Will Weatherford
Speaker

H. Marlene O'Toole
Chair



AGENDA

Education Committee
Friday, March 22, 2013
8:00 AM – 10:00 AM
102 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bill(s):
 - HB 21 Background Screening for Noninstructional Contractors on School Grounds by Perry
 - HB 295 American Founders' Month by Bileca
 - CS/HB 461 Deaf and Hard-of-Hearing Students by Choice & Innovation Subcommittee, Rooney
 - HB 525 Joint Use of Public School Facilities by Raburn
 - CS/HB 609 Bullying in the Public School System by K-12 Subcommittee, Fullwood
 - HB 1027 Broward County Education, Research, and Training Authority, Broward County by Waldman
 - HB 7051 Resident Status for Tuition Purposes by Higher Education & Workforce Subcommittee, Nuñez
 - CS/HB 863 Teacher Preparation and Accountability by Higher Education & Workforce Subcommittee, Spano
 - CS/HB 867 Parent Empowerment in Education by Choice & Innovation Subcommittee, Trujillo, Bileca
- IV. Consideration of the following proposed committee substitute(s):
 - PCS for CS/HB 7009 -- Charter Schools
- V. Closing Remarks and Adjournment

HB 21

2013

1 A bill to be entitled
 2 An act relating to background screening for
 3 noninstructional contractors on school grounds;
 4 amending s. 1012.467, F.S.; requiring the Department
 5 of Education to create a uniform, statewide
 6 identification badge to be worn by noninstructional
 7 contractors signifying that a contractor has met
 8 specified requirements; requiring school district
 9 issuance and recognition of the identification badge;
 10 providing for validity period of the identification
 11 badge; providing for a uniform cost for receipt of the
 12 identification badge to be borne by the contractor;
 13 providing an exception for certain contractors;
 14 providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Subsection (8) is added to section 1012.467,
 19 Florida Statutes, to read:

20 1012.467 Noninstructional contractors who are permitted
 21 access to school grounds when students are present; background
 22 screening requirements.-

23 (8) (a) The Department of Education shall create a uniform,
 24 statewide identification badge to be worn by noninstructional
 25 contractors signifying that a contractor has met the
 26 requirements of this section. The school district shall issue an
 27 identification badge to the contractor, which must bear a
 28 photograph of the contractor. An identification badge shall be

29 issued if the contractor:

30 1. Is a resident and citizen of the United States or a
 31 permanent resident alien of the United States as determined by
 32 the United States Citizenship and Immigration Services;

33 2. Is 18 years of age or older; and

34 3. Meets the background screening requirements under this
 35 section.

36 (b) The uniform, statewide identification badge shall be
 37 recognized by all school districts and must be visible at all
 38 times that a noninstructional contractor is on school grounds.

39 (c) The identification badge shall be valid for a period
 40 of 5 years. If a noninstructional contractor provides
 41 notification pursuant to subsection (6), the contractor shall,
 42 within 48 hours, return the identification badge to the school
 43 district that issued the badge.

44 (d) The Department of Education shall determine a uniform
 45 cost that a school district may charge a noninstructional
 46 contractor for receipt of the identification badge, which shall
 47 be borne by the recipient of the badge.

48 (e) This subsection does not apply to noninstructional
 49 contractors who are exempt from background screening
 50 requirements pursuant to s. 1012.468.

51 Section 2. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 21 Background Screening for Noninstructional Contractors on School Grounds
SPONSOR(S): Perry and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 318

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	12 Y, 0 N	Beagle	Ahearn
2) Education Appropriations Subcommittee	13 Y, 0 N	Seifert	Heflin
3) Education Committee		Beagle <i>GB</i>	Mizereck <i>[Signature]</i>

SUMMARY ANALYSIS

The bill requires the Department of Education (DOE) to create a uniform, statewide identification badge signifying that a noninstructional contractor has satisfied the specified background screening requirements. School districts are responsible for issuing the badges, which must include a photograph of the contractor. A contractor must be issued a badge if he or she is a U.S. resident and citizen or permanent resident alien, 18 years of age or older, and meets the specified background screening requirements.

The badge must be recognized by each Florida school district, visibly worn by the noninstructional contractor when on school grounds, and is valid for five years. DOE must determine a uniform cost that may be charged to a contractor for the badge. Contractors who are exempt from background screening requirements are not required to obtain a badge.

Currently, there is no required uniform, statewide identification badge that signifies that a noninstructional contractor has satisfied background screening requirements. School districts generally issue their own identification badges or proof of clearance.

Noninstructional contractors will be charged a fee for the statewide identification badge, as set by DOE. Currently school districts that issue identification badges set their own fee. There is no way to know at this time whether DOE's set fee will be higher or lower than that currently charged by the districts. However, noninstructional contractors who work in multiple school districts would only be required to obtain and pay for one identification badge, rather than obtaining a badge and paying a fee in each individual district. This may result in reduced costs for noninstructional contractors.

School districts that issue their own identification badges will have to redesign their current system in order to issue the uniform, statewide identification badge. The costs associated with this process are indeterminate. Districts that contract with a vendor for this process may incur costs associated with re-negotiating the contract. Also, a school district that does not originate the background screening and issuance of the statewide identification badge will no longer be able to issue its own badge and charge a corresponding fee.

The bill has an indeterminate fiscal impact. See FISCAL COMMENTS.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Background Screening

Florida law requires individuals who work in, or provide services to, public schools and school districts to undergo a fingerprint-based background screening before being permitted access to school grounds.¹ The individuals who must undergo background screening fall under three personnel classifications - instructional and noninstructional personnel,² noninstructional school district employees and contracted personnel,³ and noninstructional contractors.⁴ The background screening requirements for each personnel classification vary depending upon the individual's duties, whether or not the individual is a school district employee, and the degree of contact the individual has with students.⁵

Noninstructional contractors are vendors of services and contractors who are permitted access to school grounds when students are present, do not have direct contact with students, and are not school district employees.⁶ The noninstructional contractor's fingerprints are submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks. FDLE is responsible for forwarding the fingerprints to the Federal Bureau of Investigation (FBI) for federal criminal records checks.⁷ FDLE provides the results of the criminal records checks to the school district, which must then screen the records against a statutorily prescribed list of disqualifying offenses.⁸ Noninstructional contractors must be screened against nine disqualifying offenses:⁹

- Offenses regarding registration as a sexual offender;¹⁰
- Sexual misconduct with certain developmentally disabled clients;¹¹
- Sexual misconduct with certain mental health patients;¹²
- Terrorism;¹³
- Murder;¹⁴
- Kidnapping;¹⁵
- Offenses related to lewdness and indecent exposure;¹⁶

¹ Sections 1012.32, 1012.465, and 1012.467, F.S. Private schools participating in educational choice scholarship programs must also submit fingerprints of employees and contracted personnel with direct student contact to FDLE. *See* ss. 943.0542 and 1002.421(2)(i), F.S.

² Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. Section 1012.32(2), F.S.

³ Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. Section 1012.465(1), F.S.

⁴ Section 1012.467(2)(a), F.S.

⁵ Sections 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

⁶ Section 1012.467(1)(a) and (2)(a) and (g), F.S.

⁷ Sections 1012.32(2) and 1012.467(2)(a), F.S.

⁸ Section 1012.32(2), F.S. (flush-left provisions at end of subsection; instructional and noninstructional personnel); s. 1012.465(3), F.S. (noninstructional school district employees); s. 1012.467(3), F.S. (noninstructional contractors).

⁹ Section 1012.467(2)(g), F.S.

¹⁰ Section 943.0435(1)(a)1., F.S.

¹¹ Section 393.135, F.S.

¹² Section 394.4593, F.S.

¹³ Section 775.30, F.S.

¹⁴ Section 782.04, F.S.

¹⁵ Section 787.01, F.S.

- Incest;¹⁷ and
- Child abuse, aggravated child abuse, or neglect of a child.¹⁸

If the noninstructional contractor has not been convicted of any of the nine disqualifying offenses, the school district may permit him or her to work on school grounds. School districts generally issue their own identification badges or proof of clearance. School districts are not currently prohibited from disqualifying a noninstructional contractor based upon additional offenses.¹⁹

Background screening is not required for noninstructional contractors who are:

- On school grounds while under the direct supervision of a school district employee or contractor who has been screened;
- Required to undergo level 2 background screening²⁰ for licensure, certification, employment, or other purposes;
- Law enforcement officers;
- Employees or medical directors of an ambulance service;
- Confined to an area where students are not permitted if the site is separated from school grounds by a chain link fence;
- Providing pick-up or delivery services involving only brief visits on school grounds when students are present; and
- Investigators for the Florida High School Athletic Association that have undergone level 2 background screening.²¹

Noninstructional contractors who are exempt from background screening must have their name searched in the FDLE and national sex offender registries. The individual may not be permitted on school grounds if he or she is identified as a sexual predator or sexual offender in the registry search. The school district may not charge the individual a fee for the search.²²

Each noninstructional contractor's fingerprints are retained in the statewide automated fingerprint identification system for five years, at which time the individual must be rescreened.²³ The statewide system enables school districts to screen noninstructional contractors who are new to the district, but who have already had a criminal history check by another district, without having to initiate a new criminal history check. In such cases, the school district checks the database to see if the noninstructional contractor has any new arrests or convictions since the initial screening.²⁴

Additionally, FDLE must periodically search all new arrest fingerprint cards received against the fingerprints retained in the system. If these periodic searches reveal a new arrest on a noninstructional contractor's record, FDLE must notify any school districts that have screened the contractor.²⁵

Each noninstructional contractor must inform his or her employer (or other party to the contract) and the school district within 48 hours if he or she is arrested for any of the nine disqualifying offenses. Willful failure to do so is a third degree felony. If the employer (or other party to the contract) knows of such

¹⁶ Chapter 800, F.S.

¹⁷ Section 826.04, F.S.

¹⁸ Section 827.03, F.S.

¹⁹ Section 1012.467(4), F.S.

²⁰ Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 51 offenses. Instructional and noninstructional personnel and noninstructional school district employees and contractors must undergo level 2 screening. *See ss.* 435.04, 1012.32(2), 1012.465(1), and 1012.56(10), F.S.

²¹ Section 1012.468(2), F.S.

²² Section 1012.468(3), F.S.

²³ Section 1012.467(2)(a) and (e), F.S.; rule 11C-6.010(7), F.A.C.

²⁴ Section 1012.467(2) (d) and (7)(a) F.S.

²⁵ Section 1012.467(2)(c) and (d), F.S.; rule 11C-6.010(4), F.A.C.

offense and allows the contractor access to school grounds when students are present, he or she commits a third degree felony.²⁶

Effect of Proposed Changes

The bill requires the Department of Education (DOE) to create a uniform, statewide identification badge signifying that a noninstructional contractor has satisfied the specified background screening requirements. School districts are responsible for issuing the badges, which must include a photograph of the contractor. A contractor must be issued a badge if he or she is a U.S. resident and citizen or permanent resident alien, 18 years of age or older, and meets the specified background screening requirements.

The identification badge must be recognized by each Florida school district, visibly worn by the noninstructional contractor when on school grounds, and is valid for five years. DOE must determine a uniform cost that may be charged for the badge to a contractor. Contractors who are exempt from background screening requirements are not required to obtain a badge.

Current law requires each noninstructional contractor to inform his or her employer (or other party to the contract) and the school district within 48 hours if he or she is arrested for a disqualifying offense. If the noninstructional contractor provides notification of a disqualifying offense, the bill requires that contractor to return his or her identification badge to the issuing school district within 48 hours.

Currently, when a school district screens noninstructional contractors who are new to the district, but who have already had a criminal history check conducted by another district, the school district uses the statewide automated fingerprint identification system to check for new arrests or convictions that may have occurred since the initial criminal history check. The school district is prohibited from charging the contractor a fee for verifying the results of his or her criminal history check,²⁷ but is not prohibited from charging a fee for issuance of an identification badge. Under the bill, a school district that does not originate the background screening and issuance of the badge will no longer be able to issue its own badge and charge a corresponding fee.

The bill appears to prevent a school district's discretion to disqualify a noninstructional contractor for offenses that are not currently listed as disqualifying offenses. Furthermore, the bill does not require a contractor who is fired by his or her employer to return the badge to the school district or employer.

Finally, the bill requires DOE to determine the cost to a noninstructional contractor for receipt of an identification badge, which must be borne by the recipient of the badge. Currently, the amount school districts charge for the identification badges varies, as does the length of time such badges are valid.

B. SECTION DIRECTORY:

Section 1. Amends s. 1012.467, F.S., relating to background screening of noninstructional contractors on school grounds; requires DOE to create a statewide photo identification badge for noninstructional contractors; requires Florida school districts to accept the badge as proof of the contractor's compliance with specified background screening requirements; provides criteria for issuance of the badge by school districts; provides that the badge is valid for five years; requires return of the badge if a contractor commits a disqualifying offense; requires DOE to determine a uniform cost of the badge charged to contractors; provides an exemption.

Section 2. Provides an effective date of July 1, 2013.

²⁶ Section 1012.467(6), F.S. A third degree felony is punishable by a term of imprisonment not exceeding 5 years or fine not exceeding \$5000. Sections 775.082, and 775.083, F.S.

²⁷ Section 1012.467(2)(f), F.S.

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:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Noninstructional contractors will be charged a fee for the identification badge, as set by DOE. Currently school districts that issue identification badges set their own fee. There is no way to know at this time whether DOE's set fee will be higher or lower than that currently charged by the districts. However, noninstructional contractors who work in multiple school districts would only be required to obtain and pay for one identification badge, rather than obtaining a badge and paying a fee in each individual district. This may result in reduced costs for noninstructional contractors.

D. FISCAL COMMENTS:

School districts that issue their own identification badges will have to redesign their current system in order to issue the uniform, statewide identification badge. The costs associated with this process are indeterminate. Districts that contract with a vendor for this process may incur costs associated with re-negotiating the contract. Also, a school district that does not originate the background screening and issuance of the statewide identification badge will no longer be able to issue its own badge and charge a corresponding fee.

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

None.

1 A bill to be entitled
 2 An act relating to American Founders' Month; providing
 3 a short title; creating s. 683.1455, F.S.; designating
 4 the month of September as "American Founders' Month";
 5 authorizing the Governor to annually issue a
 6 proclamation designating the month and urging
 7 participation; amending s. 1003.44, F.S.; requiring
 8 district school boards to celebrate the American
 9 Founders and the principles inherent in the country's
 10 founding documents by observing American Founders'
 11 Month; providing guidelines for instruction; providing
 12 that instruction may be integrated into the existing
 13 school curriculum; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. This act may be cited as the "American
 18 Founders' Month Act."

19 Section 2. Section 683.1455, Florida Statutes, is created
 20 to read:

21 683.1455 American Founders' Month.—

22 (1) The month of September of each year is designated as
 23 "American Founders' Month."

24 (2) The Governor may annually issue a proclamation
 25 designating the month of September as "American Founders' Month"
 26 and urging all civic, fraternal, and religious organizations and
 27 public and private educational institutions to recognize and
 28 observe this occasion through appropriate programs, meetings,

29 | services, or celebrations in which state, county, and local
 30 | governmental officials are invited to participate.

31 | Section 3. Subsection (2) of section 1003.44, Florida
 32 | Statutes, is amended, and subsections (3) and (4) are added to
 33 | that section, to read:

34 | 1003.44 Patriotic programs; rules.—

35 | (2) Each district school board may allow any teacher or
 36 | administrator to read, or to post in a public school building or
 37 | classroom or at any school-related event, any excerpt or portion
 38 | of the following historic material: the national motto; the
 39 | national anthem; the pledge of allegiance; the Constitution of
 40 | the State of Florida, including the Preamble; the Constitution
 41 | of the United States, including the Preamble; the Bill of
 42 | Rights; the Declaration of Independence; the Mayflower Compact;
 43 | the Emancipation Proclamation; the writings, speeches,
 44 | documents, and proclamations of the presidents of the United
 45 | States, the signers of the Constitution of the United States and
 46 | the Declaration of Independence, and civil rights leaders; and
 47 | decisions of the United States Supreme Court. However, any
 48 | material that is read, posted, or taught pursuant to this
 49 | provision may be presented only from a historical perspective
 50 | and in a nonproselytizing manner. When less than an entire
 51 | document is used, the excerpt or portion must include as much
 52 | material as is reasonably necessary to reflect the sentiment of
 53 | the entire document and avoid expressing statements out of the
 54 | context in which they were originally made. If the material
 55 | refers to laws or judicial decisions that have been superseded,
 56 | the material must be accompanied by a statement indicating that

57 | such law or decision is no longer the law of the land. No
 58 | material shall be selected to advance a particular religious,
 59 | political, or sectarian purpose. ~~The department shall distribute~~
 60 | ~~a copy of this section to each district school board, whereupon~~
 61 | ~~each district school superintendent shall distribute a copy to~~
 62 | ~~all teachers and administrators.~~

63 | (3) (a) Each district school board shall celebrate the
 64 | American Founders and the principles inherent in the country's
 65 | founding documents by observing American Founders' Month in
 66 | September of each year as provided in s. 683.1455. This month
 67 | may be coordinated with Celebrate Freedom Week, which is
 68 | observed pursuant to s. 1003.421.

69 | (b) During American Founders' Month, students may be
 70 | provided instruction that focuses on:

71 | 1. The leading figures present at the country's founding,
 72 | including those who were instrumental in crafting the founding
 73 | documents that institutionalized individual liberty and limited
 74 | government that derives its power from the consent of the
 75 | governed.

76 | 2. The moral and civic virtue, self-sacrifice,
 77 | intellectual genius, and patriotism demonstrated by the
 78 | country's founding fathers.

79 | 3. The founding documents, including, but not limited to,
 80 | the Declaration of Independence, the Constitution of the United
 81 | States, the Bill of Rights, and the Federalist Papers.

82 | 4. The historical and philosophical importance of the
 83 | Declaration of Independence with its emphasis that all people
 84 | "are endowed by their Creator with certain unalienable rights,

85 | that among these are life, liberty, and the pursuit of
 86 | happiness."

87 | 5. The principles inherent in the founding documents,
 88 | including, but not limited to, individual freedom, equality,
 89 | limited representative government, a free market system, civic
 90 | virtue, natural law, and self-evident truth.

91 | (c) The instruction may be integrated into the existing
 92 | school curriculum through methods including, but not limited to,
 93 | supplementing lesson plans, holding school assemblies, or
 94 | providing school-related activities.

95 | (4) The department shall distribute a copy of this section
 96 | to each district school board, whereupon each district school
 97 | superintendent shall distribute a copy to all school
 98 | administrators and instructional personnel at the beginning of
 99 | each school year.

100 | Section 4. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 295 American Founders' Month
SPONSOR(S): Bileca and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 476

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	12 Y, 0 N	Beagle	Ahearn
2) Education Appropriations Subcommittee	13 Y, 0 N	Seifert	Heflin
3) Education Committee		Beagle <i>GB</i>	Mizereck <i>M</i>

SUMMARY ANALYSIS

Florida law requires district school boards to provide instruction regarding the history, significance, and principles of the Declaration of Independence and the Constitution of the United States, flag education, and the arguments in support of adopting our republican form of government. The law provides procedures for singing the national anthem and reciting the pledge of allegiance to the flag of the United States in public schools and school functions. The pledge must be recited daily in all Florida public schools. Additionally, public schools must annually observe Celebrate Freedom Week during the last full week of classes in September. During Celebrate Freedom Week, students must receive specified instruction on the Declaration of Independence and public school principals and teachers must conduct an oral recitation by students of the Declaration of Independence at the beginning of each school day.

The bill designates the month of September as "American Founders' Month" and authorizes the Governor to issue a proclamation urging public and private organizations within the state to celebrate the month. The bill requires district school boards to observe "American Founders' Month" and provide instruction that focuses on celebrating the American founding fathers and their role in drafting the founding documents (e.g., the Declaration of Independence, the Constitution of the United States, the Bill of Rights, and the Federalist Papers) that institutionalized individual liberty and limited government. Celebrations during this month may be coordinated with Celebrate Freedom Week.

During "American Founders' Month" school boards may provide instruction focused upon:

- The leading figures present at the country's founding, including those who were instrumental in crafting the founding documents.
- The "moral and civic virtue, self-sacrifice, intellectual genius, and patriotism" of the founding fathers.
- The importance of the founding documents and the principles inherent in such documents.
- The historical and philosophical importance of the Declaration of Independence and its foundation in natural law.

School boards may integrate instruction provided during "American Founders' Month" into existing school curriculum by supplementing lesson plans, holding school assemblies, or providing school-related activities.

Any fiscal impact created by the bill is expected to be insignificant. See FISCAL COMMENTS.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Required Instruction

Florida law requires each district school board to provide instruction regarding the history, significance, and principles of the Declaration of Independence and the Constitution of the United States, flag education, and the arguments in support of adopting our republican form of government.¹

Patriotic Programs

School boards are authorized to adopt rules that require patriotic programs in district schools which encourage respect for the United States government, the national anthem, and flag. The law also specifies procedures for the singing of the national anthem and recitation of the pledge of allegiance to the flag of the United States in public schools and at school-sponsored functions. The pledge must be recited at the beginning of the day in each public school in the state. Students must be excused from reciting the pledge if their parent submits a written request.²

Any teacher or school administrator may read or post specified historical documents (e.g., the national motto, the national anthem, the pledge of allegiance, the Constitution of the United States, and the Constitution of the State of Florida) in a public school building, classroom, or at any school-related event. Such documents may be read, posted, or taught only from a historical perspective, in a nonproselytizing manner. If an excerpt from a specified historical document is used, such selection must reflect the sentiment of the entire document. If such document refers to laws or judicial decisions that have been replaced or have expired, a statement must accompany the document highlighting that such law or decision is no longer valid.³

Recitation of the Declaration of Independence

Public schools must annually observe Celebrate Freedom Week during the last full week of classes in September. Such observance must include at least three hours of instruction involving an in-depth study of the intent, meaning, and importance of the Declaration of Independence in each social studies class, as determined by each school district. Additionally, public school principals and teachers must conduct an oral recitation by students of the Declaration of Independence at the beginning of each school day or in homeroom to reaffirm the American ideals of individual liberty. Students must be excused from reciting the Declaration of Independence if their parent submits a written request.⁴

Effect of Proposed Changes

The bill designates the month of September as "American Founders' Month" and authorizes the Governor to issue a proclamation urging public and private organizations within the state to celebrate the month. The bill requires district school boards to observe "American Founders' Month" and provide instruction that focuses on celebrating the American founding fathers and their role in drafting the

¹ Section 1003.42(2)(a)-(d), F.S.

² Section 1003.44 (1), F.S. Under federal law, September 17 is designated as Constitution Day and Citizenship Day. The law encourages "civil and educational authorities of States, counties, cities, and towns" "to make plans for the proper observance of Constitution Day and Citizenship Day and for the complete instruction of citizens in their responsibilities and opportunities as citizens of the United States and of the State and locality in which they reside". 36 U.S.C., s. 106.

³ Section 1003.44(2), F.S.

⁴ Section 1003.421, F.S.

founding documents (e.g., the Declaration of Independence, the Constitution of the United States, the Bill of Rights, and the Federalist Papers) that institutionalized individual liberty and limited government. Celebrations during this month may be coordinated with Celebrate Freedom Week.

During "American Founders' Month" school boards may provide instruction focused upon:

- The leading figures present at the country's founding, including those who were instrumental in crafting the founding documents.
- The "moral and civic virtue, self-sacrifice, intellectual genius, and patriotism" of the founding fathers.
- The importance of the founding documents and the principles inherent in such documents.
- The historical and philosophical importance of the Declaration of Independence and its foundation in natural law.

School boards may integrate instruction provided during "American Founders' Month" into existing school curriculum by supplementing lesson plans, holding school assemblies, or providing school-related activities.

Currently, the Department of Education must distribute a copy of the law on patriotic programs to each district school board. District school superintendents must distribute a copy of the law on patriotic programs to all teachers and administrators.⁵ The bill changes the terms "teachers" and "administrators" to "instructional personnel"⁶ and "school administrators."⁷ These terms are the school-based personnel classifications specifically defined in statute.

B. SECTION DIRECTORY:

Section 1. Provides a short title.

Section 2. Creates s. 683.1455, F.S., relating to "American Founders' Month Act," designating the month of September of each year as "American Founders' Month."

Section 3. Amends s. 1003.44, F.S., relating to patriotic programs, requiring district school boards to observe "American Founders' Month;" specifying the focus of instruction during the month; providing that such instruction may be integrated into existing school curriculum; and requiring distribution of specified information to school personnel.

Section 4. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

⁵ *Id.*

⁶ Instructional personnel provide direct instructional services or direct instructional support to students in grades kindergarten through 12. Instructional personnel include classroom teachers; staff who provide student personnel services, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel. Section 1012.01(2), F.S.

⁷ School administrators include school principals, school or career center directors, and assistant principals. School principals and school or career center directors serve as the administrative head of a school. Assistant principals assist the administrative head of a school and include assistant principals for curriculum and instruction. Section 1012.01(3)(c), F.S.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

School districts may provide students with instruction that focuses on the people, the events, the documents, the ideas, and the key principles surrounding the foundation of America. This instruction may be included in existing lesson plans, or taught in school assemblies or other school-related activities. School districts that choose to include this instruction could incur minimal costs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The 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

None.

1 A bill to be entitled
 2 An act relating to deaf and hard-of-hearing students;
 3 amending s. 1003.55, F.S.; requiring the Department of
 4 Education to develop a model communication plan to be
 5 used in the development of an individual education
 6 plan for deaf or hard-of-hearing students; requiring
 7 the department to disseminate the model to each school
 8 district and provide technical assistance; providing
 9 an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsection (6) is added to section 1003.55,
 14 Florida Statutes, to read:

15 1003.55 Instructional programs for blind or visually
 16 impaired students and deaf or hard-of-hearing students.—

17 (6) (a) In developing an individual education plan for a
 18 deaf or hard-of-hearing student, the individual education plan
 19 team must consider the student's language and communication
 20 needs, opportunities for direct communication with peers and
 21 professional personnel in the student's language and
 22 communication mode, and the student's academic level and full
 23 range of needs, including opportunities for direct instruction
 24 in the student's language and communication mode.

25 (b) The Department of Education, in coordination with the
 26 Florida School for the Deaf and the Blind and with input from
 27 education stakeholders, shall develop a model communication plan
 28 which shall be used during the development of a student's

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2013

29 | individual education plan. The model shall be adopted in rule by
30 | the State Board of Education and made available online to all
31 | school districts no later than December 31, 2013. The department
32 | shall provide technical assistance for using the model
33 | communication plan.

34 | Section 2. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 461 Deaf and Hard-of-Hearing Students
SPONSOR(S): Choice & Innovation Subcommittee, Rooney, Jr. and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	13 Y, 0 N, As CS	Ammel	Fudge
2) Government Operations Subcommittee	(ref. Removed)		
3) Education Appropriations Subcommittee	(ref. Removed)		
4) Education Committee		Ammel 	Mizereck 

SUMMARY ANALYSIS

The bill requires the Department of Education and the Florida School for the Deaf and Blind, with input from education stakeholders, to develop a model communication plan that shall be used during the development of an individual educational plan for a deaf or hard-of-hearing student. The bill requires the department to adopt the model in rule and make it available online to all districts no later than December 31, 2013. The department shall provide technical assistance for using the model plan.

For a child who is deaf or hard-of-hearing, current law requires that the IEP team consider: the child's language and communication needs; opportunities for direct communications with peers and professional personnel in the child's language and communication mode; academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode. Florida's individual educational plan currently only requires the IEP team to check two boxes and provide brief statements to indicate that the communications needs have been considered, in accordance with federal law. Still, according to the U.S. Department of Education, despite advances and efforts to improve the outcomes of student with hearing impairments, evidence suggests that students with hearing impairments continue to lag behind their general education peers in academic achievement.

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

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.¹ As the state educational agency, the Department of Education (DOE) must exercise general supervision over all educational programs for children with disabilities in the state, including all programs administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.²

An individual educational plan or individual family support plan must be developed, reviewed, and revised for each eligible student or child with a disability served by a school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements.³ In developing an IEP, the IEP team is required to consider a child's strengths, concerns of the parents for enhancing education, and results of the initial evaluation or most recent evaluation of the child, the academic, developmental, and functional needs of the child, as well as special factors.⁴

In the fall of 2011, 4,098 students were identified as deaf or hard-of-hearing.⁵ Children with disabilities, including those who are deaf or hard-of-hearing, may receive ESE services if they meet specific requirements. Educational options for students with hearing impairments have expanded significantly in the last 30 years in that students are increasingly attending traditional schools and being educated in general education classrooms.⁶ Other developments have changed the classroom experiences of students with hearing impairments in the last three decades as well, including the evolution of implant technology and technologies such as visual or text communication devices and speech-to-print software. Still, according to the U.S. Department of Education, despite advances and efforts to improve the outcomes of students with hearing impairments, evidence suggests that these students continue to lag behind their general education peers in academic achievement.⁷

For a child who is deaf or hard-of-hearing, current law requires that the IEP team consider: the child's language and communication needs; opportunities for direct communications with peers and professional personnel in the child's language and communication mode; academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.⁸ Florida's individual educational plan currently only requires the IEP team to check two boxes and provide brief sentences to indicate that the communications needs have been considered.⁹

The department has developed, in collaboration with the Florida School for the Deaf and Blind and a statewide leadership team, a draft model communication plan that was disseminated to all 67 school

¹ 20 U.S.C. s.1400 et. seq., as amended by P.L. 108-446; 34 C.F.R. s. 300.17.

² 34 C.F.R. s. 300.149.

³ Rule 6A-6.03028(3), F.A.C.

⁴ 20 U.S.C. s.1414(d)(3)(A) and (B).

⁵ *Membership in Programs for Exceptional Students, 2011-12*, DOE State Student Information Database, Table 5.

⁶ *The Secondary School Experiences and Academic Performance of Students With Hearing Impairments*, U.S. Department of Education Institute of Education Sciences National Center for Special Education Research, February 2011 at: <http://ies.ed.gov/pubsearch/pubsinfo.asp?pubid=NCSER20113003>

⁷ *Id.* at 1.

⁸ 20 U.S.C. s. 1414(d)(3)(B)(iv) and Rule 6A-6.03028(3)(g)9., F.A.C.

⁹ Telephone interview with Deaf and Hard-of-Hearing Specialist, Bureau of Exceptional Education and Student Services, Florida Department of Education (Feb. 18, 2013).

districts in November 2012. The model plan requires a more thorough evaluation of the student's needs. Initial feedback is anticipated in late March 2013.¹⁰

Effect of Proposed Changes

The bill requires the Department of Education, in coordination with the Florida School for the Deaf and the Blind, and with input from education stakeholders, to develop a model communications plan that shall be used in the development of an individual educational plan for a student who is deaf or hard-of-hearing. The model must be adopted in State Board of Education rule and be made available to districts on-line no later than December 31, 2013. The department shall provide technical assistance for using the model.

B. SECTION DIRECTORY:

Section 1. Amends s. 1003.55; requiring the Department of Education to develop a model education plan to be used in the development of an individual educational plan for a deaf or hard-of-hearing student; requiring the plan be adopted in State Board of Education rule; and providing a deadline for posting the plan online.

Section 2. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill requires the Department of Education to develop a model communications plan, make it available on-line and then provide technical assistance to districts for using the plan. These requirements can be accomplished within existing departmental resources, so no impact on state expenditures is expected.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹⁰ Telephone interview with Deaf and Hard-of-Hearing Specialist, Bureau of Exceptional Education and Student Services, Florida Department of Education (Feb. 25, 2013).
STORAGE NAME: h0461a.EDC.DOCX
DATE: 3/20/2013

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 State Board of Education to adopt, in rule, the model communication plan.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 12, 2013, the Choice & Innovation Subcommittee reported the proposed committee substitute to HB 461 favorably as a committee substitute. The proposed committee substitute: clarifies the considerations an Individual Educational Plan (IEP) team must address when developing a plan for a student who is deaf or hard-of-hearing; requires the Department of Education (DOE) with the Florida School for the Deaf and Blind and input from stakeholders to develop a model communication plan for use in the IEP development; requires the plan to be adopted in State Board of Education Rule and available online no later than December 31, 2013; and requires the DOE to provide technical assistance in using the model communication plan. This analysis is drafted to the committee substitute as passed by the Choice & Innovation Subcommittee.

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A bill to be entitled
 An act relating to the joint use of public school facilities; creating s. 1013.105, F.S.; providing legislative findings; encouraging each district school board to adopt written policies to promote public access to outdoor recreation and sports facilities on school property, to increase the number of joint-use agreements, and to develop and adopt policies and procedures for an appeal process if negotiations for a joint-use agreement fail; providing duties of district school boards and the Department of Education; creating s. 768.072, F.S.; providing immunity from liability for a district school board that adopts public access policies or enters into a joint-use agreement except in instances of gross negligence or intentional misconduct; providing application; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1013.105, Florida Statutes is created to read:

1013.105 Joint use of public school facilities.-

(1) The Legislature finds that greater access to recreation and sports facilities is needed to reduce the impact of obesity on personal health and health care expenditures. The Legislature further finds that public schools are equipped with taxpayer-funded playgrounds, fields, tracks, courts, and other

29 outdoor recreation and sports facilities that offer easily
 30 accessible opportunities for physical activity for residents of
 31 the community.

32 (2) Each district school board is encouraged to:

33 (a) Adopt written policies to promote public access to the
 34 outdoor recreation and sports facilities on public school
 35 property during nonschool hours when a school-sponsored or
 36 school-related activity is not occurring. A public access policy
 37 should outline the outdoor recreation and sports facilities that
 38 are open to the public and the hours the facilities are open.

39 (b) Increase the number of joint-use agreements entered
 40 into with a local government or a private organization. A joint-
 41 use agreement should specify the terms and conditions for the
 42 shared use of outdoor recreation and sports facilities on public
 43 school property.

44 (c) Develop and adopt policies and procedures providing
 45 for an appeal process in which a party seeking to enter into a
 46 joint-use agreement with a school district pursuant to this
 47 section may file an appeal with the district school
 48 superintendent if the negotiations for such joint-use agreement
 49 fail.

50
 51 Within 30 days after adopting a public access policy or entering
 52 into a joint-use agreement, a district school board shall submit
 53 a copy of the policy or agreement to the Department of
 54 Education.

55 (3) The Department of Education shall:

56 (a) Develop a model joint-use agreement and post the model

57 | agreement on its website.

58 | (b) Post on its website links to or copies of all public
 59 | access policies and joint-use agreements submitted to the
 60 | department by a district school board.

61 | (c) Develop criteria for the acceptance of grants for
 62 | implementing joint-use agreements and post the criteria on its
 63 | website.

64 | Section 2. Section 768.072, Florida Statutes, is created
 65 | to read:

66 | 768.072 Limitation on public school premises liability.-

67 | (1) A district school board is not liable for civil
 68 | damages for personal injury, property damage, or death that
 69 | occurs on a public school property that the district school
 70 | board has opened up to the public, through public access
 71 | policies or joint-use agreements under s. 1013.105, unless gross
 72 | negligence or intentional misconduct on the part of the district
 73 | school board is a proximate cause of the injury, damage, or
 74 | death.

75 | (2) This section does not change liability for injury,
 76 | damage, or death that occurs during school hours or during a
 77 | school-related or school-sponsored activity.

78 | (3) This section does not waive sovereign immunity beyond
 79 | the limited waiver in s. 768.28.

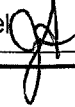

80 | Section 3. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 525 Joint Use of Public School Facilities

SPONSOR(S): Raburn and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 392

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	13 Y, 0 N	Ammel	Fudge
2) Civil Justice Subcommittee	12 Y, 0 N	Bond	Bond
3) Education Committee		Ammel 	Mizereck 

SUMMARY ANALYSIS

Currently, the county and municipalities located within the geographic area of a school district must enter into an interlocal agreement with the district school board. Within the agreement, the parties must jointly establish the specific ways the entities will coordinate their growth and development plans and processes. The agreement must also include a process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency. Some district school boards currently authorize, through their interlocal agreements, public access to sports and recreational facilities on school campuses.

In an effort to address the obesity epidemic, the bill encourages each district school board to adopt written policies to promote public access to outdoor recreation and sports facilities on public school property and to increase the number of joint-use agreements a district school board enters into with local governments or private organizations. A public access policy should outline the outdoor recreation and sports facilities that are open to the public and the hours the facilities are open. A joint-use agreement should set forth the terms and conditions for the shared use of outdoor recreation and sports facilities on public school property.

The Department of Education (DOE) is required to develop and post on its website a model joint-use agreement; develop and post on its website criteria for the acceptance of grants for implementing joint-use agreements; and post links to, or copies of, the public access policies and joint-use agreements submitted by a district school board.

The bill also grants a district school board immunity from liability for civil damages for personal injury, property damage, or death that occurs on a public school property that the district has opened up to the public, through public access policies or joint-use agreements, unless gross negligence or intentional misconduct on the part of the district school board is a proximate cause of the damage, injury, or death.

This bill may have a minimal fiscal impact on state and local governments.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Overweight Children and Adults

Present Situation

The Centers for Disease Control and Prevention (CDC) estimates that 35.9% of American adults are obese and another 33.3% are overweight, and more than 12.5 million children and adolescents are obese.¹ The prevalence of obesity among children and adolescents has almost tripled since 1980.²

The Surgeon General estimates 300,000 deaths per year may be attributed to obesity and reports individuals who are obese have a 50-100% increased risk of premature death from all causes, when compared to individuals with a healthy weight.³

One of the reasons proffered by the CDC for the increasing rates of obesity is the lack of safe and appealing places to play or be active. According to the CDC, many communities are built in ways that make it difficult or unsafe to be physically active. For some families, getting to parks and recreation centers may be difficult, and public transportation may not be available. For many children, safe routes for walking or biking to school or play may not exist. According to the Department of Health and Human Services and the CDC, less than half of Florida's youth have access to parks, community centers and sidewalks in their neighborhood. Also, youth without access to opportunities for physical activity during nonschool hours are less likely to be as physically active as their peers.⁴

Effect of Proposed Changes

In an effort to address the obesity epidemic, the bill encourages each district school board to adopt written policies to promote public access to outdoor recreation and sports facilities on public school property and to increase joint-use agreements between district school boards and local governments or private organizations. A public access policy should outline the outdoor recreation and sports facilities that are open to the public and the hours the facilities are open. A joint-use agreement should set forth the terms and conditions for the shared use of outdoor recreation and sports facilities on public school property. The bill requires that within 30 days of adopting a public access policy or entering into a joint-use agreement, a district school board must submit a copy of the policy or agreement to the DOE.

Interlocal Agreements

Present Situation

Currently, the county and municipalities located within the geographic area of a school district must enter into an interlocal agreement with the district school board. Within the agreement, the parties must jointly establish the specific ways they will coordinate their growth and development plans and

¹ Centers for Disease Control and Prevention, *Obesity and Overweight*, <http://www.cdc.gov/nchs/fastats/overwt.htm> (last visited March 15, 2013); Centers for Disease Control and Prevention, Data and Statistics, *Obesity rates among all children in the United States*, <http://www.cdc.gov/obesity/childhood/data.html> (last visited March 15, 2013).

² Centers for Disease Control and Prevention, Data and Statistics, *Obesity rates among all children in the United States*, <http://www.cdc.gov/obesity/childhood/data.html> (last visited March 15, 2013).

³ Office of the Surgeon General, *Overweight and Obesity: Health Consequences*, http://www.surgeongeneral.gov/topics/obesity/calltoaction/fact_consequences.htm (last visited March 15, 2013).

⁴ Centers for Disease Control and Prevention, *Overweight and Obesity: A Growing Problem*, <http://www.cdc.gov/obesity/childhood/problem.html> (last visited March 15, 2013); Department of Health and Human Services and Centers for Disease Control and Prevention, *State Indicator Report on Physical Activity, 2010*, at 3 and 13, available at http://www.cdc.gov/physicalactivity/downloads/PA_State_Indicator_Report_2010.pdf.

processes. The agreement must also include a process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency.⁵ Usually, interlocal agreements provide general information related to sharing facilities, but not specific details. The specific details related to sharing facilities, such as, the hours the facility will be open and which entity will be liable for any damages or injuries sustained on the property, are contained in a joint-use agreement.

Some district school boards currently authorize, through their interlocal agreements, public access to sports and recreational facilities on school campuses. In fact, according to DOE, school district facilities' staff members have informally expressed support for shared use of facilities. However, the school district staff members report that reaching agreements for shared use is highly dependent on variables related to individual facilities. For this reason, while a district school board may have a general policy to allow public access and shared use of facilities, agreements for shared or public use of facilities are typically considered on a facility-by-facility basis.⁶

For example, the Pinellas County interlocal agreement with the School Board of Pinellas County, among others, authorizes the parties to establish an agreement "for each instance of collocation and shared use to address legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from collocation or shared use."⁷

According to the DOE, school district facilities planners have noted the following barriers to expanding joint-use of and public access to facilities: premises liability concerns; additional costs for supervision, custodial services, utilities, and wear and tear on fields and equipment; and forecasts of continued reductions in revenues available for facilities operation and maintenance.⁸ Additionally, one school district risk manager reported that the school board has directed the development of a policy to prohibit public use of outdoor school grounds and facilities during periods of darkness.⁹ The bill does not specifically address access during daylight hours; however, the bill does not prohibit a school district from establishing such a policy.

School districts are not limited to partnering with governmental entities in joint-use agreements. Pursuant to the terms of the school district's interlocal agreements, school districts may establish joint-use agreements with private entities. For example, in 2003, a Best Financial Management Practices Review of the Duval County School District stated that the school district had established 47 joint-use agreements with the City of Jacksonville, the YMCA, and various community groups for the use of school facilities.¹⁰

When establishing an interlocal agreement, the law requires district school boards and local governments to consider, among other things, allowing students to attend the school located nearest their homes when a new housing development is constructed, including attendance at a school located

⁵ Sections 163.31777(1) and (2)(g) and 1013.33(2) F.S.

⁶ Staff of the Florida Department of Education, *2012 Agency Legislative Bill Analysis for HB 431* (2012).

⁷ The Pinellas County interlocal agreement states, "The collocation and shared use of facilities are important to the Parties. The Parties will look for opportunities to collocate or share the use of each Parties' facilities. Opportunities for collocation and shared use will be considered for libraries, parks, recreational facilities, community centers, auditoriums, learning centers, museums, performing arts centers, stadiums, healthcare and social services, schools, and other uses and facilities as may be determined appropriate. An agreement will be developed for each instance of collocation and shared use to address legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from collocation or shared use." *Interlocal Agreement between Pinellas County, Florida, et al. and the School Board of Pinellas County, Florida*, at 4 (2012), available at www.pinellascounty.org/Plan/pdf_files/1906_IA.pdf

⁸ Staff of the Florida Department of Education, *2012 Agency Legislative Bill Analysis for HB 431* (2012).

⁹ *Id.*

¹⁰ The Florida Legislature, Office of Program Policy Analysis and Government Accountability, *Best Financial Management Practices Review of the Duval County School District*, Report No. 03-41, ch. 7 Facilities Construction, at 18, Aug. 2003, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=03-41> (last visited March 15, 2013).

in an adjacent county; consider the effects of the location of public education facilities, including the feasibility of keeping central city facilities viable in order to encourage central city redevelopment; and consult with state and local road departments to assist in implementing the Safe Routes to Schools Program administered by the Department of Transportation.¹¹

Additional public access to educational facilities and grounds is currently authorized in law for any legal assembly, community use centers, or voting precinct, if allowed by the district school board or the board of trustees for the Florida College System institution, the State University System institution, or the Florida School for the Deaf and the Blind. Rules, regulations, or policies and procedures must be adopted by each board to protect educational facilities and grounds when used for such purposes.¹²

Effect of Proposed Changes

The bill encourages each district school board to adopt written policies to promote public access to outdoor recreation and sports facilities on public school property during nonschool hours when a school-sponsored or school-related activity is not occurring and to increase joint-use agreements between district school boards and local governments or private organizations. However, as demonstrated by Pinellas and Duval Counties, district school boards currently appear to have the authority to adopt public use policies and enter into joint-use agreements that include provisions regarding public use of school facilities.

The bill also requires the DOE to develop and post a model joint-use agreement on its website; develop and post criteria for the acceptance of grants for implementing joint-use agreements; and post links to or copies of each joint-use agreement received from a district school board on the DOE. However, school districts are no longer required to submit their interlocal agreements, that may have contained joint-use agreements, to the DOE.¹³

The bill also requires schools boards to create a process for appeal to the district school superintendent should negotiations with a school board fail. This appeals process may create problems in school districts when the superintendent is an employee of the school board.

School District Liability

Present Situation

Landowner Liability

In tort law, a plaintiff must prove that a lawful duty exists, that the duty was breached, and that the plaintiff suffered damages as a result of the breach. Current tort law related to a landowner's duty to persons on his or her land is governed by the status of the person. There are two basic categories of persons on land: invitees and trespassers.

An invitee is a person who was invited to enter the land. Section 768.075(3)(a)1., F.S., defines invitation to mean "that the visitor entering the premises has an objectively reasonable belief that he or she has been invited or is otherwise welcome on that portion of the real property where injury occurs." A landowner owes certain duties to invitees, and can be sued in tort should the landowner fail a duty and a person is injured due to that failure. The duties owed to most invitees are: the duty to keep property in reasonably safe condition; the duty to warn of concealed dangers which are known or should be known to the property holder, and which the invitee cannot discover through the exercise of due care; and the duty to refrain from wanton negligence or willful misconduct.

¹¹ Section 1013.33(1), F.S.

¹² Section 1013.10, F.S.; see also s. 1013.01(3), F.S. (defines "Board").

¹³ Section 19, ch. 2012-99, F.A.C.

A trespasser is any person who is not an invitee. This bill does not affect tort law related to trespassers.

Sovereign Immunity

Where a government may be liable in tort, such as for landowner liability, current law limits such liability. Article X, s. 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the right to waive the state's immunity in part or in full by general law. The Legislature did in fact establish a limited waiver of sovereign immunity for liability for tort for state agencies or subdivisions.¹⁴ School districts are a state agency or subdivision for purposes of sovereign immunity.¹⁵ The statutory waiver of sovereign immunity limits the recovery in a tort action against the state or subdivision to \$200,000 for any one person or one incident and limits all recovery related to one incident to a total of \$300,000.¹⁶ When the state's sovereign immunity applies, the officers, employees, and agents of the state that were involved in the commission of the tort are not personally liable to an injured party.¹⁷

Effect of Proposed Changes

The bill changes the standard for liability for district school boards from negligence to gross negligence or intentional misconduct under certain circumstances. More particularly, the bill provides a district school board immunity from liability for personal injury, property damage, or death that occurs on a public school property that the district school board has opened up to the public, through public access policies or joint-use agreements, unless gross negligence or intentional misconduct on the part of the district school board is a proximate cause of the damage, injury, or death.¹⁸

By changing the liability standard from negligence to gross negligence or intentional misconduct, the bill may encourage more district school boards to adopt public access policies or enter into more joint-use agreements, and thus, increase the number of outdoor recreation and sports facilities available to the public.

The limitation on liability established in the bill will result in a plaintiff only receiving damages for personal injury, property damage, or death that was caused by gross negligence or intentional misconduct. Therefore, an injured party will not be able to recover damages for an injury sustained due to negligence. However, the bill does not prevent a lawsuit from being filed against the district; therefore, a school district may incur costs associated with litigation.

Additionally, even if a school district's actions are found to be a proximate cause of the damage, injury, or death, the school district is protected by sovereign immunity, and the damages would be capped pursuant to law.¹⁹ The bill makes clear that this sovereign immunity still applies.

¹⁴ Section 768.28(1) and (2), F.S.; see Op. Att'y Gen. Fla. 78-145 (1978); see also *Wallace v. Dean*, 3 So.3d 1035, 1045 (Fla. 2009), citing *Hutchins v. Mills*, 363 So.2d 818, 821 (Fla. 1st DCA 1978). "Prior to the effective date of s. 768.28(6), F.S., courts did not have subject matter jurisdiction of tort suits against the State and its agencies because they enjoyed sovereign immunity pursuant to Article X, section 13, Florida Constitution. However, by enacting s. 768.28[, F.S.,] the Legislature provided for waiver of sovereign immunity in tort actions. Therefore, pursuant to that statute, courts now have subject matter jurisdiction to consider suits that fall within the parameters of the statute."

¹⁵ The term "state" means "state agencies or subdivisions" which includes the executive departments, the Legislature, the judicial branch, and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities. Section 768.28(2), F.S.

¹⁶ Section 768.28(5), F.S.

¹⁷ Section 768.28(9), F.S.

¹⁸ While Art. 1, s. 21, Fla. Const., provides that the "courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay," and the Florida Supreme Court has in the past found that this provision limits the ability of the Legislature to amend tort law, the court in *Abdin v. Fischer*, held that limiting liability of owners and lessees who provide the public with a park area for outdoor recreational purposes, is a reasonable exercise of legislative power and does not violate Art. 1, s. 21, Fla. Const., regarding access to courts. 374 So.2d 1379 (Fla. 1979).

¹⁹ Section 768.28(5), F.S.

B. SECTION DIRECTORY:

Section 1. Creates s. 1013.105, F.S., relating to joint use of public school facilities.

Section 2. Creates s. 768.072, F.S., relating to limitation on public school premises liability.

Section 3. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill requires the DOE to: develop and make available a model joint-use agreement; develop criteria for accepting grants for implementing joint-use agreements; and post links to or copies of district joint-use agreements on their website. However, school districts are no longer required to submit their interlocal agreements to DOE that may have contained any joint-use agreements. These requirements are anticipated to be accomplished within departmental resources. Accordingly, no impact on state expenditures is expected.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill appears to have an indeterminate impact on local government expenditures. The bill encourages school districts to adopt public access policies and enter into joint-use agreements to increase public access to outdoor recreation and sports facilities on public school property. If more school recreational facilities are open to the public, cities and counties may be able to reduce spending on the development and maintenance of public parks and recreation areas; however, school districts may have a fiscal impact from the increased "wear and tear" on the facilities. Additionally, school districts anticipate needing someone to oversee the use of the school property, which may result in an additional cost to the school district, even though the bill does not require this supervision.²⁰

While the bill provides districts immunity from liability except in cases of gross negligence or intentional misconduct, the bill does not prevent a suit from being filed against the district; therefore, a school district may incur costs associated with litigation.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Damages received by an injured party may be limited due to a school district's immunity from liability. A plaintiff will only receive damages if the injury, damage, or death was caused by gross negligence or intentional misconduct. Therefore, an injured party will not be able to recover damages for an injury sustained due to negligence.

²⁰ Memorandum, Florida School Boards Association, Inc. (Jan. 18, 2012).
STORAGE NAME: h0525d.EDC.DOCX
DATE: 3/20/2013

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear how the appeals process will work in a school district when the superintendent is an employee of the school board.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Education Committee
 2 Representative Fullwood offered the following:

Amendment (with directory and title amendments)

5 Remove lines 138-148 and insert:

7 (h) A process to investigate whether a reported act of
 8 bullying or harassment is within the scope of the district
 9 school system and, if not, a process for referral of such an act
 10 to the appropriate jurisdiction. Computers without web-filtering
 11 software, or computers with web-filtering software that is
 12 disabled, shall be used when complaints of cyberbullying are
 13 investigated.

14 (i) A procedure for providing immediate notification to
 15 the parents of a victim of bullying or harassment and the
 16 parents of the perpetrator of an act of bullying or harassment,
 17 as well as notification to all local agencies where criminal
 18 charges may be pursued against the perpetrator.

19 (j) A procedure to refer victims and perpetrators of
 20 bullying or harassment for counseling.



Amendment No. 1

21 (k) A procedure for including incidents of bullying or
22 harassment in the school's report of data concerning school
23 safety and discipline required under s. 1006.09(6). The report
24 must include each incident of bullying or harassment and the
25 resulting consequences, including discipline and referrals. The
26 report must include in a separate section each reported incident
27 of bullying or harassment that does not meet the criteria of a
28 prohibited act under this section with recommendations regarding
29 such incidents. The Department of Education shall aggregate
30 information contained in the reports.

31 (l) A procedure for providing instruction to students,
32 parents, teachers, school administrators, counseling staff, and
33 school volunteers on identifying, preventing, and responding to
34 bullying or harassment, including instruction on recognizing
35 behaviors that lead to bullying and harassment and taking
36 appropriate preventive action based on those observations.

37 (m) A procedure for regularly reporting to a victim's
38 parents the actions taken to protect the victim.

39 (n) A procedure for publicizing the policy, which must
40 include its publication in the code of student conduct required
41 under s. 1006.07(2) and in all employee handbooks.

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D I R E C T O R Y A M E N D M E N T

Remove lines 24-27 and insert:



Amendment No. 1

49 Section 1. Subsections (2) and (3) and paragraphs (h) and (l)
50 of subsection (4) of section 1006.147, Florida Statutes, are
51 amended to read:

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T I T L E A M E N D M E N T

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Remove lines 16-20 and insert:

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taking appropriate preventive action; requiring the use of
60 computers without web-filtering software, or computers with web-
61 filtering software that is disabled, when investigating
62 complaints of cyberbullying

63

1 A bill to be entitled
 2 An act relating to bullying in the public school
 3 system; amending s. 1006.147, F.S.; revising
 4 provisions prohibiting bullying or harassment of a
 5 student or school employee through the use of
 6 computer-related activities; prohibiting bullying or
 7 harassment through the use of data or computer
 8 software that is accessed at a nonschool-related
 9 location or activity if certain conditions are met;
 10 providing that bullying includes cyberbullying;
 11 defining the terms "cyberbullying" and "within the
 12 scope of a public K-12 educational institution";
 13 requiring that each school district include in its
 14 districtwide policy instruction on recognizing
 15 behaviors that lead to bullying and harassment and
 16 taking appropriate preventive action; requiring that
 17 any complaint of a computer-related incident be
 18 investigated by a school district official using a
 19 computer on which web-filtering software is not
 20 installed; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Subsections (2) and (3) and paragraph (1) of
 25 subsection (4) of section 1006.147, Florida Statutes, are
 26 amended, and paragraph (c) is added to subsection (7) of that
 27 section, to read:

28 1006.147 Bullying and harassment prohibited.—

29 (2) Bullying or harassment of any student or employee of a
 30 public K-12 educational institution is prohibited:

31 (a) During any education program or activity conducted by
 32 a public K-12 educational institution;

33 (b) During any school-related or school-sponsored program
 34 or activity or on a school bus of a public K-12 educational
 35 institution; ~~or~~

36 (c) Through the use of data or computer software that is
 37 accessed through a computer, computer system, or computer
 38 network within the scope of a public K-12 educational
 39 institution; or

40 (d) Through the use of data or computer software that is
 41 accessed at a nonschool-related location, activity, function, or
 42 program or through the use of technology or an electronic device
 43 that is not owned, leased, or used by a school district or
 44 school, if the bullying substantially interferes with or limits
 45 the victim's ability to participate in or benefit from the
 46 services, activities, or opportunities offered by a school or
 47 substantially disrupts the education process or orderly
 48 operation of a school. This paragraph does not require a school
 49 to staff or monitor any nonschool-related activity, function, or
 50 program.

51 (3) For purposes of this section:

52 (a) "Bullying" includes cyberbullying and means
 53 systematically and chronically inflicting physical hurt or
 54 psychological distress on one or more students and may involve:

- 55 1. Teasing;
- 56 2. Social exclusion;

- 57 | 3. Threat;
- 58 | 4. Intimidation;
- 59 | 5. Stalking;
- 60 | 6. Physical violence;
- 61 | 7. Theft;
- 62 | 8. Sexual, religious, or racial harassment;
- 63 | 9. Public or private humiliation; or
- 64 | 10. Destruction of property.

65 | (b) "Cyberbullying" means bullying through the use of
 66 | technology or any electronic communication, which includes, but
 67 | is not limited to, any transfer of signs, signals, writing,
 68 | images, sounds, data, or intelligence of any nature transmitted
 69 | in whole or in part by a wire, radio, electromagnetic system,
 70 | photoelectronic system, or photooptical system, including, but
 71 | not limited to, electronic mail, Internet communications,
 72 | instant messages, or facsimile communications. Cyberbullying
 73 | includes the creation of a webpage or weblog in which the
 74 | creator assumes the identity of another person, or the knowing
 75 | impersonation of another person as the author of posted content
 76 | or messages, if the creation or impersonation creates any of the
 77 | conditions enumerated in the definition of bullying.

78 | Cyberbullying also includes the distribution by electronic means
 79 | of a communication to more than one person or the posting of
 80 | material on an electronic medium that may be accessed by one or
 81 | more persons, if the distribution or posting creates any of the
 82 | conditions enumerated in the definition of bullying.

83 | (c)-~~(b)~~ "Harassment" means any threatening, insulting, or
 84 | dehumanizing gesture, use of data or computer software, or

85 | written, verbal, or physical conduct directed against a student
 86 | or school employee that:

87 | 1. Places a student or school employee in reasonable fear
 88 | of harm to his or her person or damage to his or her property;

89 | 2. Has the effect of substantially interfering with a
 90 | student's educational performance, opportunities, or benefits;
 91 | or

92 | 3. Has the effect of substantially disrupting the orderly
 93 | operation of a school.

94 | (d) "Within the scope of a public K-12 educational
 95 | institution" means, regardless of ownership, any computer,
 96 | computer system, or computer network that is physically located
 97 | on school property or at a school-related or school-sponsored
 98 | program or activity.

99 | ~~(e)~~ Definitions in s. 815.03 and the definition in s.
 100 | 784.048(1)(d) relating to stalking are applicable to this
 101 | section.

102 | ~~(f)~~ The definitions of "bullying" and "harassment"
 103 | include:

104 | 1. Retaliation against a student or school employee by
 105 | another student or school employee for asserting or alleging an
 106 | act of bullying or harassment. Reporting an act of bullying or
 107 | harassment that is not made in good faith is considered
 108 | retaliation.

109 | 2. Perpetuation of conduct listed in paragraph (a), ~~or~~
 110 | paragraph (b), or paragraph (c) by an individual or group with
 111 | intent to demean, dehumanize, embarrass, or cause physical harm
 112 | to a student or school employee by:

113 a. Incitement or coercion;

114 b. Accessing or knowingly causing or providing access to

115 data or computer software through a computer, computer system,

116 or computer network within the scope of the district school

117 system; or

118 c. Acting in a manner that has an effect substantially

119 similar to the effect of bullying or harassment.

120 (4) By December 1, 2008, each school district shall adopt

121 a policy prohibiting bullying and harassment of any student or

122 employee of a public K-12 educational institution. Each school

123 district's policy shall be in substantial conformity with the

124 Department of Education's model policy mandated in subsection

125 (5). The school district bullying and harassment policy shall

126 afford all students the same protection regardless of their

127 status under the law. The school district may establish separate

128 discrimination policies that include categories of students. The

129 school district shall involve students, parents, teachers,

130 administrators, school staff, school volunteers, community

131 representatives, and local law enforcement agencies in the

132 process of adopting the policy. The school district policy must

133 be implemented in a manner that is ongoing throughout the school

134 year and integrated with a school's curriculum, a school's

135 discipline policies, and other violence prevention efforts. The

136 school district policy must contain, at a minimum, the following

137 components:

138 (1) A procedure for providing instruction to students,

139 parents, teachers, school administrators, counseling staff, and

140 school volunteers on identifying, preventing, and responding to

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2013

141 | bullying or harassment, including instruction on recognizing
 142 | behaviors that lead to bullying and harassment and taking
 143 | appropriate preventive action based on each of those
 144 | observations.

145 | (7)

146 | (c) Any complaint of a computer-related incident must be
 147 | investigated by a school district official using a computer on
 148 | which web-filtering software is not installed.

149 | Section 2. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 609 Bullying in Public School System
SPONSOR(S): Fullwood
TIED BILLS: IDEN./SIM. **BILLS:** SB 626

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	12 Y, 0 N, As CS	Beagle	Ahearn
2) Education Appropriations Subcommittee	13 Y, 0 N	Seifert	Heflin
3) Education Committee		Beagle <i>GIS</i>	Mizereck <i>KM</i>

SUMMARY ANALYSIS

Each district school board must adopt a policy prohibiting bullying and harassment in district schools. Among other things, the law prohibits the bullying or harassment of any public K-12 student or employee during a public K-12 education program or activity; during a school-related or school-sponsored program or activity; on a public K-12 school bus; or through a computer, computer system, or computer network that is within the scope of a public K-12 educational institution.

The law defines "bullying" as systematically and chronically inflicting physical hurt or psychological distress on one or more students, which may involve teasing; social exclusion; threat; intimidation; stalking; physical violence; theft; sexual, religious, or racial harassment; public humiliation; or destruction of property. Currently, the law does not specifically include "cyberbullying" within the scope of such policies.

Among other things, the bill amends the definition of bullying to include cyberbullying and defines "cyberbullying" as bullying through the use of specified technology or electronic communications; the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages; or the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that is accessible to others.

The bill expands the scope of school district bullying policies to include computer-related bullying occurring outside the scope of a public K-12 educational institution and bullying using technology or electronic devices not owned, leased, or used by a public school or school district. Such conduct is actionable if it substantially interferes with or limits the victim's ability to participate or benefit from the services, activities, or opportunities offered by a school or substantially disrupts the education process or orderly operation of a school.

The bill adds provisions defining "within the scope of a public K-12 educational institution" as any computer or computer system or network that is physically located on school property or at school-related or school-sponsored programs or activities, regardless of ownership.

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

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Cyberbullying

Cyberbullying is the use of the internet, cell phones, and related technologies to hurt, harass, humiliate, or embarrass another person in a deliberate, repeated, and hostile manner. Cyberbullying includes such behaviors as:

- Creating a false online identity to trick another person into revealing personal information;
- Impersonating another person through creation of a false social networking page;
- Spreading lies and rumors about another person by text message or over the internet;
- Sending threatening or hurtful text messages; or
- Posting online embarrassing pictures of another person without their consent.¹

Victims of cyberbullying experience many of the same effects as children who are bullied in person, such as decreased school performance, low self-esteem, and depression.² National Center for Educational Statistics data for the 2009-10 school year indicates that 28 percent of students ages 12–18 reported being bullied at school, whereas approximately 6 percent reported being cyberbullied.³ Although cyberbullying is less prevalent than face-to-face bullying, the bully's use of technology increases his or her capacity for widespread public dissemination of hurtful, embarrassing, or false information, which may amplify the impact on the victim.⁴

Cyberbullying Laws and Court Precedents

Forty-nine states and the District of Columbia have laws that address school bullying; however, only 16 of these laws address cyberbullying.⁵ States' reluctance to enact cyberbullying laws is likely due to the absence of definitive court precedent regarding public school authority to regulate student speech and expression occurring off-campus, outside the scope of school district control, through internet or other electronic media.⁶

Generally speaking, student speech and expression is protected by the First Amendment of the U.S. Constitution.⁷ The U.S. Supreme Court has held that public school officials may regulate student speech or expression that substantially disrupts the school environment or interferes with the orderly operation of the school,⁸ is vulgar, lewd, or patently offensive,⁹ or promotes illegal activity¹⁰ and in

¹ National Crime Prevention Council, *What is Cyberbullying?*, <http://www.npc.org/topics/cyberbullying/what-is-cyberbullying> (last visited Feb. 22, 2013).

² *Id.*

³ National Center for Education Statistics, *Indicators of School Crime and Safety: 2011*, at 44 and 48 (Feb. 2012), available at <http://nces.ed.gov/pubs2012/2012002.pdf>. Cyberbullying incidents reported by students included harassing emails, text messages, or instant messaging; internet posting of hurtful information; being excluded online; and being harassed while playing computer games.

Id.

⁴ *Id.*

⁵ Cyberbullying Research Center, *Bullying and Cyberbullying Laws Fact Sheet*, http://cyberbullying.us/Bullying_and_Cyberbullying_Laws.pdf (last visited Feb. 22, 2013).

⁶ See, e.g., Wired Safety, *Cyberbullying/Stalking & Harrassment*, <https://www.wiredsafety.org/subjects/cyberbullying.php> (last visited Feb. 22, 2013); see, e.g., Davis, Michelle. "Schools Tackle Legal Twists and Turns of Cyberbullying." Education Week (Feb. 4, 2011) <http://www.edweek.org/dd/articles/2011/02/09/02cyberbullying.h04.html>.

⁷ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 513-514 (1969).

⁸ *Tinker*, 393 U.S. at 513-514.

⁹ *Bethel School District v. Fraser*, 478 U.S. 675, 685 (1986).

school publications or other “expressive activities that students, parents, and members of the public might reasonably perceive to bear the imprimatur of the school.”¹¹ Certain forms of speech, such as threats and fighting words, are not constitutionally protected at all.¹² The U.S. Supreme Court has not considered these matters in the cyberbullying context, i.e., student speech or expression occurring off campus, outside the scope of school district control, through internet or other electronic media.¹³

No Florida case has reached the merits on the validity of a public school disciplinary action involving cyberbullying; however, a Florida federal court analyzed the issue in denying a school principal qualified immunity against a student’s claim for attorney’s fees in litigation stemming from her suspension for cyberbullying. The student was suspended for creating a Facebook page criticizing a teacher and inviting students to post derogatory statements about the teacher. In denying the principal qualified immunity, the court held that the suspension was unconstitutional, as the Facebook page “was the opinion of a student about a teacher that was published off-campus; did not cause any disruption on-campus; and was not lewd, vulgar, threatening, or advocating illegal or dangerous behavior.”¹⁴

Numerous lower federal courts in other circuits have ruled on the issue; however, the holdings in these cases are mixed.¹⁵ This reflects the reluctance by many courts to extend the reach of public school authority into a child’s home and private actions unless the off-campus internet conduct has a tangible connection to the school environment.¹⁶ This bill clearly provides that cyberbullying occurring off-campus must substantially interfere with or limit the victim’s ability to participate or benefit from the services, activities, or opportunities offered by a school or substantially disrupt the educational process or orderly operation of the school in order to be actionable.

The Jeffrey Johnston Stand Up for All Students Act

Legislation enacted in 2008 required each district school board to adopt a policy prohibiting bullying and harassment in district schools.¹⁷ Among other things, the law prohibits the bullying or harassment of any public K-12 student or employee during a public K-12 education program or activity; during a school-related or school-sponsored program or activity; on a public K-12 school bus; or through a computer, computer system, or computer network that is within the scope of a public K-12 educational institution.¹⁸

The terms “bullying” and “harassment” constitute the following behaviors:

- **Bullying:** Systematically and chronically inflicting physical hurt or psychological distress on one or more students, which may involve:
 - Teasing;
 - Social exclusion;
 - Threat;

¹⁰ *Morse v. Frederick*, 551 U.S. 393, 409-410 (2007).

¹¹ *Hazelwood School Dist. V. Kuhlmeier*, 484 U.S.260, 270-271 (1988)

¹² *Chaplinsky v. State of New Hampshire*, 315 U.S. 568, 573-547 (1942).

¹³ See, e.g., *Tinker*, 393 U.S. at 513-514 (Student speech in school); see, e.g., *Morse*, 551 U.S. at 399-401 (Student speech at off-campus school-sponsored events). In *Morse v. Frederick*, the court held that public school authority to regulate student speech and expression extended to school-sponsored off-campus events. In so holding, the court reasoned that such regulation was permissible because the school district’s rules regarding student conduct expressly stated their application to student conduct at school-sponsored off campus events, the event occurred during normal school hours, and teachers and administrators were charged with supervising students attending the event. *Id.* at 400-401.

¹⁴ *Evans v. Bayer*, 684 F.Supp.2d 1365, 1374 (S.D. Fla. 2010).

¹⁵ Compare *Layshock v. Hermitage School District*, 650 F.3d 205 (3^d Cir. 2011)(holding that student’s off-campus internet conduct was protected speech.) with *Doninger v. Niehoff*, 642 F.3d 334 (2d Cir. 2011)(holding that student’s off-campus internet conduct was not protected speech.).

¹⁶ See, e.g., *Layshock*, 593 F.3d at 260.

¹⁷ Chapter 2008-123, L.O.F.

¹⁸ Section 1006.147(2), F.S.

- Intimidation;
 - Stalking;
 - Physical violence;
 - Theft;
 - Sexual, religious, or racial harassment;
 - Public humiliation; or
 - Destruction of property.¹⁹
- **Harassment:** Threatening, insulting, or dehumanizing gestures, use of computers, or written, verbal, or physical conduct directed against a student or school employee that causes reasonable fear of harm to person or property; substantially interferes with a student's educational performance, opportunities, or benefits; or substantially disrupts the orderly operation of a school.²⁰

The law further specifies that bullying and harassment include:

- Retaliating against a student or school employee for reporting bullying or harassment;
- Reporting bullying or harassment, which reporting is not made in good faith;
- Perpetuating bullying or harassment with the intent to demean, dehumanize, embarrass, or cause physical harm to a student or school employee by incitement or coercion; use of (or providing access to) a school district's computer, computer system, or computer network; or conduct substantially similar to bullying or harassment.²¹

The law does not specifically define and address cyberbullying; however, it does specify that conduct falling within the statutory definitions for computer crimes²² and cyberstalking²³ are within the scope of school district bullying policies.²⁴ Furthermore, a person charged with a disciplinary action under a school district's bullying policy or other prosecution may not raise the "physical location" or "time of access" of a computer-related incident as a defense to the charges.²⁵

Effect of Proposed Changes

The bill amends the scope of the definition of bullying to include cyberbullying and adds "private humiliation" as a behavior that may constitute bullying.

The bill adds provisions defining "cyberbullying" as bullying through:

- The use of technology or any electronic communication, which includes, without limitation the transmission of signs, signals, writing, images, sounds, data, or intelligence of any nature by a wire, radio, electromagnetic system, photoelectronic system, or photooptical system, electronic mail, internet communications, instant messages, or facsimile communications.
- The creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages.
- The distribution by electronic means of a communication to more than one person or the posting

¹⁹ Section 1006.147(3)(a), F.S.

²⁰ Section 1006.147(3)(b), F.S.

²¹ Section 1006.147(3)(d), F.S.

²² Section 815.03, F.S., defines terms used to proscribe computer-related crimes. It defines the terms "access," "computer," "computer network," "computer software," "computer system," and "data," as they apply to the bullying law.

²³ Section 784.048(1)(d), F.S., defines "cyberstalk" as engaging in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose."

²⁴ Section 1006.147(3)(c), F.S.

²⁵ Section 1006.147(7)(a), F.S.

of material on an electronic medium that is accessible to others.

The bill adds provisions defining "within the scope of a public K-12 educational institution" as any computer or computer system or network that is physically located on school property or at school-related or school-sponsored programs or activities, regardless of ownership.

The bill expands the scope of school district bullying policies to include computer-related bullying occurring outside the scope of a public K-12 educational institution and bullying using technology or electronic devices not owned, leased, or used by a public school or school district. Such conduct is actionable if it substantially:

- Interferes with or limits the victim's ability to participate or benefit from the services, activities, or opportunities offered by a school; or
- Disrupts the education process or the orderly operation of a school.

The bill specifies that such provisions may not be construed to require a public school to staff or monitor any nonschool-related activity, function, or program. School district officials investigating computer-related bullying must use a computer in which web-filtering software is not installed.

Current law requires school district bullying policies to include, among other things, procedures for providing instruction to students, parents, teachers, school administrators, counseling staff, and school volunteers on identifying, preventing, and responding to bullying or harassment. The bill adds that such procedures must include instruction regarding recognizing behaviors leading to bullying and harassment and appropriate preventive measures.

B. SECTION DIRECTORY:

Section 1. Amends s. 1006.147, F.S., relating to bullying and harassment; authorizes regulation of bullying occurring outside the scope of a public K-12 educational institution through internet or other electronic media if such conduct has certain impacts on the student or school; revises the definition of bullying to include "cyberbullying;" defines the terms "cyberbullying" and "within the scope of a public K-12 educational institution;" and specifies procedures for bullying-related investigations and instruction.

Section 2. Provides that the bill takes effect July 1, 2013.

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

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

On March 13, 2013, the K-12 Subcommittee adopted two amendments and reported HB 609 favorably as a committee substitute. The amendments:

- Clarify that cyberbullying perpetrated from an off-campus computer or device that is outside the scope of school district control must substantially interfere with or limit the victim's ability to participate or benefit from the services, activities, or opportunities offered by a school to be actionable.
- Clarify that school officials are not required to monitor non-school related activities, functions, or programs.
- Remove provisions which added "emotional pain or discomfort" to the list of behaviors that may constitute bullying.

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A bill to be entitled
An act relating to the Broward County Education,
Research, and Training Authority, Broward County;
repealing chapter 94-431, Laws of Florida, relating to
the creation of the authority; abolishing the
authority; transferring assets and liabilities of the
authority; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 94-431, Laws of Florida, is repealed.

Section 2. The Broward County Education, Research, and
Training Authority is abolished. All assets and liabilities of
the authority are transferred to the Board of County
Commissioners of Broward County in accordance with s.
189.4045(2), Florida Statutes.

Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1027 Broward County Education, Research, and Training Authority, Broward County
SPONSOR(S): Waldman
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	17 Y, 0 N	Nelson	Rojas
2) Education Committee		Thomas <i>NT</i>	Mizereck <i>W</i>

SUMMARY ANALYSIS

The Broward County Education, Research, and Training Authority (BERTA) was created by the 1994 Florida Legislature as an independent special district. BERTA was established for the purpose of promoting economic development and employment opportunities through public-private partnerships.

HB 1027 repeals the special act charter for BERTA. The bill abolishes the district, and transfers its \$37,527.10 in assets to the Broward Board of County Commissioners.

The bill has an effective date of upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Broward County Education, Research, and Training Authority

The Broward County Education, Research, and Training Authority (BERTA) was created by the 1994 Florida Legislature as an independent special district pursuant to ch. 94-431, L.O.F. This chapter law has never been amended.

BERTA was established for the purpose of promoting economic development and employment opportunities through public-private partnerships. These partnerships were envisioned to integrate resources to facilitate job training and retraining programs to meet midcareer changes and technological advances; address community school skill-building efforts to enhance practical competency; and provide opportunities for vocational training in conjunction with academic education, targeting the changing needs of the private sector. It was intended that such partnerships combine resources of secondary, postsecondary, and vocational-technical education facilities, together with education and training administrations, to facilitate a broad range of academic and training opportunities and to better utilize federal and other training funds. Specifically, BERTA was constituted as a public instrumentality for the purposes of development, operation, management and financing of an education, research and training park. Through major facilities presently existing and as planned for the future within the Town of Davie, and Broward County as a whole, it was contemplated that the impact of the Broward County Education, Research, and Training Authority be countywide in order to successfully promote and compete with other nationally recognized education, research, and training authorities throughout the United States.

The authority's board consists of five members: three appointed by the Broward County Commission, one by the Broward School Board and one by the town of Davie. BERTA does not have the power of ad valorem taxation, nor the power to provide for non-ad valorem assessments, but is authorized to issue bonds, charge and collect rates, rents, fees, and charges for the use of and for the services furnished by a project, and to receive and accept loans, grants and contributions. The boundaries of BERTA are coextensive with the boundaries of Broward County.

Section 10 of ch. 94-431, L.O.F, provides that the authority may only be dissolved by special act of the Florida Legislature, or as otherwise provided in ch.189, F.S.

According to Broward County, BERTA no longer serves its original purpose, and its board has not met or taken action in four years. The special district has no debt, but retains \$37,527.10 in assets.¹ These assets are held in a bank account in the Town of Davie, and are the result of previous BERTA bond transactions.²

Broward County has requested the dissolution of BERTA.

¹ Letter from C. Marty Cassini, Broward County Office of Intergovernmental Affairs and Professional Standards, to Sandy Harris, on file with the House Local & Federal Affairs Committee. Executive Director of the Broward County Legislative Delegation dated December 13, 2012, on file with the House Local & Federal Affairs Committee.

² March 8, 2013, telephone conversation with Leah Brasso, Assistant to the Director of the Broward County Finance & Administrative Services Department.

Dissolution of an Independent Special District

Chapter 189, F.S., the "Uniform Special District Accountability Act of 1989," provides general provisions for the definition, creation and operation of special districts. That chapter also contains several provisions relating to the dissolution of these entities.

Section 189.4042, F.S., provides for general merger and dissolution procedures. Section 189.4042 (3)(c), F.S., describes dissolution of an inactive independent special district, specifying that when such a district meets any criteria for being declared inactive, or has already been declared inactive, pursuant to s. 189.4044, F.S., it may be dissolved by special act without a referendum.

Section 189.4044, F.S., provides various criteria by which a special district may be declared inactive, including notification that the district has taken no action for two or more years. See, s. 189.4044(1)(a)1., F.S.

Section 189.4042(3)(d), F.S., provides that financial allocations of the assets and indebtedness of a dissolved independent special district will be effected pursuant to s. 189.4045, F.S. Section 189.4045 (2), F.S., provides that unless otherwise provided by law or ordinance, the dissolution of a special district government transfers the title to all property owned by the preexisting special district government to the local general-purpose government, which also assumes all indebtedness of the preexisting special district.

Effect of Proposed Changes

HB 1027 repeals ch. 94-431, L.O.F., the charter for the Broward County Education, Research, and Training Authority. The bill abolishes this district and transfers its \$37,527.10 in assets to the Board of County Commissioners of Broward County in accordance with s. 189.4045(2), F.S.

The bill has an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 94-431, L.O.F.

Section 2: Abolishes the Broward County Education, Research, and Training Authority and transfers its assets and liabilities.

Section 3: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 23, 2013

WHERE? The *Sun-Sentinel*, a daily newspaper of general circulation published in Broward County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Education Committee
2 Representative Nuñez offered the following:

3
4 **Amendment**

5 Remove lines 165-166 and insert:
6 including reserve components thereof, who were honorably
7 discharged and who physically reside in this state while
8 enrolled in an institution of higher education.
9

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1 A bill to be entitled
2 An act relating to resident status for tuition
3 purposes; amending s. 1009.21, F.S.; revising the
4 definitions of the terms "dependent child" and
5 "parent"; revising certain residency requirements for
6 a dependent child; prohibiting denial of
7 classification as a resident for tuition purposes
8 based on certain immigration status; revising
9 provisions relating to required documentation as
10 evidence of residency; revising requirements relating
11 to classification or reclassification as a resident
12 for tuition purposes based on marriage; revising
13 requirements relating to reevaluation of
14 classification as a resident for tuition purposes;
15 providing that certain veterans of the Armed Services
16 of the United States and persons who receive certain
17 tuition exemptions or waivers shall be classified as
18 residents for tuition purposes; providing for the
19 adoption of rules and regulations; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraphs (a) and (f) of subsection (1),
25 paragraph (b) of subsection (2), subsections (4) and (5),
26 paragraph (d) of subsection (6), and subsections (8), (10), and
27 (13) of section 1009.21, Florida Statutes, are amended,
28 paragraph (d) is added to subsection (2), and paragraph (d) is

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29 added to subsection (3) of that section, to read:

30 1009.21 Determination of resident status for tuition
 31 purposes.—Students shall be classified as residents or
 32 nonresidents for the purpose of assessing tuition in
 33 postsecondary educational programs offered by charter technical
 34 career centers or career centers operated by school districts,
 35 in Florida College System institutions, and in state
 36 universities.

37 (1) As used in this section, the term:

38 (a) "Dependent child" means any person, whether or not
 39 living with his or her parent, who is eligible to be claimed by
 40 his or her parent as a dependent under the federal income tax
 41 code or who is not deemed independent for federal financial aid
 42 purposes.

43 (f) "Parent" means the natural or adoptive parent,
 44 stepparent, or legal guardian of a dependent child.

45 (2)

46 (b) However, with respect to a dependent child living with
 47 an adult relative other than the child's parent, such child may
 48 qualify as a resident for tuition purposes if the adult relative
 49 is a legal resident who has maintained legal residence in this
 50 state for at least 12 consecutive months immediately before
 51 ~~prior to~~ the child's initial enrollment in an institution of
 52 higher education, provided the child has resided continuously
 53 with such relative for the 3 5 years immediately before ~~prior to~~
 54 the child's initial enrollment in an institution of higher
 55 education, during which time the adult relative has exercised
 56 day-to-day care, supervision, and control of the child.

57 (d) A dependent child who is a United States citizen may
 58 not be denied classification as a resident for tuition purposes
 59 based solely upon the immigration status of his or her parent.

60 (3)

61 (d) Regardless of dependency status, an applicant who is a
 62 United States citizen, has attended high school in Florida for
 63 at least 3 consecutive years, applies for enrollment within 12
 64 months after graduating from high school, and submits an
 65 official Florida high school transcript as one piece of required
 66 documentation evidencing his or her residence in Florida
 67 pursuant to paragraph (c) may submit as the second piece of
 68 required documentation evidencing residency any item listed
 69 under subparagraph (c)1. or subparagraph (c)2., whether the item
 70 pertains to residency of the applicant or to residency of the
 71 applicant's parent.

72 (4) With respect to a dependent child, the legal residence
 73 of the dependent child's parent or parents is prima facie
 74 evidence of the dependent child's legal residence, which
 75 evidence may be reinforced or rebutted, relative to the age and
 76 general circumstances of the dependent child, by the other
 77 evidence of legal residence required of or presented by the
 78 dependent child. However, the legal residence of a dependent
 79 child's parent or parents who are domiciled outside this state
 80 is not prima facie evidence of the dependent child's legal
 81 residence if that dependent child has lived in this state for 3
 82 5 consecutive years before ~~prior to~~ enrolling or reregistering
 83 at the institution of higher education at which resident status
 84 for tuition purposes is sought.

85 (5) A person who physically resides in this state may be
 86 classified as a resident for tuition purposes if he or she
 87 marries a person who meets the 12-month residency requirement
 88 under subsection (2) and otherwise qualifies as a resident for
 89 tuition purposes under this section ~~In making a domiciliary~~
 90 ~~determination related to the classification of a person as a~~
 91 ~~resident or nonresident for tuition purposes, the domicile of a~~
 92 ~~married person, irrespective of sex, shall be determined, as in~~
 93 ~~the case of an unmarried person, by reference to all relevant~~
 94 ~~evidence of domiciliary intent. For the purposes of this~~
 95 ~~section:~~

96 ~~(a) A person shall not be precluded from establishing or~~
 97 ~~maintaining legal residence in this state and subsequently~~
 98 ~~qualifying or continuing to qualify as a resident for tuition~~
 99 ~~purposes solely by reason of marriage to a person domiciled~~
 100 ~~outside this state, even when that person's spouse continues to~~
 101 ~~be domiciled outside of this state, provided such person~~
 102 ~~maintains his or her legal residence in this state.~~

103 ~~(b) A person shall not be deemed to have established or~~
 104 ~~maintained a legal residence in this state and subsequently to~~
 105 ~~have qualified or continued to qualify as a resident for tuition~~
 106 ~~purposes solely by reason of marriage to a person domiciled in~~
 107 ~~this state.~~

108 ~~(c) In determining the domicile of a married person,~~
 109 ~~irrespective of sex, the fact of the marriage and the place of~~
 110 ~~domicile of such person's spouse shall be deemed relevant~~
 111 ~~evidence to be considered in ascertaining domiciliary intent.~~

112 (6)

113 (d) A person classified as a nonresident for tuition
 114 purposes may be reclassified as a resident by subsequently
 115 marrying a person who meets the criteria to establish residency
 116 for tuition purposes. In order to be reclassified, a person must
 117 submit all of the following:

118 1. Evidence of his or her own physical residence in this
 119 state.

120 2. Evidence of marriage to a person who qualifies as a
 121 resident for tuition purposes under this section.

122 3. Documentation to support his or her spouse's residency
 123 classification. A person who is classified as a nonresident for
 124 tuition purposes and who marries a legal resident of the state
 125 or marries a person who becomes a legal resident of the state
 126 may, upon becoming a legal resident of the state, become
 127 eligible for reclassification as a resident for tuition purposes
 128 upon submitting evidence of his or her own legal residency in
 129 the state, evidence of his or her marriage to a person who is a
 130 legal resident of the state, and evidence of the spouse's legal
 131 residence in the state for at least 12 consecutive months
 132 immediately preceding the application for reclassification.

133 (8) After a student has been classified as a resident for
 134 tuition purposes, an institution of higher education is not
 135 required to reevaluate the classification unless inconsistent
 136 information suggests that an erroneous classification was made
 137 or the student breaks enrollment from the institution for a
 138 period of 12 months or longer. A person who has been properly
 139 classified as a resident for tuition purposes but who, while
 140 enrolled in an institution of higher education in this state,

141 | ~~loses his or her resident tuition status because the person or,~~
 142 | ~~if he or she is a dependent child, the person's parent or~~
 143 | ~~parents establish domicile or legal residence elsewhere shall~~
 144 | ~~continue to enjoy the in-state tuition rate for a statutory~~
 145 | ~~grace period, which period shall be measured from the date on~~
 146 | ~~which the circumstances arose that culminated in the loss of~~
 147 | ~~resident tuition status and shall continue for 12 months.~~
 148 | ~~However, if the 12-month grace period ends during a semester or~~
 149 | ~~academic term for which such former resident is enrolled, such~~
 150 | ~~grace period shall be extended to the end of that semester or~~
 151 | ~~academic term.~~

152 | (10) The following persons shall be classified as
 153 | residents for tuition purposes:

154 | (a) Active duty members of the Armed Services of the
 155 | United States residing or stationed in this state, their
 156 | spouses, and dependent children, and active drilling members of
 157 | the Florida National Guard.

158 | (b) Active duty members of the Armed Services of the
 159 | United States and their spouses and dependents attending a
 160 | Florida College System institution or state university within 50
 161 | miles of the military establishment where they are stationed, if
 162 | such military establishment is within a county contiguous to
 163 | Florida.

164 | (c) Veterans of the Armed Services of the United States,
 165 | including reserve components thereof, who physically reside in
 166 | this state while enrolled in an institution of higher education.

167 | (d)-(e) United States citizens living on the Isthmus of
 168 | Panama, who have completed 12 consecutive months of college work

169 | at the Florida State University Panama Canal Branch, and their
 170 | spouses and dependent children.

171 | (e)~~(d)~~ Full-time instructional and administrative
 172 | personnel employed by state public schools and institutions of
 173 | higher education and their spouses and dependent children.

174 | (f)~~(e)~~ Students from Latin America and the Caribbean who
 175 | receive scholarships from the federal or state government. Any
 176 | student classified pursuant to this paragraph shall attend, on a
 177 | full-time basis, a Florida institution of higher education.

178 | (g)~~(f)~~ Southern Regional Education Board's Academic Common
 179 | Market graduate students attending Florida's state universities.

180 | (h)~~(g)~~ Full-time employees of state agencies or political
 181 | subdivisions of the state when the student fees are paid by the
 182 | state agency or political subdivision for the purpose of job-
 183 | related law enforcement or corrections training.

184 | (i)~~(h)~~ McKnight Doctoral Fellows and Finalists who are
 185 | United States citizens.

186 | (j)~~(i)~~ United States citizens living outside the United
 187 | States who are teaching at a Department of Defense Dependent
 188 | School or in an American International School and who enroll in
 189 | a graduate level education program which leads to a Florida
 190 | teaching certificate.

191 | (k)~~(j)~~ Active duty members of the Canadian military
 192 | residing or stationed in this state under the North American Air
 193 | Defense (NORAD) agreement, and their spouses and dependent
 194 | children, attending a Florida College System institution or
 195 | state university within 50 miles of the military establishment
 196 | where they are stationed.

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197 (1)(k) Active duty members of a foreign nation's military
 198 who are serving as liaison officers and are residing or
 199 stationed in this state, and their spouses and dependent
 200 children, attending a Florida College System institution or
 201 state university within 50 miles of the military establishment
 202 where the foreign liaison officer is stationed.

203 (m) Persons who receive a tuition exemption or waiver
 204 under s. 112.19(3), s. 112.191(3), s. 961.06(1)(b), s.
 205 1009.25(1)(c), (d), or (f), or s. 1009.26(8) or (10).

206 (13) The State Board of Education shall adopt rules, and
 207 the Board of Governors shall adopt regulations, ~~rules~~ to
 208 implement this section.

209 Section 2. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7051 Resident Status for Tuition Purposes
SPONSOR(S): Higher Education & Workforce Subcommittee, Nuñez
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Higher Education & Workforce Subcommittee	13 Y, 0 N	Brink	Sherry
1) Education Appropriations Subcommittee	12 Y, 0 N	Butler	Heflin
2) Education Committee		Brink	Mizereck

SUMMARY ANALYSIS

The bill revises provisions relating to the determination of resident status for tuition purposes. Specifically, the bill:

Provides that a United States citizen who is a dependent child may not be denied classification as a resident for tuition purposes based solely upon the immigration status of his or her parent. It amends the definitions of "dependent child" and "parent" regarding establishing residency for tuition purposes.

Allows, under certain circumstances, dependent students to utilize an additional pathway to establish residency for tuition purposes by submitting evidence of their own residency in Florida.

Removes a requirement for institutions to reevaluate the classification status of a student classified as a resident for tuition purposes so long as there is no inconsistent information suggesting an erroneous classification and there is no break in the student's enrollment for a period of 12 months or longer. Eliminates a measured one year grace period allowed when a person loses reclassification of his or her residency status.

Provides that a student who resides in Florida may be classified as a resident for tuition purposes if he or she marries a person who qualifies as a resident for tuition purposes. It also allows a student who has been classified as a nonresident to reclassify as a resident upon subsequently marrying a person who already qualifies as a resident for tuition purposes.

For a dependent child living with an adult relative who is a Florida resident and who is not the child's parent, the bill reduces from five years to three years the amount of time the child must live with the relative in order to use the relative's documentation to establish residency for tuition purposes.

Classifies as residents for tuition purposes individuals who receive certain tuition waivers and exemptions under Florida law, and veterans of the U.S. Armed Forces, including reserve components, who physically reside in Florida while enrolled in a Florida institution of higher learning.

Clarifies that the Board of Governors must adopt regulations, instead of rules, to implement the section.

The fiscal impact of the bill is indeterminate, but may be significant.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Current law requires students to be classified as residents or nonresidents for the purpose of assessing tuition in postsecondary educational programs offered by charter technical career centers; career centers operated by school districts; Florida College System institutions, and state universities. Students pay differing tuition rates based on their status as a resident or nonresident of Florida.¹

Applicants to a postsecondary institution must meet certain qualifying standards in order to be classified as a resident of Florida for tuition purposes. The applicant, or in the case of a dependent child, his or her parents,² must establish legal residence in Florida and must have maintained legal residence for at least 12 consecutive months immediately prior to his or her enrollment in a postsecondary institution.³

Each postsecondary institution determines the residency status of the students who apply for admission to the institution.⁴ Each applicant must provide to the institution a statement of length of residence and establish that his or her presence in the state is for the purpose of maintaining a bona fide domicile and not as a temporary residence or residence incident to enrollment.⁵

System Implementation of Residency Requirements

Present Situation

The State Board of Education (SBE) and Florida Board of Governors (BOG) must adopt rules to implement the provisions of Section 1009.21, F.S.⁶ Accordingly, the SBE has adopted Rule 6A-10.044, F.A.C., "Residency for Tuition Purposes." The BOG has adopted a similar set of provisions under Rule 72-1.001, also entitled "Residency for Tuition Purposes." Each rule establishes requirements for determining residency for tuition purposes.

Federal law provides that an "alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefits unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident."⁷

Ruiz v. Robinson

In 2011, a group of five dependent, U.S. citizen residents of Florida filed a lawsuit against the SBE and the BOG challenging the above-referenced rules promulgated by both boards. The plaintiffs had applied to attend various institutions of higher education in Florida,⁸ but were denied residency status

¹ See Sections 1009.22, 1009.23, and 1009.24, F.S. Out-of-state tuition is established by each university board of trustees, subject to the approval of the BOG. Section 1009.24(4)(c), F.S.

² The legal residence of a dependent child's parents is prima facie evidence of the dependent child's residence. Section 1009.21(4), F.S.

³ Section 1009.21(2)(a)1., F.S. A legal resident, for purposes of tuition, is a person who has maintained his or her residence in Florida for the preceding year, has purchased a home which is occupied by him or her as his or her residence, or has established a domicile in Florida pursuant to s. 222.17, F.S. Section 1009.21(1)(d), F.S.

⁴ Section 1009.21(3)(c), F.S.

⁵ Section 1009.21(2)(a)2., F.S. Each institution must also establish a residency appeal committee under s. 1009.21(12), F.S.

⁶ Section 1009.21(13), F.S.

⁷ 8 U.S.C. § 1623, Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

⁸ The institutions included Florida International University, Miami-Dade College, and Palm Beach State College.

by the institutions application of the rules because the plaintiffs' parents could not establish legal immigration status.⁹ The plaintiffs claimed in their lawsuit that these rules are unconstitutional because they violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

The court held that the State cannot deny in-state residency status to a U.S. citizen resident of Florida based upon his or her parent's inability to prove their own legal presence in the country. While the Court stated the definition of "legal resident" under Section 1009.21, F.S., is facially neutral; it found that the additional criteria set forth in the challenged rules, as implemented by the institutions, denied the Plaintiffs the same benefits and opportunities as similarly situated individuals.¹⁰ Therefore, the rules, insofar as they require dependent United States citizen students who are residents of Florida to establish the immigration status of their Florida resident parents, were found to violate the Equal Protection Clause of the Fourteenth Amendment. The court also enjoined the BOG and the SBE from interpreting the rules in a way that would require such students to establish the immigration status of their Florida-resident parents.¹¹

The court clarified that the order would not preclude the State from requiring proof of Florida residency from a student and the student's parents in order to classify the student as a resident for tuition purposes.¹²

The Court also noted that the SBE or BOG could not use the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PROWRA) as justification for requiring proof of a parent's legal presence in the country because that law merely precludes unlawful *aliens*, not U.S. citizens, from receiving tuition benefits. Since the children in this case were U.S. citizens and the tuition benefit accrues to the child and not the parent, PROWRA was inapplicable.¹³

Effect of Proposed Changes

The bill provides that a United States citizen, who is a dependent child, may not be denied classification as a resident for tuition purposes based solely upon the immigration status of his or her parent. This, in effect, codifies the holding in *Ruiz v. Robinson*¹⁴ that such a classification violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.

Documentation of residency for tuition purposes

Present Situation

An applicant seeking an initial determination of residency must submit two or more documents evidencing residency to the institution. For students who are eligible to be claimed as a dependent under the federal income tax code (regardless of whether they are claimed or not), the applicant's parent (not the applicant) must submit documentation evidencing length of residency in Florida. No one document, alone, may be considered as conclusively establishing Florida residency for tuition purposes.¹⁵ At least one of the following must be provided by the applicant or the applicant's parent if the applicant is a dependent:

- A Florida voter's registration card

⁹ *Ruiz v. Robinson*, 2012 WL 3779058 (S.D. Fla. 2012).

¹⁰ *Ruiz v. Robinson* at 10.

¹¹ Final Judgment in *Ruiz v. Robinson*. Docket Document 109, 1:11-cv-23776-KMM, Federal District Court, Southern District of Florida.

¹² *Id.* at 8-9.

¹³ *Id.* at 9.

¹⁴ 2012 WL 3779058 (S.D. Fla. 2012).

¹⁵ Section 1009.21(3)(c), F.S.

- A Florida driver's license
- A State of Florida identification card
- A Florida vehicle registration
- Proof of a permanent home in Florida which is occupied as a primary residence by the individual or by the individual's parent if the individual is a dependent child
- Proof of a homestead exemption in Florida
- Transcripts from a Florida high school for multiple years if the Florida high school diploma or GED was earned within the last 12 months
- Proof of permanent full-time employment in Florida for at least 30 hours per week for a 12-month period¹⁶

One or more of the following documents may be provided by the applicant:

- A declaration of domicile in Florida
- A Florida professional or occupational license
- Florida incorporation
- A document evidencing family ties in Florida
- Proof of membership in a Florida-based charitable or professional organization
- Any other documentation that supports the student's request for resident status, including, but not limited to, utility bills and proof of 12 consecutive months of payments, a lease agreement and proof of 12 consecutive months of payments, or an official state, federal, or court document evidencing legal ties to Florida¹⁷

Effect of Proposed Changes

In addition to the current statutory options for establishing residency for tuition purposes, the bill provides an alternative option which allows an applicant to an institution of higher education to submit documentary evidence of his or her own residency in Florida, even if he or she is a dependent, under certain circumstances.

In order to qualify for the alternative option, the applicant must have attended high school in Florida for at least three consecutive years, applied for enrollment at a Florida institution of higher education within 12 months of graduation, and submitted his or her official Florida high school transcript as one of two documents evidencing Florida residency. If the applicant submits his or her high school transcript, the second item submitted as proof of residency may pertain either to the applicant's residency or the residency of the applicant's parent. A dependent child applicant who does not meet the alternative requirements would still have the option of establishing residency by meeting the current statutory requirements.

Definitions

Present Situation

A "dependent child" is defined as any person, whether or not living with his or her parent, who is eligible to be claimed by his or her parent as a dependent under the federal income tax code.¹⁸ A "parent," in the context of establishing residency for tuition purposes, is defined as the natural or adoptive parents or legal guardian of a dependent child.¹⁹ However, the federal income tax code allows a stepparent to claim a stepson or step daughter as a dependent.²⁰

¹⁶ Section 1009.21(3)(c)1., F.S.

¹⁷ Section 1009.21(3)(c)2., F.S.

¹⁸ Section 1009.21(1)(a), F.S.

¹⁹ Section 1009.21(1)(f), F.S.

²⁰ 26 U.S.C. s. 152.

For purposes of eligibility for federal financial aid, an independent student is one of the following: at least 24 years old, married, a graduate or professional student, a veteran, a member of the armed forces, an orphan, a ward of the court, someone with legal dependents other than a spouse, an emancipated minor, or someone who is homeless or at risk of becoming homeless.²¹

Effect of Proposed Changes

The bill amends the definition of “dependent child” to include any person who is not deemed an independent for purposes of federal financial aid. This would help to promote consistency and avoid discrepancy between the determination of dependent or independent status for residency purposes and the determination of such status for financial aid purposes. It also amends the definition of “parent” to include stepparents to align with the federal income tax code definition.

Children who reside with an adult (non-parent) relative

Present Situation

A dependent child living with an adult relative, who is not the child’s parent, may be classified as a resident for tuition purposes if the child has lived with the adult relative for five consecutive years immediately prior to initial enrollment and the adult relative has maintained legal residence in Florida for at least 12 months prior to the child enrolling in an institution of higher education.²²

Effect of Proposed Changes

For a dependent child living with an adult relative who is not the child’s parent, the bill reduces from five years to three years the amount of time the child must live with the relative in order to use the adult relative’s documentation to qualify as a resident for tuition purposes. The three year requirement aligns with other time periods established in the bill.

Effect of marital status on residency for tuition purposes

Present Situation

A student may not be denied legal resident status solely by reason of marriage to a person domiciled in another state, so long as the student remains a legal resident of Florida.²³ Conversely, a student cannot establish legal residence in this state solely by reason of marriage to a person domiciled in this state.²⁴ Florida law also provides that, upon becoming a legal resident, a student may reclassify as a resident for tuition purposes if his or her spouse is already a legal resident.²⁵

Effect of Proposed Changes

The bill clarifies when a person may be classified or reclassified, due to marriage, as a resident for tuition purposes. A person residing in Florida may be classified as a resident for tuition purposes if he or she marries a person who meets the 12-month residency requirement and otherwise qualifies as a resident for tuition purposes. A person may be reclassified as a resident for tuition purposes if the

²¹ U.S. Department of Education, *Federal Student Aid Glossary*, available at <http://studentaid.ed.gov/glossary> (last viewed Feb. 27, 2013)

²² Section 1009.21(2)(b), F.S.

²³ Section 1009.21(5)(a), and (6)(d), F.S.

²⁴ Section 1009.21(5)(b), F.S.

²⁵ Section 1009.21,(6)(d), F.S. The student must submit evidence of his or her own residency in this state, evidence of his marriage to the spouse, and evidence of the spouse’s legal residency in the state for at least 12 consecutive months immediately preceding the application for reclassification.

person submits evidence of his or her own physical residence in the state and marriage to a person who qualifies as a resident for tuition purposes.

Reevaluation of residency status

Present Situation

If the parents of a dependent student establish a domicile in another state after the student has been classified as a Florida resident for tuition purposes, the student loses his or her resident status. However, the student enjoys a one-year grace period, measured from the date the circumstances resulting in the loss of residency status arose, during which the student continues to enjoy in-state tuition rates.²⁶

Effect of Proposed Changes

The bill provides that once a student has been classified as a resident for tuition purposes, an institution of higher education is not required to reevaluate the classification unless either inconsistent information suggests an erroneous classification or there is a break in enrollment from the institution for a period of 12 months or longer.

Residency of individuals eligible for tuition exemptions and waivers

Present Situation

Under current law, certain persons are eligible for tuition exemptions and waivers, including:

- Individuals who are homeless;²⁷
- Individuals who were in the custody of the Department of Children and Families at the time they reached 18 years of age;²⁸
- Individuals who were in the custody of a relative under s. 39.5085 at the time they reached 18 years of age or who were adopted from the Department of Children and Families after May 5, 1997;²⁹
- Individuals who have been wrongfully incarcerated;³⁰
- Dependents or spouses of firefighters killed in the line of duty;³¹ and
- Dependents or spouses of law enforcement, correctional, or correctional probation officers killed in the line of duty.³²

Although these individuals are legal residents of Florida, it can be difficult, or even impossible, for them to compile and provide documentation establishing their residence in Florida for tuition purposes. Consequently, institutions may grant the exemption or waiver to the student as a non-resident student. Currently, there are no provisions under Florida law automatically classifying persons eligible for these tuition exemptions and waivers as residents for tuition purposes.

²⁶ Section 1009.21(8), F.S.

²⁷ Section 961.06(1)(b), F.S.

²⁸ Section 1009.25(1)(c), F.S.

²⁹ Section 1009.25(1)(d), F.S.

³⁰ Section 1009.25(1)(f), F.S.

³¹ Section 112.191(3), F.S.

³² Section 112.19(3), F.S.

Effect of Proposed Changes

Under the bill, individuals who receive a tuition exemption or waiver under the above-referenced sections are classified as in-state residents for tuition purposes so long as they remained eligible for the exemption or waiver. This would eliminate the burden borne by the student and the institutions regarding classification of residency based on the submission of various documents to which these individuals may not have access.

Veterans in Florida

Present Situation

Florida law also classifies certain individuals as Florida residents for tuition purposes without requiring the individuals to submit the above-described documentation under Section 1009.21(3)(c), F.S. Such individuals include:

- Active duty members of the Armed Services of the United States residing or stationed in this state, their spouses, and dependent children, and active drilling members of the Florida National Guard.
- Active duty members of the Armed Services of the United States and their spouses and dependents attending a Florida College System institution or state university within 50 miles of the military establishment where they are stationed, if such military establishment is within a county contiguous to Florida.
- United States citizens living on the Isthmus of Panama, who have completed 12 consecutive months of college work at the Florida State University Panama Canal Branch, and their spouses and dependent children.
- Full-time instructional and administrative personnel employed by state public schools and institutions of higher education and their spouses and dependent children.
- Students from Latin America and the Caribbean who receive scholarships from the federal or state government. Any student classified pursuant to this paragraph shall attend, on a full-time basis, a Florida institution of higher education.
- Southern Regional Education Board's Academic Common Market graduate students attending Florida's state universities.
- Full-time employees of state agencies or political subdivisions of the state when the student fees are paid by the state agency or political subdivision for the purpose of job-related law enforcement or corrections training.
- McKnight Doctoral Fellows and Finalists who are United States citizens.
- United States citizens living outside the United States who are teaching at a Department of Defense Dependent School or in an American International School and who enroll in a graduate level education program which leads to a Florida teaching certificate.
- Active duty members of the Canadian military residing or stationed in this state under the North American Air Defense (NORAD) agreement, and their spouses and dependent children, attending a Florida College System institution or state university within 50 miles of the military establishment where they are stationed.
- Active duty members of a foreign nation's military who are serving as liaison officers and are residing or stationed in this state, and their spouses and dependent children, attending a Florida College System institution or state university within 50 miles of the military establishment where the foreign liaison officer is stationed.³³

Under current law, however, veterans must meet the residency requirements set forth under s. 1009.21(2) to be eligible for in-state tuition rates.³⁴

Section 1.01(14), F.S., defines the term veteran as:

a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.

Florida is tied with Texas for the second largest population of veterans in the nation at 1.6 million. Only California has a larger population of veterans, at 2 million.³⁵

Effect of Proposed Changes

The bill classifies, as a Florida resident for tuition purposes, veterans of the Armed Services of the United States, including reserves, who physically reside in Florida while enrolled in a Florida institution of higher education. Under the bill, veterans would not have to maintain legal residence for 12 months prior to enrollment. Student veterans living in Florida would be exempt from paying the out-of-state fee ordinarily charged to non-resident students of state universities and Florida College System institutions.

B. SECTION DIRECTORY:

Section 1. Amends s. 1009.21, F.S., revising provisions relating to the establishment of residency for tuition purposes; reducing the five-year requirement for children living with resident, non-parent relatives; allowing students to maintain established resident status; amending the definition of "dependent child"; amending the definition of "parent"; providing that the state may not deny a U.S. citizen resident of Florida residency status for tuition purposes based solely on the immigration status of his or her parent; clarifying provisions on residency for tuition purposes pertaining to marital status; granting residency status to veterans of the U.S. Armed Forces who physically reside in Florida while enrolled in a Florida institution of higher learning; granting residency status to individuals eligible for certain tuition waivers and exemptions under Florida law; and requiring the Board of Governors to adopt regulations implementing the section.

Section 2. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

³⁴ To establish residency for tuition purposes, a person, or if that person is a dependent child, his or her parent, to establish legal residence in Florida and maintain legal residence in Florida for at least 12 consecutive months immediately prior to initial enrollment in an institution of higher education. Section 1009.21(2)(a)1., F.S.

³⁵ United States Census Bureau. A Snapshot of Our Nation's Veterans. Available : <http://www.census.gov/how/infographics/veterans.html>. (Last viewed Feb. 12, 2013.)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill makes numerous changes to determination of students' residency for tuition purposes which deems more students eligible for a lower, in state tuition rate.

Costs to veterans who are students at State University System institutions

The table below represents average per credit hour and annual costs to veterans enrolled in a State University System institution during Fiscal Year 2012-2013, and are shown for demonstration purposes only. The annual costs and cost savings to non-resident students if classified as residents for tuition purposes are based on Fiscal Year 2012-2013 tuition and fee rates, and do not reflect future costs or savings.

**Fiscal Year 2012-2013 Average Tuition and Fees
at a State University System Institution**

		# Credit Hours	Resident	Non-Resident	Annual Cost Savings to Student
Undergraduate	Per Credit Hour Cost		\$202.30	\$686.33	\$14,520.90
	Annual Full-Time Credit Hours	30	\$6,069.00	\$20,589.90	
Graduate Level	Per Credit Hour Cost		\$421.58	\$1,037.92	\$14,792.16
	Annual Full-Time Credit Hours	24	\$10,117.92	\$24,910.08	

The State University System reported 358 non-resident undergraduate and unclassified veteran students and 198 non-resident graduate level veteran students in Fiscal Year 2011-2012.³⁶

Costs to veterans who are students at Florida College System institutions

The table below represents average per credit hour and annual costs to veterans enrolled in a Florida College System institution during Fiscal Year 2012-2013, and are shown for demonstration purposes only. The annual costs and cost savings to non-resident students if classified as residents for tuition purposes are based on Fiscal Year 2012-2013 tuition and fee rates, and do not reflect future costs or savings.

³⁶ Board of Governors, *Legislative Bill Analysis for HB 11* (2013).
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DATE: 3/20/2013

**Fiscal Year 2012-13 Average Tuition and Fees
at a Florida College System Institution**

		# Credit Hours	Resident	Non-Resident	Annual Cost Savings to Student
Associate	Per Credit Hour Cost	30	\$103.03	\$381.83	\$8,364.00
	Annual Full-Time Credit Hours		\$3,090.90	\$11,454.90	
Baccalaureate	Per Credit Hour Cost	30	\$118.03	\$524.72	\$12,200.70
	Annual Full-Time Credit Hours		\$3,540.90	\$15,741.60	

The Florida College System reported that there were 1,808 veteran students who were classified as non-residents in Fiscal Year 2010-2011.³⁷

D. FISCAL COMMENTS:

The bill makes numerous changes to determination of students' residency for tuition purposes which deems more students eligible for a lower, in-state tuition rate. Costs associated with changes included in the bill are indeterminate, but potentially significant. Florida's higher education system is funded through state appropriations and student tuition revenue generated by colleges and universities. The ratio of state funding to tuition revenue is approximately 50/50.

The impact from changing the length of time a dependent child must reside with an adult relative from 5 years to 3 years to qualify as a resident for tuition purposes could impact the number of students who would not have otherwise been eligible to be classified as such. The impact on enrollment and tuition revenue for these individuals is unknown.

The impact from codifying that a dependent child who is a United States citizen may not be denied classification as a resident for tuition purposes based on the immigration status of his or her parent could impact enrollment at postsecondary institutions. Costs associated with increased enrollment are indeterminate since it is not known how many dependent students would enroll because they are assured a lower tuition rate than a college or university might otherwise have charged. The impact could be significant.

The impact from allowing an alternative method to dependent students who have difficulty providing documentation to establish residency could increase the number of students who would become eligible residents for tuition purposes. The impact on enrollment of these individuals is unknown.

The impact from not requiring classification reevaluations after a student has been classified as a resident for tuition purposes, and eliminating a measured one-year grace period for persons who become ineligible for residency allows persons to continue paying the lower, in-state tuition rates. The impact on tuition revenues is not known.

The impact from automatic classification as a resident for tuition purposes for a student who resides in Florida if he or she marries a person who qualifies as a resident for tuition purposes has an indeterminate impact on enrollment and tuition revenue. The impact from allowing a nonresident student to reclassify as a resident by subsequently marrying a person who meets the criteria to establish residency also has an indeterminate impact on enrollment and tuition revenue.

The bill would allow veterans, who would otherwise be unable to establish Florida residency for tuition purposes, to pay lower, in-state tuition rates at state universities and Florida College System

³⁷ Florida College System Fiscal Year 2010-2011 survey of FCS institutions (Email, February 5, 2013)
STORAGE NAME: h7051b.EDC.DOCX
DATE: 3/20/2013

institutions. The Board of Governors and Florida College System have provided the following information:

State Universities

The State University System reported 358 non-resident undergraduate and unclassified veteran students and 198 non-resident graduate level veteran students in Fiscal Year 2011-2012. Using enrollment figures for Fiscal Year 2011-2012, at the Fiscal Year 2012-2013 tuition and fee rates, it can be estimated that the state universities would forego approximately \$8.1 million in tuition revenues not collected as a result of this bill.³⁸

The future fiscal impact to universities and the State of Florida is indeterminate, potentially significant. It is not known how many additional veterans might move to the state to take advantage of the new residency classification policy.

Florida College System Institutions

The Florida College System reported that there were 1,808 veteran students classified as non-residents in Fiscal Year 2010-2011. The Division of Florida Colleges recently surveyed Florida College System (FCS) institutions and concluded that approximately \$13.6 million in non-resident tuition and fees would have been lost in Fiscal Year 2010-2011 if all active duty military, veterans, and eligible dependents of active duty and veterans who enrolled in Fiscal Year 2010-2011 who were classified as non-residents for tuition purposes were granted residency for tuition purposes.³⁹

The future fiscal impact to colleges and the State of Florida is indeterminate, potentially significant. It is not known how many additional veterans might move to the state to take advantage of the new residency classification policy.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill requires the Board of Governors to adopt regulations to implement the provisions of the section. The SBE and BOG may need to amend any rules or regulations inconsistent with the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

³⁸ Board of Governors, *Legislative Bill Analysis for HB 11* (2013).

³⁹ Florida College System, *Legislative Bill Analysis for SB 260* (2013).



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Education Committee
2 Representative Spano offered the following:

3
4
5
6
7
8

Amendment

Remove line 196 and insert:
positions in Florida public schools and private schools, if
available.



Amendment No.2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Education Committee
2 Representative Spano offered the following:

3
4 **Amendment**

5 Remove lines 208-209 and insert:

6 e. Results of program completers' annual evaluations in
7 accordance with the timeline as set forth in s. 1012.34.



Amendment No.3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Education Committee
 2 Representative Spano offered the following:

Amendment

5 Remove lines 386-393 and insert:

6 (a) All individuals ~~instructors~~ in postsecondary teacher
 7 preparation programs who instruct or supervise preservice field
 8 experience courses or internships in which a candidate
 9 demonstrates his or her impact on student learning growth shall
 10 have ~~at least one of~~ the following: specialized training in
 11 clinical supervision; at least three years of successful,
 12 relevant prekindergarten through grade 12 teaching, student
 13 services, or school administration experience; and an annual
 14 demonstration of experience in a relevant prekindergarten
 15 through grade 12 school setting as defined by State Board of
 16 Education rule ~~valid professional teaching certificate pursuant~~
 17 ~~to ss. 1012.56 and 1012.585; or at least 3 years of successful~~
 18 ~~teaching experience in prekindergarten through grade 12.~~

1 A bill to be entitled
 2 An act relating to teacher preparation and
 3 accountability; amending s. 1004.04, F.S.; revising
 4 provisions relating to state-approved teacher
 5 preparation programs and accountability therefor;
 6 revising the uniform core curricula for each program
 7 and providing for candidate assessment; revising
 8 standards and criteria for initial and continued
 9 program approval; requiring each program to prepare an
 10 institutional program evaluation plan; providing
 11 requirements for annual reports to the state and the
 12 general public; revising requirements for personnel
 13 who supervise teacher preparation students during
 14 preservice field experience; deleting provisions
 15 relating to certain standards of excellence, national
 16 standards, articulation agreements, and a program to
 17 provide experience as a teacher assistant; amending s.
 18 1004.85, F.S.; authorizing a private provider to
 19 create an educator preparation institute if approved
 20 by the Department of Education; providing criteria for
 21 initial and continued approval of an institute's
 22 competency-based certification program; providing
 23 requirements and credentials for program participants;
 24 providing requirements for supervisors of field
 25 experiences; amending s. 1012.32, F.S.; conforming
 26 provisions; amending s. 1012.56, F.S.; authorizing
 27 rules to allow for acceptance of certain college
 28 course credits for educator certification; providing

29 components for a school district competency-based
 30 professional development certification program;
 31 providing requirements for initial and continued
 32 approval of programs; revising provisions for
 33 applicant review of an educator certification
 34 examination; amending s. 1012.585, F.S.; correcting a
 35 cross-reference; amending s. 1012.98, F.S.; revising
 36 requirements for professional development systems
 37 developed by school districts; providing an effective
 38 date.

39

40 Be It Enacted by the Legislature of the State of Florida:

41

42 Section 1. Section 1004.04, Florida Statutes, is amended
 43 to read:

44 1004.04 Public accountability and state approval for
 45 teacher preparation programs.—

46 (1) INTENT.—

47 (a) The Legislature recognizes that effective skilled
 48 teachers make an important contribution to a system that allows
 49 students to obtain a high-quality education.

50 (b) The intent of the Legislature is to require the State
 51 Board of Education to maintain ~~attain~~ a system for development
 52 and approval of teacher preparation programs that allows
 53 postsecondary teacher preparation institutions to employ varied
 54 and innovative teacher preparation techniques while being held
 55 accountable for producing program completers ~~graduates~~ with the
 56 competencies and skills necessary to achieve the state education

57 goals; help all students in the state's diverse student
 58 population, ~~including students who have substandard reading and~~
 59 ~~computational skills and students with limited English~~
 60 ~~proficiency,~~ meet high standards for academic achievement;
 61 maintain safe, secure classroom learning environments; and
 62 sustain the state system of school improvement and education
 63 accountability established pursuant to ss. 1000.03(5) and
 64 1008.345.

65 (2) UNIFORM CORE CURRICULA AND CANDIDATE ASSESSMENT.—

66 (a) The State Board of Education shall adopt rules
 67 pursuant to ss. 120.536(1) and 120.54 that establish uniform
 68 core curricula for each state-approved teacher preparation
 69 program.

70 (b) The rules to establish uniform core curricula for each
 71 state-approved teacher preparation program must include, but are
 72 not limited to, the following:

- 73 1. The Florida Educator Accomplished Practices.
- 74 2. The state-adopted student content standards.
- 75 3. Scientifically researched reading instruction.
- 76 4. Content literacy and mathematical practices.
- 77 5. Strategies appropriate for instruction of English
 78 language learners.
- 79 6. Strategies appropriate for instruction of students with
 80 disabilities. ~~a State Board of Education identified foundation~~
 81 ~~in scientifically researched, knowledge-based reading literacy~~
 82 ~~and computational skills acquisition; classroom management;~~
 83 ~~school safety; professional ethics; educational law; human~~
 84 ~~development and learning; and understanding of the Sunshine~~

85 ~~State Standards content measured by state achievement tests,~~
 86 ~~reading and interpretation of data, and use of data to improve~~
 87 ~~student achievement.~~

88 (c) Each candidate shall receive instruction and be
 89 assessed on the uniform core curriculum in his or her area of
 90 program concentration during course work and field experiences.

91 (d) Before program completion, each candidate must
 92 demonstrate his or her ability to positively impact student
 93 learning growth in his or her area of program concentration
 94 during a prekindergarten through grade 12 field experience and
 95 must pass each portion of the Florida Teacher Certification
 96 Examination required for a professional certificate in the area
 97 of program concentration.

98 ~~(c) These rules shall not require an additional period of~~
 99 ~~time to degree but may be phased in to enable teacher~~
 100 ~~preparation programs to supplant courses, including pedagogy~~
 101 ~~courses, not required by law or State Board of Education rule~~
 102 ~~with the courses identified pursuant to paragraph (b).~~

103 ~~(3) DEVELOPMENT OF TEACHER PREPARATION PROGRAMS. A system~~
 104 ~~developed by the Department of Education in collaboration with~~
 105 ~~postsecondary educational institutions shall assist departments~~
 106 ~~and colleges of education in the restructuring of their programs~~
 107 ~~in accordance with this section to meet the need for producing~~
 108 ~~quality teachers now and in the future.~~

109 ~~(a) The system must be designed to assist teacher~~
 110 ~~educators in conceptualizing, developing, implementing, and~~
 111 ~~evaluating programs that meet state-adopted standards. These~~
 112 ~~standards shall emphasize quality indicators drawn from~~

113 ~~research, professional literature, recognized guidelines,~~
 114 ~~Florida essential teaching competencies and educator-~~
 115 ~~accomplished practices, effective classroom practices, and the~~
 116 ~~outcomes of the state system of school improvement and education~~
 117 ~~accountability, as well as performance measures.~~

118 ~~(b) Departments and colleges of education shall emphasize~~
 119 ~~the state system of school improvement and education~~
 120 ~~accountability concepts and standards, including Sunshine State~~
 121 ~~Standards.~~

122 ~~(c) State-approved teacher preparation programs must~~
 123 ~~incorporate:~~

124 ~~1. Appropriate English for Speakers of Other Languages~~
 125 ~~instruction so that program graduates will have completed the~~
 126 ~~requirements for teaching limited English proficient students in~~
 127 ~~Florida public schools.~~

128 ~~2. Scientifically researched, knowledge-based reading~~
 129 ~~literacy and computational skills instruction so that program~~
 130 ~~graduates will be able to provide the necessary academic~~
 131 ~~foundations for their students at whatever grade levels they~~
 132 ~~choose to teach.~~

133 ~~(3)(4)~~ INITIAL STATE PROGRAM APPROVAL.—

134 (a) A program approval process based on standards adopted
 135 pursuant to this subsection and subsections (2) and
 136 ~~(3)~~ must be established for postsecondary teacher preparation
 137 programs, ~~phased in according to timelines determined by the~~
 138 ~~Department of Education, and fully implemented for all teacher~~
 139 ~~preparation programs in the state.~~ Each program shall be
 140 approved by the department, consistent with the intent set forth

141 in subsection (1) and based ~~primarily~~ upon evidence of the
 142 institution's and the program's capacity to meet the
 143 requirements for continued approval established in subsection
 144 (4) and rules of the State Board of Education ~~significant,~~
 145 ~~objective, and quantifiable graduate performance measures.~~

146 (b) Each teacher preparation program approved by the
 147 Department of Education, as provided for by this section, shall
 148 require students to meet, at a minimum, the following ~~as~~
 149 prerequisites for admission into the program:

150 1. Have a grade point average of at least 2.5 on a 4.0
 151 scale for the general education component of undergraduate
 152 studies or have completed the requirements for a baccalaureate
 153 degree with a minimum grade point average of 2.5 on a 4.0 scale
 154 from any college or university accredited by a regional
 155 accrediting association as defined by State Board of Education
 156 rule or any college or university otherwise approved pursuant to
 157 State Board of Education rule.

158 2. Demonstrate mastery of general knowledge sufficient for
 159 entry into the program, including the ability to read, write,
 160 and perform mathematics ~~compute,~~ by passing the General
 161 Knowledge Test of the Florida Teacher Certification Examination
 162 or, for graduate-level programs, by obtaining a baccalaureate
 163 degree from an institution that is accredited or approved, ~~the~~
 164 ~~College Level Academic Skills Test, a corresponding component of~~
 165 ~~the National Teachers Examination series, or a similar test~~
 166 pursuant to rules of the State Board of Education.

167
 168 Each teacher preparation program may waive these admissions

169 requirements for up to 10 percent of the students admitted.
 170 Programs shall implement strategies to ensure that students
 171 admitted under a waiver receive assistance to demonstrate
 172 competencies to successfully meet requirements for certification
 173 and shall annually report to the department the status of each
 174 candidate admitted under such a waiver.

175 (c) Each teacher preparation program approved by the
 176 Department of Education, as provided for by this section, shall
 177 provide a certification ombudsman to facilitate the process and
 178 procedures required for graduates to obtain educator
 179 professional or temporary certification pursuant to s. 1012.56.

180 (4) ~~(5)~~ CONTINUED PROGRAM APPROVAL.—Continued approval of a
 181 teacher preparation program shall be based upon evidence that
 182 the program continues to implement the requirements for initial
 183 approval and upon significant, objective, and quantifiable
 184 measures of program and program completer performance.

185 (a) The criteria for continued approval shall include the
 186 following:

187 1. Documentation from the program that each program
 188 candidate met the admission requirements provided in subsection
 189 (3).

190 2. Documentation from the program that the program and
 191 each program completer met the requirements provided in
 192 subsection (2).

193 3. Evidence of performance in each of the following
 194 categories of data:

195 a. Placement rate of program completers into instructional
 196 positions in Florida public schools.

197 b. Rate of retention for employed program completers in
 198 instructional positions in Florida public schools.

199 c. Performance of the prekindergarten through grade 12
 200 students assigned to in-field program completers on statewide
 201 assessments using the results of the student learning growth
 202 formula adopted under s. 1012.34.

203 d. Performance of prekindergarten through grade 12
 204 students assigned to in-field program completers aggregated by
 205 federal reporting subgroup as a measure of how well the program
 206 prepares teachers to work with a diverse population of students
 207 in a variety of settings in Florida public schools.

208 e. Results of program completers' annual evaluations as
 209 determined by s. 1012.34.

210 f. Production of program completers in statewide critical
 211 teacher shortage areas as identified under s. 1012.07.

212 ~~Notwithstanding subsection (4), failure by a public or nonpublic~~
 213 ~~teacher preparation program to meet the criteria for continued~~
 214 ~~program approval shall result in loss of program approval. The~~
 215 ~~Department of Education, in collaboration with the departments~~
 216 ~~and colleges of education, shall develop procedures for~~
 217 ~~continued program approval that document the continuous~~
 218 ~~improvement of program processes and graduates' performance.~~

219 ~~(a) Continued approval of specific teacher preparation~~
 220 ~~programs at each public and nonpublic postsecondary educational~~
 221 ~~institution within the state is contingent upon the passing of~~
 222 ~~the written examination required by s. 1012.56 by at least 90~~
 223 ~~percent of the graduates of the program who take the~~
 224 ~~examination. The Department of Education shall annually provide~~

225 ~~an analysis of the performance of the graduates of such~~
 226 ~~institution with respect to the competencies assessed by the~~
 227 ~~examination required by s. 1012.56.~~

228 (b) The State Board of Education shall adopt rules for
 229 continued approval of teacher preparation programs that include
 230 the program review process, the continued approval timelines,
 231 and the performance level targets for each of the continued
 232 approval criteria in paragraph (a). Additional criteria for
 233 continued program approval ~~for public institutions~~ may be
 234 approved by the State Board of Education. Such criteria may
 235 include ~~must emphasize instruction in classroom management and~~
 236 ~~must provide for the evaluation of the teacher candidates'~~
 237 ~~performance in this area. The criteria shall also require~~
 238 ~~instruction in working with underachieving students. Program~~
 239 ~~evaluation procedures must include, but are not limited to,~~
 240 program completers' graduates' satisfaction with instruction and
 241 employers' satisfaction with the program's responsiveness to
 242 local school districts. The Commissioner of Education shall make
 243 the determination for the continued approval of each program
 244 based on the data collected pursuant to this section and rules
 245 of the State Board of Education. ~~Additional criteria for~~
 246 ~~continued program approval for nonpublic institutions shall be~~
 247 ~~developed in the same manner as for public institutions,~~
 248 ~~however, such criteria must be based upon significant,~~
 249 ~~objective, and quantifiable graduate performance measures.~~
 250 ~~Responsibility for collecting data on outcome measures through~~
 251 ~~survey instruments and other appropriate means shall be shared~~
 252 ~~by the postsecondary educational institutions and the Department~~

253 ~~of Education. By January 1 of each year, the Department of~~
 254 ~~Education shall report this information for each postsecondary~~
 255 ~~educational institution that has state approved programs of~~
 256 ~~teacher education to the Governor, the State Board of Education,~~
 257 ~~the Board of Governors, the Commissioner of Education, the~~
 258 ~~President of the Senate, the Speaker of the House of~~
 259 ~~Representatives, all Florida postsecondary teacher preparation~~
 260 ~~programs, and interested members of the public. This report must~~
 261 ~~analyze the data and make recommendations for improving teacher~~
 262 ~~preparation programs in the state.~~

263 (c) Each program must prepare and submit to the department
 264 ~~Continued approval for a teacher preparation program is~~
 265 ~~contingent upon the results of periodic reviews, on a schedule~~
 266 ~~established by the State Board of Education, of the program~~
 267 ~~conducted by the postsecondary educational institution, using~~
 268 ~~procedures and criteria outlined in an institutional program~~
 269 ~~evaluation plan approved by the Department of Education. Each~~
 270 institutional program evaluation ~~This plan must incorporate data~~
 271 related to ~~the criteria established in paragraphs (a) and (b)~~
 272 and may include additional data chosen by the program. The plan
 273 must provide information on how the institution addresses
 274 continuous program improvement ~~and include provisions for~~
 275 ~~involving primary stakeholders, such as program completers~~
 276 ~~graduates, public district school personnel, classroom teachers,~~
 277 ~~principals, community agencies, and business representatives in~~
 278 ~~the evaluation process. Upon request by an institution, the~~
 279 ~~department shall provide assistance in developing, enhancing, or~~
 280 ~~reviewing the institutional program evaluation plan and training~~

281 | ~~evaluation team members.~~

282 | ~~(d) Continued approval for a teacher preparation program~~
 283 | ~~is contingent upon standards being in place that are designed to~~
 284 | ~~adequately prepare elementary, middle, and high school teachers~~
 285 | ~~to instruct their students in reading and higher-level~~
 286 | ~~mathematics concepts and in the use of technology at the~~
 287 | ~~appropriate grade level.~~

288 | (d)(e) ~~Continued approval of teacher preparation programs~~
 289 | ~~is contingent upon compliance with the student admission~~
 290 | ~~requirements of subsection (4) and upon the receipt of at least~~
 291 | ~~a satisfactory rating from public schools and private schools~~
 292 | ~~that employ graduates of the program.~~ Each teacher preparation
 293 | program shall guarantee the high quality of its program
 294 | completers graduates during the first 2 years immediately after
 295 | completion of following graduation from the program or after
 296 | following initial certification, whichever occurs first. Any
 297 | program completer who is employed in a public school during this
 298 | 2-year period and who earns an evaluation result of developing
 299 | or unsatisfactory on the district's evaluation system
 300 | implemented under s. 1012.34 ~~educator in a Florida school who~~
 301 | ~~fails to demonstrate the essential skills specified in~~
 302 | ~~subparagraphs 1.-5.~~ shall be provided additional training by the
 303 | teacher preparation program at no expense to the educator or the
 304 | employer, if requested by the employing school district or
 305 | charter school. Such training must consist of an individualized
 306 | plan agreed upon by the school district and the postsecondary
 307 | educational institution that includes specific learning
 308 | outcomes. The postsecondary educational institution assumes no

309 responsibility for the educator's employment contract with the
 310 employer. ~~Employer satisfaction shall be determined by an~~
 311 ~~annually administered survey instrument approved by the~~
 312 ~~Department of Education that, at a minimum, must include~~
 313 ~~employer satisfaction of the graduates' ability to do the~~
 314 ~~following:~~

315 1. ~~Write and speak in a logical and understandable style~~
 316 ~~with appropriate grammar.~~

317 2. ~~Recognize signs of students' difficulty with the~~
 318 ~~reading and computational process and apply appropriate measures~~
 319 ~~to improve students' reading and computational performance.~~

320 3. ~~Use and integrate appropriate technology in teaching~~
 321 ~~and learning processes.~~

322 4. ~~Demonstrate knowledge and understanding of Sunshine~~
 323 ~~State Standards.~~

324 5. ~~Maintain an orderly and disciplined classroom conducive~~
 325 ~~to student learning.~~

326 (e) ~~(f)~~1. Each Florida public and private institution that
 327 offers a state-approved teacher preparation program must
 328 annually report information regarding its approved these
 329 programs to the state and the general public. The report to the
 330 state must include candidates who are admitted to, enrolled in,
 331 and complete a teacher preparation program; additional evidence
 332 necessary to document requirements for continued approval; and
 333 data necessary to complete applicable federal reporting
 334 requirements. State reporting requirements must minimize a
 335 program's reporting burden whenever possible without
 336 compromising data quality. The report to the general public must

337 include, at a minimum, the annual progress data reported under
 338 paragraph (f) and may include other information chosen by the
 339 institution or program. This information shall be reported in a
 340 ~~uniform and comprehensible manner that is consistent with~~
 341 ~~definitions and methods approved by the Commissioner of the~~
 342 ~~National Center for Educational Statistics and that is approved~~
 343 ~~by the State Board of Education. This information must include,~~
 344 ~~at a minimum:~~

345 ~~a. The percent of graduates obtaining full-time teaching~~
 346 ~~employment within the first year of graduation.~~

347 ~~b. The average length of stay of graduates in their full-~~
 348 ~~time teaching positions.~~

349 ~~c. Satisfaction ratings required in paragraph (c).~~

350 ~~2. Each public and private institution offering training~~
 351 ~~for school readiness related professions, including training in~~
 352 ~~the fields of child care and early childhood education, whether~~
 353 ~~offering career credit, associate in applied science degree~~
 354 ~~programs, associate in science degree programs, or associate in~~
 355 ~~arts degree programs, shall annually report information~~
 356 ~~regarding these programs to the state and the general public in~~
 357 ~~a uniform and comprehensible manner that conforms with~~
 358 ~~definitions and methods approved by the State Board of~~
 359 ~~Education. This information must include, at a minimum:~~

360 ~~a. Average length of stay of graduates in their positions.~~

361 ~~b. Satisfaction ratings of graduates' employers.~~

362

363 ~~This information shall be reported through publications,~~
 364 ~~including college and university catalogs and promotional~~

365 ~~materials sent to potential applicants, secondary school~~
 366 ~~guidance counselors, and prospective employers of the~~
 367 ~~institution's program graduates.~~

368 (f) By January 1 of each year, the Department of Education
 369 shall report to the Governor, the State Board of Education, the
 370 Board of Governors, the Commissioner of Education, the President
 371 of the Senate, the Speaker of the House of Representatives, all
 372 Florida postsecondary teacher preparation programs, district
 373 school superintendents, and the public the results of each
 374 approved program's annual progress on the performance measures
 375 in paragraph (a) and the current approval status of each
 376 program. This report may include results of other continued
 377 approval requirements provided in State Board of Education rules
 378 and recommendations for improving teacher preparation programs
 379 in the state.

380 (5)(6) PRESERVICE FIELD EXPERIENCE.--All postsecondary
 381 instructors, school district personnel and instructional
 382 personnel, and school sites preparing instructional personnel
 383 through preservice field experience courses and internships
 384 shall meet special requirements. District school boards are
 385 authorized to pay student teachers during their internships.

386 (a) All instructors in postsecondary teacher preparation
 387 programs who instruct or supervise preservice field experience
 388 courses or internships in which a candidate demonstrates his or
 389 her impact on student learning growth shall have ~~at least one of~~
 390 the following: specialized training in clinical supervision; a
 391 valid professional teaching certificate pursuant to ss. 1012.56
 392 and 1012.585; and ~~or~~ at least 3 years of successful teaching

393 | experience in prekindergarten through grade 12.

394 | (b) All school district personnel and instructional
395 | personnel who supervise or direct teacher preparation students
396 | during field experience courses or internships in which a
397 | candidate demonstrates his or her impact on student learning
398 | growth must:

399 | 1. Have evidence of "clinical educator" training approved
400 | by the State Board of Education.

401 | 2. Hold a valid professional certificate issued pursuant
402 | to s. 1012.56.

403 | 3. Have at least 3 years of prekindergarten through grade
404 | 12 teaching experience.

405 | 4. Have earned either an effective or highly effective
406 | rating on the previous year's evaluation under s. 1012.34 or be
407 | a peer evaluator under the district's evaluation system approved
408 | under s. 1012.34 and must successfully demonstrate effective
409 | classroom management strategies that consistently result in
410 | improved student performance. The State Board of Education shall
411 | approve the training requirements.

412 | (c) Preservice field experiences must include candidate
413 | practice experience programs must provide specific guidance and
414 | demonstration of the uniform core curriculum specific to the
415 | area of program concentration with a diverse population of
416 | students in a variety of settings effective classroom management
417 | strategies, strategies for incorporating technology into
418 | classroom instruction, strategies for incorporating
419 | scientifically researched, knowledge-based reading literacy and
420 | computational skills acquisition into classroom instruction, and

421 | ~~ways to link instructional plans to the Sunshine State~~
 422 | ~~Standards, as appropriate.~~ The length of structured field
 423 | experiences may be extended to ensure that candidates achieve
 424 | the competencies needed to meet certification requirements.

425 | (d) Postsecondary teacher preparation programs in
 426 | cooperation with district school boards and approved private
 427 | school associations shall select the school sites for preservice
 428 | field experience activities based upon the qualifications of
 429 | supervising faculty as described in this subsection and the
 430 | needs of the candidates. These sites must represent the full
 431 | spectrum of school communities, including, but not limited to,
 432 | schools located in urban settings. In order to be selected,
 433 | school sites must demonstrate commitment to the education of
 434 | public school students and to the preparation of future
 435 | teachers.

436 | ~~(7) STANDARDS OF EXCELLENCE. The State Board of Education~~
 437 | ~~shall approve standards of excellence for teacher preparation.~~
 438 | ~~These standards must exceed the requirements for program~~
 439 | ~~approval pursuant to subsection (4) and must incorporate state~~
 440 | ~~and national recommendations for exemplary teacher preparation~~
 441 | ~~programs.~~

442 | ~~(8) NATIONAL BOARD STANDARDS. The State Board of Education~~
 443 | ~~shall review standards and recommendations developed by the~~
 444 | ~~National Board for Professional Teaching Standards and may~~
 445 | ~~incorporate those parts deemed appropriate into criteria for~~
 446 | ~~continued state program approval, standards of excellence, and~~
 447 | ~~requirements for inservice education.~~

448 | ~~(9) FLORIDA COLLEGE SYSTEM INSTITUTIONS. To the extent~~

449 ~~practical, postsecondary educational institutions offering~~
 450 ~~teacher preparation programs shall establish articulation~~
 451 ~~agreements on a core of liberal arts courses and introductory~~
 452 ~~professional courses with field experience components which~~
 453 ~~shall be offered at Florida College System institutions.~~

454 ~~(10) SHORT-TERM EXPERIENCES AS TEACHER ASSISTANTS.—~~
 455 ~~Postsecondary institutions offering teacher preparation programs~~
 456 ~~and Florida College System institutions, in collaboration with~~
 457 ~~school districts, may develop and implement a program to provide~~
 458 ~~short-term experiences as teacher assistants prior to beginning~~
 459 ~~a teacher preparation program or alternative certification~~
 460 ~~program. The program shall serve individuals with baccalaureate~~
 461 ~~degrees who are interested in the teaching profession. This~~
 462 ~~experience may be accepted for use in teacher preparation~~
 463 ~~programs and competency-based alternative certification~~
 464 ~~programs, where applicable.~~

465 ~~(6)~~ ~~(11)~~ RULES.—The State Board of Education shall adopt
 466 necessary rules pursuant to ss. 120.536(1) and 120.54 to
 467 implement this section.

468 Section 2. Section 1004.85, Florida Statutes, is amended
 469 to read:

470 1004.85 Postsecondary educator preparation institutes.—

471 (1) As used in this section, "educator preparation
 472 institute" means an institute created by a postsecondary
 473 institution or qualified private provider and approved by the
 474 Department of Education.

475 (2) (a) Postsecondary institutions that are accredited or
 476 approved as described in state board rule may seek approval from

477 the Department of Education to create educator preparation
 478 institutes for the purpose of providing any or all of the
 479 following:

480 1.~~(a)~~ Professional development instruction to assist
 481 teachers in improving classroom instruction and in meeting
 482 certification or recertification requirements.

483 2.~~(b)~~ Instruction to assist potential and existing
 484 substitute teachers in performing their duties.

485 3.~~(c)~~ Instruction to assist paraprofessionals in meeting
 486 education and training requirements.

487 4.~~(d)~~ Instruction for baccalaureate degree holders to
 488 become certified teachers as provided in this section in order
 489 to increase routes to the classroom for mid-career professionals
 490 who hold a baccalaureate degree and college graduates who were
 491 not education majors.

492 (b) Private providers that have a proven history of
 493 delivering high-quality teacher preparation, which is based upon
 494 evidence provided from recipients of their services and data
 495 showing the successful performance of their completers based
 496 upon student achievement, may seek approval to offer a
 497 competency-based certification program under subsection (3).

498 (3) Educator preparation institutes approved pursuant to
 499 this section may offer competency-based alternative
 500 certification programs specifically designed for noneducation
 501 major baccalaureate degree holders to enable program
 502 participants to meet the educator certification requirements of
 503 s. 1012.56. ~~Such programs shall be competency-based educator~~
 504 ~~certification preparation programs that prepare educators~~

505 ~~through an alternative route.~~ An educator preparation institute
 506 choosing to offer a competency-based ~~an alternative~~
 507 certification program pursuant to the provisions of this section
 508 must implement a program previously approved by the Department
 509 of Education for this purpose or a program developed by the
 510 institute and approved by the department for this purpose.
 511 Approved programs shall be available for use by other approved
 512 educator preparation institutes.

513 (a) Within 90 days after receipt of a request for
 514 approval, the Department of Education shall approve an educator
 515 preparation ~~an alternative certification~~ program pursuant to the
 516 requirements of this subsection or issue a statement of the
 517 deficiencies in the request for approval. The department shall
 518 approve a ~~an alternative~~ certification program if the institute
 519 provides ~~sufficient~~ evidence of the institute's capacity to
 520 implement a competency-based program that includes the
 521 following:

522 1. Participant instruction and assessment in the Florida
 523 Educator Accomplished Practices, the state-adopted student
 524 content standards, scientifically researched reading
 525 instruction, content literacy and mathematical practices,
 526 strategies appropriate for instruction of English language
 527 learners, and strategies appropriate for instruction of students
 528 with disabilities.

529 2. An educational plan for each participant to meet
 530 certification requirements and demonstrate his or her ability to
 531 teach the subject area for which the participant is seeking
 532 certification, which plan is based on an assessment of his or

533 her competency in the areas listed in subparagraph 1.

534 ~~1. Instruction must be provided in professional knowledge~~
 535 ~~and subject matter content that includes educator accomplished~~
 536 ~~practices and competencies specified in State Board of Education~~
 537 ~~rule and meets subject matter content requirements, professional~~
 538 ~~competency testing requirements, and competencies associated~~
 539 ~~with teaching scientifically based reading instruction and~~
 540 ~~strategies that research has shown to be successful in improving~~
 541 ~~reading among low-performing readers.~~

542 3.2. Field experiences appropriate to the certification
 543 subject specified in the educational plan with a diverse
 544 population of students in a variety of settings under The
 545 ~~program must provide field experience with supervision from~~
 546 ~~qualified educators.~~

547 ~~4.3. The program must provide~~ A certification ombudsman to
 548 facilitate the process and procedures required for participants
 549 who complete the program to meet any requirements related to the
 550 background screening pursuant to s. 1012.32 and educator
 551 professional or temporary certification pursuant to s. 1012.56.

552 (b) Each program participant must:

553 1. Meet certification requirements pursuant to s.
 554 1012.56(1) by obtaining a statement of status of eligibility in
 555 the certification area of the educational plan and meet the
 556 requirements of s. 1012.56(2) (a)-(f).

557 2. Participate in course work field experiences that are
 558 ~~experience that is~~ appropriate to his or her educational plan
 559 prepared under paragraph (a).

560 3. Before completion of the program, fully demonstrate his

561 or her ability to teach the subject area for which he or she is
 562 seeking certification by documenting a positive impact on
 563 student learning growth in a prekindergarten through grade 12
 564 setting and by achieving ~~demonstrate mastery of professional~~
 565 ~~preparation and education competence by achievement of a passing~~
 566 ~~score on the professional education competency examination, the~~
 567 basic skills examination, and the subject area examination for
 568 the area of certification required by state board rule ~~prior to~~
 569 ~~completion of the program.~~

570 (c) Upon completion of all requirements for a an
 571 ~~alternative~~ certification program approved pursuant to this
 572 subsection, a participant shall receive a credential from the
 573 sponsoring institution signifying that the participant has
 574 completed a state-approved competency-based certification
 575 program in the certification subject area specified in the
 576 educational plan ~~satisfaction of the requirements of s.~~
 577 ~~1012.56(6) relating to mastery of professional preparation and~~
 578 ~~education competence.~~ A participant shall be eligible for
 579 educator certification through the Department of Education upon
 580 satisfaction of all requirements for certification set forth in
 581 s. 1012.56(2), ~~including demonstration of mastery of general~~
 582 ~~knowledge, subject area knowledge, and professional preparation~~
 583 ~~and education competence, through testing or other statutorily~~
 584 ~~authorized means.~~

585 ~~(d) If an institution offers an alternative certification~~
 586 ~~program approved pursuant to this subsection, such program may~~
 587 ~~be used by the school district or districts served by that~~
 588 ~~institution in addition to the alternative certification program~~

589 ~~as required in s. 1012.56(8).~~

590 (4) Continued approval of each program approved pursuant
 591 to this section shall be determined by the Commissioner of
 592 Education based upon a periodic review of the following:

593 (a) Documentation from the program that each program
 594 completer has met the requirements of subsection (3).

595 (b) Evidence of performance in each of the following
 596 categories of data:

597 1. Placement rate of program completers into instructional
 598 positions in Florida public schools.

599 2. Rate of retention for employed program completers in
 600 instructional positions in Florida public schools.

601 3. Performance of the prekindergarten through grade 12
 602 students assigned to in-field program completers on statewide
 603 assessments using the results of the student learning growth
 604 formula adopted under s. 1012.34.

605 4. Performance of prekindergarten through grade 12
 606 students assigned to in-field program completers aggregated by
 607 federal reporting subgroup as a measure of how well the program
 608 prepares teachers to work with a variety of students in Florida
 609 public schools.

610 5. Overall teacher evaluation results of program
 611 completers.

612 6. Production of program completers in statewide critical
 613 teacher shortage areas as identified under s. 1012.07.

614 ~~(5)-(4)~~ Each institute approved pursuant to this section
 615 shall submit to the Department of Education annual performance
 616 evaluations that measure the effectiveness of the programs,

617 including the pass rates of participants on all examinations
 618 required for teacher certification, employment rates,
 619 longitudinal retention rates, and employer satisfaction surveys.
 620 The employer satisfaction surveys must be designed to measure
 621 the sufficient preparation of the educator to enter the
 622 classroom. These evaluations shall be used by the Department of
 623 Education for purposes of continued approval of an educator
 624 preparation institute's ~~alternative~~ certification program.

625 (6)-(5) Instructors and supervisors of field experiences in
 626 which a participant demonstrates his or her impact on student
 627 learning for a an-alternative certification program approved
 628 pursuant to this section must meet the same qualifications as
 629 those required in s. 1004.04(5) possess a master's degree in
 630 education or a master's degree in an appropriate related field
 631 and document teaching experience.

632 (7)-(6) Educator preparation institutes approved pursuant
 633 to this section and providing approved instructional programs
 634 for any of the purposes in subsection (2) are eligible for
 635 funding from federal and state funds, as appropriated by the
 636 Legislature.

637 (8)-(7) The State Board of Education may adopt rules
 638 pursuant to ss. 120.536(1) and 120.54 to implement the
 639 provisions of this section, including performance targets for
 640 the measures used for continued program approval described in
 641 subsection (4).

642 Section 3. Paragraph (d) of subsection (2) of section
 643 1012.32, Florida Statutes, is amended to read:

644 1012.32 Qualifications of personnel.—

645 (2)
 646 (d) Student teachers and persons participating in a field
 647 experience pursuant to s. 1004.04(5) ~~1004.04(6)~~ or s. 1004.85,
 648 ~~and persons participating in a short-term experience as a~~
 649 ~~teacher assistant pursuant to s. 1004.04(10) in any district~~
 650 ~~school system, lab school, or charter school~~ must, upon
 651 engagement to provide services, undergo background screening as
 652 required under s. 1012.56.

653
 654 Fingerprints shall be submitted to the Department of Law
 655 Enforcement for statewide criminal and juvenile records checks
 656 and to the Federal Bureau of Investigation for federal criminal
 657 records checks. A person subject to this subsection who is found
 658 ineligible for employment under s. 1012.315, or otherwise found
 659 through background screening to have been convicted of any crime
 660 involving moral turpitude as defined by rule of the State Board
 661 of Education, shall not be employed, engaged to provide
 662 services, or serve in any position that requires direct contact
 663 with students. Probationary persons subject to this subsection
 664 terminated because of their criminal record have the right to
 665 appeal such decisions. The cost of the background screening may
 666 be borne by the district school board, the charter school, the
 667 employee, the contractor, or a person subject to this
 668 subsection.

669 Section 4. Paragraph (c) of subsection (2), paragraphs (g)
 670 and (h) of subsection (6), subsection (8), and paragraph (d) of
 671 subsection (9) of section 1012.56, Florida Statutes, are amended
 672 to read:

673 1012.56 Educator certification requirements.—

674 (2) ELIGIBILITY CRITERIA.—To be eligible to seek
675 certification, a person must:

676 (c) Document receipt of a bachelor's or higher degree from
677 an accredited institution of higher learning, or a nonaccredited
678 institution of higher learning that the Department of Education
679 has identified as having a quality program resulting in a
680 bachelor's degree, or higher. Each applicant seeking initial
681 certification must have attained at least a 2.5 overall grade
682 point average on a 4.0 scale in the applicant's major field of
683 study. The applicant may document the required education by
684 submitting official transcripts from institutions of higher
685 education or by authorizing the direct submission of such
686 official transcripts through established electronic network
687 systems. The bachelor's or higher degree may not be required in
688 areas approved in rule by the State Board of Education as
689 nondegreed areas. The State Board of Education may adopt rules
690 that allow for the acceptance of college course credits
691 recommended by the American Council on Education (ACE), as
692 posted on an official ACE transcript, for the purpose of
693 demonstrating completion of specific certification requirements.

694 (6) MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION
695 COMPETENCE.—Acceptable means of demonstrating mastery of
696 professional preparation and education competence are:

697 (g) Successful completion of a professional development
698 ~~preparation~~ alternative certification and education competency
699 program, outlined in paragraph (8) (a); or

700 (h) Successful completion of a competency-based an

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701 ~~alternative~~ certification program pursuant to s. 1004.85 and
 702 achievement of a passing score on the professional education
 703 competency examination required by rule of the State Board of
 704 Education.

705 (8) PROFESSIONAL DEVELOPMENT ~~PREPARATION ALTERNATIVE~~
 706 CERTIFICATION AND EDUCATION COMPETENCY PROGRAM.—

707 (a) The Department of Education shall develop and each
 708 school district may ~~must~~ provide a cohesive competency-based
 709 professional development ~~preparation alternative~~ certification
 710 program by which members of a school district's instructional
 711 staff may satisfy the mastery of professional preparation and
 712 education competence requirements specified in this subsection
 713 and rules of the State Board of Education. Participants must
 714 hold a state-issued temporary certificate. A school district
 715 that implements the program shall provide a competency-based
 716 ~~alternative~~ certification ~~preparation~~ program developed by the
 717 Department of Education or developed by the district and
 718 approved by the Department of Education. The program shall
 719 include the following components:

720 1. A minimum period of initial preparation before ~~prior to~~
 721 assuming duties as the teacher of record.

722 2. An option for collaboration between school districts
 723 and other supporting agencies or educational entities for
 724 implementation.

725 3. Experienced peer mentors. Each individual selected by
 726 the school district as a peer mentor must hold a valid
 727 professional certificate issued pursuant to s. 1012.56, have at
 728 least 3 years of prekindergarten through grade 12 teaching

729 experience, and have earned either an effective or highly
 730 effective rating on the previous year's evaluation under s.
 731 1012.34 or be a peer evaluator under the district's evaluation
 732 system approved under s. 1012.34.

733 4. An assessment of teaching performance aligned to the
 734 school district's system for personnel evaluation under s.
 735 1012.34 that provides for:

736 a. An initial evaluation of each educator's competencies
 737 to determine an appropriate individualized professional
 738 development plan.

739 b. A summative evaluation ~~postevaluation~~ to ensure ~~assure~~
 740 successful completion of the program.

741 5. Professional education preparation content knowledge
 742 that includes, but is not limited to, the following:

743 a. The state-adopted student content standards, including
 744 content literacy and mathematical practices, for any subject
 745 area shown on the temporary certificate. ~~Requirements specified~~
 746 ~~in state board rule for professional preparation.~~

747 b. The educator-accomplished practices approved by the
 748 state board.

749 c. A variety of data indicators for monitoring student
 750 progress.

751 d. ~~Methodologies, including technology-based~~
 752 ~~methodologies,~~ for teaching students with disabilities ~~subject~~
 753 ~~content that supports the Sunshine State Standards for students.~~

754 e. Methodologies for teaching English language learners
 755 appropriate for any subject area shown on the temporary
 756 certificate. ~~Techniques for effective classroom management.~~

757 | ~~f. Techniques and strategies for operationalizing the role~~
 758 | ~~of the teacher in assuring a safe learning environment for~~
 759 | ~~students.~~

760 | ~~g. Methodologies for assuring the ability of all students~~
 761 | ~~to read, write, and compute.~~

762 | 6. Required achievement of passing scores on the subject
 763 | area and professional education competency examination required
 764 | by state board rule. Mastery of general knowledge must be
 765 | demonstrated as described in subsection (3).

766 | (b) Each school district must and a state supported public
 767 | school or a private school may develop and maintain a system by
 768 | which members of the instructional staff may demonstrate mastery
 769 | of professional education competence as required by law. Each
 770 | program must be based on classroom application of the Florida
 771 | Educator Accomplished Practices and instructional performance
 772 | and, for public schools, must be aligned with the district's
 773 | evaluation system approved under s. 1012.34 ~~must include a~~
 774 | ~~performance evaluation plan for documenting the demonstration of~~
 775 | ~~required professional education competence.~~

776 | (c) Continued approval of a program implemented under this
 777 | subsection shall be determined by the Commissioner of Education
 778 | after a periodic review of performance data from the program.

779 | 1. A program implemented under paragraph (a) shall be
 780 | based upon documentation from the program that the requirements
 781 | of paragraph (a) are consistently met and upon evidence of
 782 | performance in each of the following categories of data:

783 | a. Rate of retention for employed program completers in
 784 | instructional positions in Florida public schools.

785 b. Performance of the prekindergarten through grade 12
 786 students assigned to in-field program completers on statewide
 787 assessments using the results of the student learning growth
 788 formula adopted under s. 1012.34.

789 c. Performance of prekindergarten through grade 12
 790 students assigned to in-field program completers aggregated by
 791 federal reporting subgroup as a measure of how well the program
 792 prepares teachers to work with a variety of students in Florida
 793 public schools.

794 d. Overall teacher evaluation results of program
 795 completers.

796 e. Production of program completers in statewide critical
 797 teacher shortage areas as identified under s. 1012.07.

798 2. A program implemented under paragraph (b) shall be
 799 based upon a review by the department conducted as part of the
 800 periodic review of the entity's professional development system
 801 conducted under s. 1012.98.

802 (9) EXAMINATIONS.—

803 (d) The department shall provide procedures for an
 804 applicant who fails an examination developed by the department
 805 or a contracted vendor to review the examination questions and
 806 the responses for questions the applicant answered incorrectly.
 807 An applicant shall bear the actual cost for the department to
 808 provide examination review under this paragraph. Notwithstanding
 809 any other provision of law, only an applicant who fails an
 810 examination within a score range established by rule of the
 811 State Board of Education is entitled to an examination review
 812 under this paragraph or to challenge the validity of the

813 examination. ~~If an applicant takes an examination developed by~~
 814 ~~this state and does not achieve the score necessary for~~
 815 ~~certification, the applicant may review his or her completed~~
 816 ~~examination and bring to the attention of the department any~~
 817 ~~errors that would result in a passing score.~~

818 Section 5. Paragraph (a) of subsection (3) of section
 819 1012.585, Florida Statutes, is amended to read:

820 1012.585 Process for renewal of professional
 821 certificates.—

822 (3) For the renewal of a professional certificate, the
 823 following requirements must be met:

824 (a) The applicant must earn a minimum of 6 college credits
 825 or 120 inservice points or a combination thereof. For each area
 826 of specialization to be retained on a certificate, the applicant
 827 must earn at least 3 of the required credit hours or equivalent
 828 inservice points in the specialization area. Education in:
 829 "clinical educator" training pursuant to s. 1004.04(5)(b)
 830 ~~1004.04(6)(b)~~ and credits or points that provide training in the
 831 area of scientifically researched, knowledge-based reading
 832 literacy and computational skills acquisition, exceptional
 833 student education, normal child development, and the disorders
 834 of development may be applied toward any specialization area.
 835 Credits or points that provide training in the areas of drug
 836 abuse, child abuse and neglect, strategies in teaching students
 837 having limited proficiency in English, or dropout prevention, or
 838 training in areas identified in the educational goals and
 839 performance standards adopted pursuant to ss. 1000.03(5) and
 840 1008.345 may be applied toward any specialization area. Credits

841 | or points earned through approved summer institutes may be
 842 | applied toward the fulfillment of these requirements. Inservice
 843 | points may also be earned by participation in professional
 844 | growth components approved by the State Board of Education and
 845 | specified pursuant to s. 1012.98 in the district's approved
 846 | master plan for inservice educational training, including, but
 847 | not limited to, serving as a trainer in an approved teacher
 848 | training activity, serving on an instructional materials
 849 | committee or a state board or commission that deals with
 850 | educational issues, or serving on an advisory council created
 851 | pursuant to s. 1001.452.

852 | Section 6. Paragraph (b) of subsection (4) of section
 853 | 1012.98, Florida Statutes, is amended to read:

854 | 1012.98 School Community Professional Development Act.—

855 | (4) The Department of Education, school districts,
 856 | schools, Florida College System institutions, and state
 857 | universities share the responsibilities described in this
 858 | section. These responsibilities include the following:

859 | (b) Each school district shall develop a professional
 860 | development system as specified in subsection (3). The system
 861 | shall be developed in consultation with teachers, teacher-
 862 | educators of Florida College System institutions and state
 863 | universities, business and community representatives, and local
 864 | education foundations, consortia, and professional
 865 | organizations. The professional development system must:

866 | 1. Be approved by the department. All substantial
 867 | revisions to the system shall be submitted to the department for
 868 | review for continued approval.

869 2. Be based on analyses of student achievement data and
 870 instructional strategies and methods that support rigorous,
 871 relevant, and challenging curricula for all students. Schools
 872 and districts, in developing and refining the professional
 873 development system, shall also review and monitor school
 874 discipline data; school environment surveys; assessments of
 875 parental satisfaction; performance appraisal data of teachers,
 876 managers, and administrative personnel; and other performance
 877 indicators to identify school and student needs that can be met
 878 by improved professional performance.

879 3. Provide inservice activities coupled with followup
 880 support appropriate to accomplish district-level and school-
 881 level improvement goals and standards. The inservice activities
 882 for instructional personnel shall focus on analysis of student
 883 achievement data, ongoing formal and informal assessments of
 884 student achievement, identification and use of enhanced and
 885 differentiated instructional strategies that emphasize rigor,
 886 relevance, and reading in the content areas, enhancement of
 887 subject content expertise, integrated use of classroom
 888 technology that enhances teaching and learning, classroom
 889 management, parent involvement, and school safety.

890 4. Include a master plan for inservice activities,
 891 pursuant to rules of the State Board of Education, for all
 892 district employees from all fund sources. The master plan shall
 893 be updated annually by September 1, must be based on input from
 894 teachers and district and school instructional leaders, and must
 895 use the latest available student achievement data and research
 896 to enhance rigor and relevance in the classroom. Each district

897 inservice plan must be aligned to and support the school-based
 898 inservice plans and school improvement plans pursuant to s.
 899 1001.42(18). District plans must be approved by the district
 900 school board annually in order to ensure compliance with
 901 subsection (1) and to allow for dissemination of research-based
 902 best practices to other districts. District school boards must
 903 submit verification of their approval to the Commissioner of
 904 Education no later than October 1, annually.

905 5. Authorize ~~Require~~ each school principal to establish
 906 and maintain an individual professional development plan for
 907 each instructional employee assigned to the school as a seamless
 908 component to the school improvement plans developed pursuant to
 909 s. 1001.42(18). An ~~The~~ individual professional development plan
 910 must:

911 ~~a.~~ be related to specific performance data for the
 912 students to whom the teacher is assigned; ~~-~~

913 ~~b.~~ define the inservice objectives and specific measurable
 914 improvements expected in student performance as a result of the
 915 inservice activity; and ~~-~~

916 ~~c.~~ include an evaluation component that determines the
 917 effectiveness of the professional development plan.

918 6. Include inservice activities for school administrative
 919 personnel that address updated skills necessary for
 920 instructional leadership and effective school management
 921 pursuant to s. 1012.986.

922 7. Provide for systematic consultation with regional and
 923 state personnel designated to provide technical assistance and
 924 evaluation of local professional development programs.

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925 8. Provide for delivery of professional development by
 926 distance learning and other technology-based delivery systems to
 927 reach more educators at lower costs.

928 9. Provide for the continuous evaluation of the quality
 929 and effectiveness of professional development programs in order
 930 to eliminate ineffective programs and strategies and to expand
 931 effective ones. Evaluations must consider the impact of such
 932 activities on the performance of participating educators and
 933 their students' achievement and behavior.

934 Section 7. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 863 Teacher Preparation and Accountability
SPONSOR(S): Higher Education & Workforce Subcommittee, Spano
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	7 Y, 5 N, As CS	Thomas	Sherry
2) Education Appropriations Subcommittee	8 Y, 5 N	Butler	Heflin
3) Education Committee		Thomas <i>MS</i>	Mizereck <i>KM</i>

SUMMARY ANALYSIS

The bill aligns initial and continued approval requirements for Initial Teacher Preparation (ITP) programs, Educator Preparation Institutes (EPI) and District Alternative Certification Programs (DACP).

The bill revises the uniform core curricula for each state-approved educator preparation program.

The bill requires each candidate, before program completion, to demonstrate ability to positively impact student learning growth in his or her area of program concentration.

The bill requires instructors in postsecondary educator preparation programs who instruct or supervise field experience courses or internships where a student must demonstrate an impact on student learning growth to have specialized training in clinical supervision; a valid professional teaching certificate; and at least three years of successful teaching experience in prekindergarten through grade 12.

The bill requires school district and instructional personnel who supervise or direct educator preparation students during field experience courses or internships to have, evidence of "clinical educator" training approved by SBE, a valid professional teaching certificate, at least 3 years of successful teaching experience in prekindergarten through grade 12 and either an effective or highly effective rating on the previous year evaluation or be a peer evaluator under the district's evaluation system.

The bill requires educator preparation programs to provide additional training to completers employed in a public school during the 2-years immediately after completion who earn an evaluation of developing or unsatisfactory on the district evaluation system if requested by the employing school district or charter school.

The bill authorizes qualified private providers that have a proven history of delivering high-quality educator preparation to seek approval to offer a competency-based certification program. Approval must be based upon evidence provided from recipients of their services and data showing the successful performance of their completers based upon student achievement.

The bill revises the reporting requirements of institutions that offer state-approved preparation programs to include, candidates who are admitted, enrolled and complete program, document requirements for continued approval, and data necessary to complete applicable federal reporting requirements.

The bill has an indeterminate fiscal impact.

The bill provides an effective date of July 1, 2013

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Teacher Education Preparation Programs

Current law requires the State Board of Education (SBE) to attain a system for development and approval of teacher preparation programs that allows postsecondary educator preparation institutions to employ varied and innovative educator preparation techniques while being held accountable for producing graduates with the competencies and skills necessary to achieve the state education goals; help the state's diverse student population, meet high standards for academic achievement; maintain safe, secure classroom learning environments; and sustain the state system of school improvement and education accountability.¹

Florida provides a number of educator preparation programs that individuals may utilize to receive the training needed to attain teaching credentials, including:²

Initial Teacher Preparation (ITP) programs

- A "traditional" teacher preparation program that requires candidates to demonstrate mastery of subject area knowledge in one or more specific subject areas(s), mastery of general knowledge, and mastery of professional preparation and education competence.

Educator Preparation Institutes (EPI) programs

- An alternative certification program offered by postsecondary institutions for baccalaureate degree holders. The EPI program provides professional preparation for career-changers and recent college graduates who do not already possess a Professional Educator Certificate.

District Alternative Certification Programs (DACP)

- A cohesive competency-based professional preparation alternative certification program offered by Florida public school districts by which the school district's instructional staff may satisfy the mastery of professional preparation and education competence requirements.

Teacher and Leader Preparation Implementation Committee

In August 2012, Florida was one of 11 states (plus the District of Columbia) awarded federal Race to the Top grant funds. Florida will receive \$700 million to implement various education reforms. As a result of Race to the Top, the Teacher and Leader Preparation Implementation Committee (TLPIC) was established to provide input, feedback and recommendations to the state in the development and implementation of performance standards, and targets for continued approval of state-approved teacher and school leadership preparation programs. The membership of the TLPIC includes teacher and school leader educators for postsecondary institutions and school districts, teachers, principals, and other stakeholders. The TLPIC will work with the Department of Education (DOE) and the Student Growth Implementation Workgroup to provide input, review, feedback, and recommendations for the following.³

¹ Section 1004.04(1), F.S.

² Florida Department of Education, Educator Preparation, <http://www.fldoe.org/profdev/approval.asp> (last visited March 11, 2013).

³ Florida Department of Education, Teacher and Leader Preparation Implementation Committee,

<http://www.fldoe.org/profdev/approval.asp> (last visited March 11, 2013).

- Uses of state growth models in evaluation of teacher and principal preparation programs.
- Performance measures for continued program approval and standards for “high-performing” preparation programs based on, but not limited to:
 - The impact of program completers on student achievement, specifically using the state’s new student growth measure(s) and potentially other measures used in Local Education Agencies (LEA);
 - Meeting LEA and state needs for new and retained effective teachers, especially in hard to staff subjects and schools; and
 - The program’s contribution to the induction and professional development of program completers.

On September 28, 2012, TLPIC presented their recommendations regarding performance standards and targets for continued approval of state-approved educator preparation programs to the Commissioner of Education.⁴

The TLPIC recommended the following six performance metrics for inclusion in the accountability model for state-approved educator preparation programs:

- placement rate data;
- retention rate data;
- value-added model (VAM) data;
- student performance by subgroup;
- teacher evaluation system results; and
- production of teachers in critical teacher shortage areas.

Uniform Core Curricula and Candidate Assessment

Present Situation

The SBE has adopted rules to establish uniform core curricula for each state-approved educator preparation program. The uniform core curricula include:

- Scientifically researched, knowledge-based reading; literacy and computational skills acquisition; classroom management; school safety; professional ethics; educational law; human development and learning, and understanding of the Sunshine State Standards content measured by state achievement tests, reading and interpretation of data, and use of data to improve student achievement;⁵
- The Educator Accomplished practices, effective classroom instruction, outcomes of the state systems of school improvement, and accountability;⁶
- Instructional practices appropriate for students with limited English proficiency; and⁷
- Working with underachieving students and use of technology at the appropriate grade level.⁸

The TLPIC recommended rewording “Knowledge and understanding of Next Generation Sunshine State Standards” to “Knowledge and understanding of the state’s applicable PreK-12 standards and other applicable PreK-12 curricular mandates.” This specific recommendation is designed to:⁹

⁴ Florida Department of Education, Teacher and Leader Preparation Implementation Committee, <http://www.fldoe.org/profdev/approval.asp> (last visited March 11, 2013).

⁵ Section 1004.04(2)(b), F.S.

⁶ Rule 6A-5.065, F.A.C.

⁷ Section 1004.04(3)(c)1., F.S.

⁸ Section 1004.04(5)(b), F.S.

⁹ Florida Department of Education, Teacher and Leader Preparation Implementation Committee, <http://www.fldoe.org/committees/pdf/sorec.pdf> (last visited March 11, 2013).

- Ensure that teacher candidates are well prepared to keep abreast of PreK-12 curricular requirements, whether emanating from changing PreK-12 standards or from other mandates including interdisciplinary requirements; and
- Ensure that this standard remain applicable through the conversion to common core standards and any future standards revisions.

The TLPIC recommended that, because all of the uniform core curriculum elements listed below are already covered in the current Florida Educator Accomplished Practices (FEAPs), they should be removed as other elements.¹⁰

- Technology appropriate for the grade;
- Reading, interpretation and use of data for student achievement;
- Teaching strategies to meet the needs of divers student populations;
- Classroom management;
- School Safety;
- Professional ethics; and
- Write and speak in a logical and understandable style with appropriate grammar.

Effect of the Proposed Changes

The bill revises the uniform core curricula for each state-approved teacher preparation program and requires inclusion of the following:

- Florida Educator Accomplished Practices;
- State-adopted student content standards;
- Scientifically researched reading instruction;
- Content literary and mathematical practices;
- Strategies appropriate for instruction of English language learners; and
- Strategies appropriate for instruction of students with disabilities.

The bill also requires each candidate to receive instruction and be assessed on the uniform core curricula in his or her area of program concentration during course work and field experiences.

Before program completion, each candidate must demonstrate his or her ability to positively impact student learning growth in his or her area of program concentration during a prekindergarten through grade 12 field experiences and pass each portion of the Florida Teacher Certification Examination required for a professional certificate in the area of program concentration.

Initial Approval

Present Situation

The DOE adopts standards for initial approval for state-approved educator preparation programs based on uniform core curricula and the development of educator preparation programs. In addition, programs must verify specified requirements for admission of candidates into their programs. Candidates applying for admission into the program must:¹¹

- Have a grade point average of 2.5 or higher in the general education component of undergraduate studies or have completed a bachelor's degree from an accredited college or university with a minimum 2.5 GPA.¹²

¹⁰ *Id.*

¹¹ Section 1004.04(4)(a), F.S

¹² Section 1004.04(4)(b)1., F.S.

- Pass the General Knowledge Test of the Florida Teacher Certification Examination, the College Level Academic Skills Test, a corresponding component of the National Teachers Examination series, or a similar test.¹³

Admission requirements for each program can be waived for up to 10% of the students admitted. The programs are required to implement strategies to ensure that these students receive assistance to meet competencies; however, they are not currently required to report this information to DOE.¹⁴

Effect of the Proposed Changes

The bill requires that each educator preparation program's initial approval be based upon evidence of the institutions and the program's capacity to meet the requirements of SBE rules and for continued approval.

As recommended by the TLPIC, the bill requires each candidate, before program completion, to demonstrate ability to positively impact student learning growth in his or her area of program concentration during a prekindergarten through 12th grade field experience. Candidates must also pass each portion of the Florida Teacher Certification Examination required for a professional certificate in the area of program concentration.

The bill requires students to demonstrate mastery by passing the general knowledge test of the Florida Teacher Certification Examination or, for graduate-level programs, by obtaining a baccalaureate degree as part of admission into the program.

Institutions are required to annually report to the DOE the status of each candidate admitted under an admissions waiver.

The bill provides consistency across all types of educator certification programs by aligning the initial state program approval requirements for Initial Teacher Preparation (ITP) programs, Educator Preparation Institutes (EPI), and District Alternative Certification Programs (DACP):

Continued Program Approval

Present Situation

The DOE, in collaboration with the departments and colleges of education must develop procedures for continued program approval that document the performance of graduates and the continuous improvement of program processes. These must include the following:

- 90% of graduates of the program who take the examination required by s. 1012.56, F.S., must pass;¹⁵
- Criteria such as instruction in classroom management and performance of candidates in this area, instruction in working with underachieving students, satisfactory ratings from schools on candidates, and employer satisfaction are considered in the program review process for continued approval; and¹⁶
- Approval ratings based primarily on input processes at the institution rather than on performance outcomes.

By January 1 of each year, DOE must report information for each postsecondary educational institution that has state-approved programs of teacher education to the Governor, the SBE, the BOG, the

¹³ Section 1004.04(4)(b)2., F.S.

¹⁴ Section 1004.04(4), F.S.

¹⁵ Section 1004.04(5)(a), F.S.

¹⁶ Section 1004.04((5)(b), F.S.

Commissioner of Education, the President of the Senate, the Speaker of the House of Representatives, all Florida postsecondary educator preparation programs, and interested members of the public. The report must analyze the data and make recommendations for improving educator preparation programs in Florida.¹⁷

Effect of the Proposed Changes

The bill revises the criteria for continued approval of educator preparation programs to include:

- Documentation that each candidate met the admission requirements;
- Documentation that the program and each program completer met the uniform core curricula; and
- Evidence of performance in each of the following categories:
 - placement rates of program completers into instructional positions in Florida public schools;
 - rate of retention for employed program completers in instructional positions in Florida public schools;
 - performance of PreK-12 students assigned to in-field program completers on statewide assessment and federal reporting subgroups (diverse populations);
 - results of program completers' annual evaluations; and
 - production of program completers in statewide critical teacher shortage areas.

The bill provides consistency across all types of educator certification programs by aligning the continued program approval requirements for initial Teacher Preparation (ITP) programs, Educator Preparation Institutes (EPI), and District Alternative Certification Programs (DACP):

The bill requires the SBE to adopt rules for continued approval of teacher preparation programs that include the program review process, the continued approval timelines, and the performance level targets for each of the continued approval criteria.

The bill requires the Commissioner of Education to make the determination for continued approval of each program based on the data collected and rules of the SBE.

Each program must prepare and submit an institutional program evaluation plan that includes data related to the criteria established for continued approval of the teacher education program. The plan must provide information on how the institution addresses continuous program improvement.

Pre-service Field Experience

Present Situation

All instructors in postsecondary educator preparation programs who instruct or supervise in pre-service field experience courses or internships must have at least one of the following: specialized training in clinical supervision; a valid professional teaching certificate; or, at least three years of successful teaching experience in PreK through grade 12.¹⁸

All school district and instructional personnel who supervise or direct educator preparation students during field experience courses or internships must have evidence of clinical educator training and must have successfully demonstrated effective classroom management strategies that consistently result in improved student performance.¹⁹

¹⁷ *Id.*

¹⁸ Section 1004.04(6), F.S.

¹⁹ *Id.*

Field experience content must include guidance and demonstration of strategies on effective classroom management, incorporating technology into classroom instruction, reading literacy and computational skills acquisition, and ways to link instructional plans to the Sunshine State Standards.²⁰

The TLPIC recommended the following related to field experience requirements:²¹

- A culminating field experience of no less than 10 weeks should be an added requirement for Educator Preparation Institute (EPI) programs prior to program completion (with the opportunity for EPI candidates who are already teaching to complete the internship in their own classrooms with supervision).
- EPIs should have the same clinical faculty requirements that are currently in place for Initial Teacher Preparation (ITP) programs which indicate that program faculty meet state-mandated requirements for supervision of field/clinical experiences and must have at least one of the following:
 - Clinical supervision training, or
 - Valid professional teaching certificate with at least three years successful PreK through grade 12.
- School district personnel supervising the culminating field experience must have clinical supervision training and a valid professional teaching certificate with at least three years of successful PreK-12 teaching experience. School district personnel supervising all other field experiences must have clinical supervision training or a valid professional certificate with at least three years successful PreK through grade 12 teaching experience.

Effect of the Proposed Changes

The bill requires instructors in postsecondary educator preparation programs, who instruct or supervise field experience courses or internships where a student demonstrates an impact on student learning growth to have:

- Specialized training in clinical supervision;
- A valid professional teaching certificate; and
- At least 3 years of successful teaching experience in prekindergarten through grade 12.

The bill requires school district and instructional personnel who supervise or direct educator preparation students during field experience courses or internships to have:

- Evidence of "clinical educator" training approved by SBE;
- A valid professional teaching certificate;
- At least 3 years of successful teaching experience in prekindergarten through grade 12; and
- Earned either an effective or highly effective rating on the previous year's evaluation or be a peer evaluator under the district's evaluation system.

The bill requires that pre-service field experience must include candidate practice and demonstration of the uniform core curriculum specific to the area of a program concentration with a diverse population of students in a variety of settings.

The bill requires that sites for pre-service field experience activities be based on the qualifications of supervising faculty and the needs of the candidates.

²⁰ Section 1004.04(6)(b), F.S.

²¹ Florida Department of Education, Teacher and Leader Preparation Implementation Committee, <http://www.fldoe.org/committees/pdf/sorec.pdf> (last visited March 11, 2013).

Postsecondary Educator Preparation Institutes

Present Situation

Current law authorizes postsecondary institutions that are accredited or approved by DOE, to seek approval from DOE to create educator preparation institutes for the purpose of providing the following:²²

- Professional development instruction to assist teachers in improving classroom instruction and in meeting certification or recertification requirements;
- Instruction to assist potential and existing substitute teachers in performing their duties;
- Instruction to assist paraprofessionals in meeting education and training requirements; and
- Instruction for baccalaureate degree holders to become certified teachers.²³

Through EPI competency-based programs, Florida postsecondary institutions are provided an opportunity to deliver teacher training and teachers are provided with another quality option in teacher training in addition to state-approved degree programs and district-delivered competency-based programs.

Effect of the Proposed Changes

The bill authorizes qualified private providers that have a proven history of delivering high-quality educator preparation to seek approval to offer a competency-based certification program. Approval must be based upon evidence provided from recipients of their services and data showing the successful performance of their completers based upon student achievement.

Accountability

Effect of the Proposed Changes

The bill requires educator preparation programs to provide additional training to completers employed in a public school during the 2-years immediately after completion who earn an evaluation of developing or unsatisfactory on the district evaluation system if requested by the employing school district or charter school.

The bill revises the reporting requirements of institutions that offer state-approved preparation programs to include:

- Candidates who are admitted enrolled and complete program;
- Document requirements for continued approval; and
- Data necessary to complete applicable federal reporting requirements.

College Credit Used for Educator Certification Eligibility

Present Situation

Current law requires that individuals seeking educator certification must:²⁴

- Document receipt of a bachelor's or higher degree from an accredited institution of higher learning, or a nonaccredited institution of higher learning that the Department of Education has identified as having a quality program resulting in a bachelor's degree, or higher. Applicants

²² Section 1004.85(2), F.S.

²³ Section 1004.85, F.S.

²⁴ Section 1012.56(2), F.S.

may document the required education by submitting official transcripts from institutions of higher education or authorize the electronic transfer of such transcripts.

- Have attained at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study;

Effective Proposed Changes

The bill authorizes the SBE to adopt rules that allow for the acceptance of college courses credits recommended by the American Council on Education (ACE), as posted on an official ACE transcript, for the purpose of demonstrating completion of specific certification requirements.

Professional Development Certification Program

Present Situation

Current law requires the DOE to develop and each school district to provide a cohesive competency-based professional development certification program. That includes the following components:²⁵

- A minimum period of initial preparation before assuming duties as the teacher of record;
- An option for collaboration between school districts and other supporting agencies for implementation;
- Experienced peer mentors;
- An assessment that provides for initial evaluation and post evaluation of teacher performance; and
- Professional education preparation content knowledge.

Effect of Proposed Changes

The bill removes the requirement that each school district provide a cohesive competency-based professional preparation alternative certification program. However, this does not prohibit the school district from providing such a program.

The bill requires that each individual selected by the school district as a peer mentor hold a valid professional certificate, have at least 3 years of prekindergarten through grade 12 teaching experience, and have earned either an effective or highly effective rating on the previous year's evaluation or be a peer evaluator under the district's evaluation system.

Examination

Present Situation

Current law allows an applicant who takes an examination developed by the state and does not achieve the score necessary for certification to review his or her completed examination and bring to the attention of the department errors that would result in a passing score.²⁶

Effect of Proposed Changes

DOE must provide procedures for an applicant who fails an examination developed by the department or a contracted vendor to review the examination questions and the responses for questions the applicant answered incorrectly. An applicant must bear the actual cost for the department to provide examination review. Notwithstanding any other provision of law, only an applicant who fails an

²⁵ Section 1012.56, (8), F.S.

²⁶ Section 1012.56(9)(e), F.S.

examination with a score range established by rule of the SBE is entitled to an examination review or to challenge the validity of the examination.

B. SECTION DIRECTORY:

Section 1. Amends s. 1004.04, F.S., revising provisions relating to state-approved teacher preparation programs and accountability by revising the uniform core curricula for each program and providing for candidate assessment; revising standards and criteria for initial and continued program approval; requiring each program to prepare an institutional program evaluation plan; providing requirements for annual reports to the state and the general public; revising requirements for personnel who supervise teacher preparation standards during pre-service field experience; deleting provisions relating to certain standards of excellence, national standards, articulation agreements, and a program to providing requirements for supervisors of field experiences.

Section 2. Amends s. 1004.85, F.S., authorizing a private provider to create an educator preparation institute's competency-based certification program if approved by the Department of Education; providing criteria for initial and continued approval of an institution's competency-based certification program; providing requirements and credentials for program participants; providing requirements for supervisors of field experiences.

Section 3. Amends s. 1012.32, F.S., conforming provisions.

Section 4. Amends s. 1012.56, F.S., authorizing rules to allow for acceptance of certain college course credits for educator certification; providing components for a school district competency-based professional development certification program; providing requirement for initial and continued approval of programs; revising provisions for applicant review of an educator certification examination.

Section 5. Amends s. 1012.585, F.S., correcting a cross-reference.

Section 6. Amends s. 1012.98, F.S., revising requirements for professional development systems developed by school districts.

Section 7. Provides and effective date of July 1, 2013.

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:

The bill provides authority for a private provider to create an educator preparation institute if approved by the Department of Education.

The bill requires procedures for an applicant who fails an examination developed by the DOE or a contracted vendor to review the examination questions and the responses for questions they have answered incorrectly; however, the applicant must bear the actual cost for the department to provide the examination review.

The bill makes changes to qualifications required of instructors in postsecondary teacher preparation programs who instruct or supervise preservice field experience courses or internships must possess.

D. FISCAL COMMENTS:

There would likely be costs to the colleges and universities to implement the new requirements associated with tracking program completion performance as required by the bill for continued program approval. The Department of Education would likely have costs associated with the review and analysis of the additional documentation. These costs are indeterminate.

The bill makes changes relating to qualification requirements instructors in postsecondary teacher preparation programs who instruct or supervise preservice field experience courses or internships must possess. It is not known how many current instructors might not qualify if this provision is implemented. Postsecondary institutions may incur additional costs if they have to replace current instructors, or if they lose approval to offer educator preparation programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill allows the SBE to adopt rules that allow for the acceptance of college courses credits recommended by the American Council on Education (ACE), as posted on an official ACE transcript, for the purpose of demonstrating completion of specific certification requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 13, 2013, the Higher Education & Workforce Subcommittee adopted one amendment and reported HB 863 favorably as a committee substitute. The committee substitute removed the requirement that principals establish and maintain an Individual Professional Development Plan (IPDP) for each instructional employee. Principals still have the option to continue using the IPDP if they so choose.

1 A bill to be entitled
2 An act relating to charter schools; amending s.
3 1002.33, F.S.; clarifying enforcement of policies
4 agreed to by the sponsor and charter school that are
5 subsequently amended; requiring sponsors to report,
6 annually, specific information regarding charter
7 applications; authorizing a charter school operated by
8 a Florida College System institution to serve students
9 in kindergarten through grade 12 if certain criteria
10 are met; providing disclosure requirements for
11 applicants of previous charter schools subject to
12 corrective action or financial recovery plans;
13 revising provisions relating to the timely submission
14 of charter school applications; providing requirements
15 relating to the appeal of a denied application
16 submitted by a high-performing charter school;
17 reducing the amount of time for negotiation of a
18 charter; revising provisions relating to the issuance
19 of a final order in contract dispute cases; providing
20 a restriction relating to a required certificate of
21 occupancy; authorizing the consolidation of multiple
22 charters into a single charter in certain
23 circumstances; establishing student academic
24 achievement as a priority in determining charter
25 renewals and terminations; revising the timeline for
26 charter schools to submit waiver of termination
27 requests to the Department of Education; restricting
28 expenditures upon nonrenewal or termination of a

29 | charter school; requiring a charter school to maintain
 30 | specified information on a website; revising
 31 | provisions relating to determination of a charter
 32 | school's student enrollment; revising provisions
 33 | requiring charter school compliance with statutes
 34 | relating to education personnel compensation,
 35 | contracts, and performance evaluations and workforce
 36 | reductions; providing requirements for the
 37 | reimbursement of federal funds to charter schools;
 38 | requiring that certain unused school district
 39 | facilities be made available to charter schools;
 40 | restricting capital outlay funding; providing
 41 | restrictions on the membership of a governing board;
 42 | amending s. 1002.331, F.S.; revising criteria for
 43 | classification as a high-performing charter school;
 44 | providing requirements for modification of the charter
 45 | of a high-performing charter school; requiring the
 46 | Commissioner of Education to annually review a high-
 47 | performing charter school's eligibility for high-
 48 | performing status; authorizing declassification as a
 49 | high-performing charter school; amending s. 1002.332,
 50 | F.S.; revising requirements for classification as a
 51 | high-performing charter school system; authorizing an
 52 | entity operating outside the state to obtain high-
 53 | performing charter school system status under certain
 54 | circumstances; requiring the commissioner to annually
 55 | review a high-performing charter school system's
 56 | eligibility for high-performing status; authorizing

57 declassification as a high-performing charter school
 58 system; providing an effective date.

59

60 Be It Enacted by the Legislature of the State of Florida:

61

62 Section 1. Paragraph (b) of subsection (5), paragraphs
 63 (a), (b), (c), (d), and (h) of subsection (6), paragraphs (a)
 64 and (c) of subsection (7), paragraph (a) of subsection (8),
 65 paragraph (n) of subsection (9), paragraphs (b), (h), and (i) of
 66 subsection (10), paragraph (b) of subsection (16), paragraph (c)
 67 of subsection (17), paragraph (e) of subsection (18), paragraph
 68 (a) of subsection (21), and subsection (27) of section 1002.33,
 69 Florida Statutes, are amended, and paragraphs (o) and (p) are
 70 added to subsection (9) and paragraph (c) is added to subsection
 71 (26) of that section, to read:

72 1002.33 Charter schools.—

73 (5) SPONSOR; DUTIES.—

74 (b) Sponsor duties.—

75 1.a. The sponsor shall monitor and review the charter
 76 school in its progress toward the goals established in the
 77 charter.

78 b. The sponsor shall monitor the revenues and expenditures
 79 of the charter school and perform the duties provided in s.
 80 1002.345.

81 c. The sponsor may approve a charter for a charter school
 82 before the applicant has identified space, equipment, or
 83 personnel, if the applicant indicates approval is necessary for
 84 it to raise working funds.

85 d. The sponsor ~~sponsor's policies~~ shall not apply its
 86 policies to a charter school unless mutually agreed to by both
 87 the sponsor and the charter school. If the sponsor subsequently
 88 amends any agreed upon sponsor policy, the version of the policy
 89 in effect at the time of the execution of the charter, or any
 90 subsequent modification thereof, shall remain in effect and the
 91 sponsor may not hold the charter school responsible for any
 92 provision of a newly revised policy until the revised policy is
 93 mutually agreed upon.

94 e. The sponsor shall ensure that the charter is innovative
 95 and consistent with the state education goals established by s.
 96 1000.03(5).

97 f. The sponsor shall ensure that the charter school
 98 participates in the state's education accountability system. If
 99 a charter school falls short of performance measures included in
 100 the approved charter, the sponsor shall report such shortcomings
 101 to the Department of Education.

102 g. The sponsor shall not be liable for civil damages under
 103 state law for personal injury, property damage, or death
 104 resulting from an act or omission of an officer, employee,
 105 agent, or governing board ~~body~~ of the charter school.

106 h. The sponsor shall not be liable for civil damages under
 107 state law for any employment actions taken by an officer,
 108 employee, agent, or governing board ~~body~~ of the charter school.

109 i. The sponsor's duties to monitor the charter school
 110 shall not constitute the basis for a private cause of action.

111 j. The sponsor shall not impose additional reporting
 112 requirements on a charter school without providing reasonable

113 and specific justification in writing to the charter school.

114 k. The sponsor shall annually report to the Department of
 115 Education the following information for each application
 116 submitted, in a format to be determined by the department:

117 I. the number of draft applications received on or before
 118 May 1, including the applicant's contact information;

119 II. the number of final applications received on or before
 120 August 1, including the applicant's contact information;

121 III. the number of applications received after August 1,
 122 including the applicant's contact information;

123 IV. the date each application was approved, denied, or
 124 withdrawn; and

125 V. the date the final contract was executed.

126 Beginning August 31, 2013, and each year thereafter, the sponsor
 127 shall submit to the department the information for the
 128 applications submitted the previous year. The department shall
 129 compile an annual report, by district, and post the report on
 130 its website by November 1 each year.

131 2. Immunity for the sponsor of a charter school under
 132 subparagraph 1. applies only with respect to acts or omissions
 133 not under the sponsor's direct authority as described in this
 134 section.

135 3. This paragraph does not waive a district school board's
 136 sovereign immunity.

137 4. A Florida College System institution may work with the
 138 school district or school districts in its designated service
 139 area to develop charter schools that offer secondary education.
 140 These charter schools must include an option for students to

141 receive an associate degree upon high school graduation. If a
 142 Florida College System institution operates an approved teacher
 143 preparation program under s. 1004.04 or s. 1004.85, the
 144 institution may operate no more than one charter school that
 145 serves students in kindergarten through grade 12. In
 146 kindergarten through grade 8, the charter school shall implement
 147 innovative blended learning instructional models in which, for a
 148 given course, a student learns in part through online delivery
 149 of content and instruction with some element of student control
 150 over time, place, path, or pace and in part at a supervised
 151 brick-and-mortar location away from home. A student in a blended
 152 learning course must be a full-time student of the charter
 153 school and receive the online instruction in a classroom setting
 154 at the charter school. District school boards shall cooperate
 155 with and assist the Florida College System institution on the
 156 charter application. Florida College System institution
 157 applications for charter schools are not subject to the time
 158 deadlines outlined in subsection (6) and may be approved by the
 159 district school board at any time during the year. Florida
 160 College System institutions may not report FTE for any students
 161 who receive FTE funding through the Florida Education Finance
 162 Program.

163 (6) APPLICATION PROCESS AND REVIEW.—Charter school
 164 applications are subject to the following requirements:

165 (a) A person or entity that wants ~~wishing~~ to open a
 166 charter school shall prepare and submit an application on the a
 167 model application form prepared by the Department of Education
 168 which:

169 1. Demonstrates how the school will use the guiding
 170 principles and meet the statutorily defined purpose of a charter
 171 school.

172 2. Provides a detailed curriculum plan that illustrates
 173 how students will be provided instruction on ~~services to attain~~
 174 the Next Generation Sunshine State Standards.

175 3. Contains goals and objectives for improving student
 176 learning and measuring that improvement. These goals and
 177 objectives must indicate how much academic improvement students
 178 are expected to show each year, how success will be evaluated,
 179 and the specific results to be attained through instruction.

180 4. Describes the reading curriculum and differentiated
 181 strategies that will be used for students reading at grade level
 182 or higher and a separate curriculum and strategies for students
 183 who are reading below grade level. A sponsor shall deny a
 184 charter if the school does not propose a reading curriculum that
 185 is consistent with effective teaching strategies that are
 186 grounded in scientifically based reading research.

187 5. Contains an annual financial plan for each year that
 188 the applicant intends to operate ~~requested by the charter for~~
 189 ~~operation of~~ the school for up to 5 years. This plan must
 190 contain anticipated fund balances based on revenue projections,
 191 a spending plan based on projected revenues and expenses, and a
 192 description of controls that will safeguard finances and
 193 projected enrollment trends.

194 6. Discloses whether the applicant was a member of a
 195 charter school governing board or was a person with
 196 decisionmaking authority for a charter school that was subject

197 to corrective action pursuant to subparagraph (9)(n)2., a
 198 corrective action plan pursuant to s. 1002.345(1)(c), or a
 199 financial recovery plan pursuant to s. 1002.345(2)(a). The
 200 applicant must include a detailed explanation of the
 201 circumstances requiring a corrective action plan or financial
 202 recovery plan and the resolution of the plan. Documents that the
 203 applicant has participated in the training required in
 204 subparagraph (f)2. A sponsor may require an applicant to provide
 205 additional information as an addendum to the charter school
 206 application described in this paragraph.

207 7. For the establishment of a virtual charter school,
 208 documents that the applicant has contracted with a provider of
 209 virtual instruction services pursuant to s. 1002.45(1)(d).

210
 211 A sponsor may require an applicant to provide additional
 212 information as an addendum to the charter school application
 213 described in this paragraph.

214 (b) A sponsor shall receive and review all applications
 215 for a charter school using the ~~an~~ evaluation instrument
 216 developed by the Department of Education. A sponsor shall
 217 receive and consider charter school applications received on or
 218 before August 1 of each calendar year for charter schools to be
 219 opened at the beginning of the school district's next school
 220 year, or to be opened at a time agreed to by the applicant and
 221 the sponsor. A sponsor may not refuse to receive a charter
 222 school application submitted before August 1 and may receive an
 223 application submitted ~~applications~~ later than August 1 ~~this date~~
 224 if it chooses. In order to facilitate greater collaboration in

225 the application process, an applicant may submit a draft charter
 226 school application on or before May 1 with an application fee of
 227 \$500. If a draft application is timely submitted, the sponsor
 228 shall review and provide feedback as to material deficiencies in
 229 the application by July 1. The applicant shall then have until
 230 August 1 to resubmit a revised and final application. The
 231 sponsor may approve the draft application. A sponsor may not
 232 charge an applicant for a charter any fee for the processing or
 233 consideration of an application, and a sponsor may not base its
 234 consideration or approval of a final application upon the
 235 promise of future payment of any kind. Before approving or
 236 denying any final application, the sponsor shall allow the
 237 applicant, upon receipt of written notification, at least 7
 238 calendar days to make technical or nonsubstantive corrections
 239 and clarifications, including, but not limited to, corrections
 240 of grammatical, typographical, and like errors or missing
 241 signatures, if such errors are identified by the sponsor as
 242 cause to deny the final application.

243 1. In order to facilitate an accurate budget projection
 244 process, a sponsor shall be held harmless for FTE students who
 245 are not included in the FTE projection due to approval of
 246 charter school applications after the FTE projection deadline.
 247 In a further effort to facilitate an accurate budget projection,
 248 within 15 calendar days after receipt of a charter school
 249 application, a sponsor shall report to the Department of
 250 Education the name of the applicant entity, the proposed charter
 251 school location, and its projected FTE.

252 2. In order to ensure fiscal responsibility, an

253 application for a charter school shall include a full accounting
 254 of expected assets, a projection of expected sources and amounts
 255 of income, including income derived from projected student
 256 enrollments and from community support, and an expense
 257 projection that includes full accounting of the costs of
 258 operation, including start-up costs.

259 3.a. A sponsor shall by a majority vote approve or deny an
 260 application no later than October 1 ~~60 calendar days after the~~
 261 ~~application is received~~, unless the sponsor and the applicant
 262 mutually agree in writing to temporarily postpone the vote to a
 263 specific date, at which time the sponsor shall by a majority
 264 vote approve or deny the application. If the sponsor fails to
 265 act on the application, an applicant may appeal to the State
 266 Board of Education as provided in paragraph (c). If an
 267 application is denied, the sponsor shall, within 10 calendar
 268 days after such denial, articulate in writing the specific
 269 reasons, based upon good cause, supporting its denial of the
 270 charter application and shall provide the letter of denial and
 271 supporting documentation to the applicant and to the Department
 272 of Education.

273 b. An application submitted by a high-performing charter
 274 school identified pursuant to s. 1002.331 may be denied by the
 275 sponsor only if the sponsor demonstrates by clear and convincing
 276 evidence that:

277 (I) The application does not materially comply with the
 278 requirements in paragraph (a);

279 (II) The charter school proposed in the application does
 280 not materially comply with the requirements in paragraphs

281 (9) (a) - (f);

282 (III) The proposed charter school's educational program
 283 does not substantially replicate that of the applicant or one of
 284 the applicant's high-performing charter schools;

285 (IV) The applicant has made a material misrepresentation
 286 or false statement or concealed an essential or material fact
 287 during the application process; or

288 (V) The proposed charter school's educational program and
 289 financial management practices do not materially comply with the
 290 requirements of this section.

291
 292 Material noncompliance is a failure to follow requirements or a
 293 violation of prohibitions applicable to charter school
 294 applications, which failure is quantitatively or qualitatively
 295 significant either individually or when aggregated with other
 296 noncompliance. An applicant is considered to be replicating a
 297 high-performing charter school if the proposed school is
 298 substantially similar to at least one of the applicant's high-
 299 performing charter schools and the organization or individuals
 300 involved in the establishment and operation of the proposed
 301 school are significantly involved in the operation of replicated
 302 schools.

303 c. If the sponsor denies an application submitted by a
 304 high-performing charter school, the sponsor must, within 10
 305 calendar days after such denial, state in writing the specific
 306 reasons, based upon the criteria in sub-subparagraph b.,
 307 supporting ~~its~~ denial of the application and must provide the
 308 letter of denial and supporting documentation to the applicant

309 and to the Department of Education. The applicant may appeal the
 310 sponsor's denial of the application ~~directly~~ to the State Board
 311 of Education pursuant to paragraph (c) and must provide the
 312 sponsor with a copy of the appeal ~~sub-subparagraph (c)3.b.~~

313 4. For budget projection purposes, the sponsor shall
 314 report to the Department of Education the approval or denial of
 315 a charter application within 10 calendar days after such
 316 approval or denial. In the event of approval, the report to the
 317 Department of Education shall include the final projected FTE
 318 for the approved charter school.

319 5. Upon approval of a charter application, the initial
 320 startup shall commence with the beginning of the public school
 321 calendar for the district in which the charter is granted unless
 322 the sponsor allows a waiver of this subparagraph for good cause.

323 (c)1. An applicant may appeal any denial of that
 324 applicant's application or failure to act on an application to
 325 the State Board of Education within ~~no later than~~ 30 calendar
 326 days after receipt of the sponsor's decision or failure to act
 327 and shall notify the sponsor of its appeal. Any response of the
 328 sponsor shall be submitted to the State Board of Education
 329 within 30 calendar days after notification of the appeal. Upon
 330 receipt of notification from the State Board of Education that a
 331 charter school applicant is filing an appeal, the Commissioner
 332 of Education shall convene a meeting of the Charter School
 333 Appeal Commission to study and make recommendations to the State
 334 Board of Education regarding its pending decision about the
 335 appeal. The commission shall forward its recommendation to the
 336 state board within ~~no later than~~ 7 calendar days before ~~prior to~~

337 the date on which the appeal is to be heard. An appeal regarding
 338 the denial of an application submitted by a high-performing
 339 charter school pursuant to s. 1002.331 shall be conducted by the
 340 State Board of Education in accordance with this paragraph,
 341 except that the commission shall not convene to make
 342 recommendations regarding the appeal. However, the Commissioner
 343 of Education shall review the appeal and make a recommendation
 344 to the state board.

345 2. The Charter School Appeal Commission or, in the case of
 346 an appeal regarding an application submitted by a high-
 347 performing charter school, the State Board of Education may
 348 reject an appeal submission for failure to comply with
 349 procedural rules governing the appeals process. The rejection
 350 shall describe the submission errors. The appellant shall have
 351 15 calendar days after notice of rejection in which to resubmit
 352 an appeal that meets the requirements set forth in State Board
 353 of Education rule. An appeal submitted subsequent to such
 354 rejection is considered timely if the original appeal was filed
 355 within 30 calendar days after receipt of notice of the specific
 356 reasons for the sponsor's denial of the charter application.

357 3.a. The State Board of Education shall by majority vote
 358 accept or reject the decision of the sponsor within ~~no later~~
 359 ~~than~~ 90 calendar days after an appeal is filed in accordance
 360 with State Board of Education rule. The State Board of Education
 361 shall remand the application to the sponsor with its written
 362 decision that the sponsor approve or deny the application. The
 363 sponsor shall implement the decision of the State Board of
 364 Education. The decision of the State Board of Education is not

365 subject to ~~the provisions of~~ the Administrative Procedure Act,
 366 chapter 120.

367 b. If an appeal concerns an application submitted by a
 368 high-performing charter school identified pursuant to s.
 369 1002.331, the State Board of Education shall determine whether
 370 the sponsor's denial of the application complies with the
 371 requirements in sub-subparagraph (b)3.b. ~~sponsor has shown, by~~
 372 ~~clear and convincing evidence, that:~~

373 ~~(I) The application does not materially comply with the~~
 374 ~~requirements in paragraph (a);~~

375 ~~(II) The charter school proposed in the application does~~
 376 ~~not materially comply with the requirements in paragraphs~~
 377 ~~(9)(a)-(f);~~

378 ~~(III) The proposed charter school's educational program~~
 379 ~~does not substantially replicate that of the applicant or one of~~
 380 ~~the applicant's high performing charter schools;~~

381 ~~(IV) The applicant has made a material misrepresentation~~
 382 ~~or false statement or concealed an essential or material fact~~
 383 ~~during the application process; or~~

384 ~~(V) The proposed charter school's educational program and~~
 385 ~~financial management practices do not materially comply with the~~
 386 ~~requirements of this section.~~

387
 388 The State Board of Education shall approve or reject the
 389 sponsor's denial of an application no later than 90 calendar
 390 days after an appeal is filed in accordance with State Board of
 391 Education rule. The State Board of Education shall remand the
 392 application to the sponsor with its written decision that the

393 sponsor approve or deny the application. The sponsor shall
 394 implement the decision of the State Board of Education. The
 395 decision of the State Board of Education is not subject to the
 396 Administrative Procedure Act, chapter 120.

397 (d) The sponsor shall act upon the decision of the State
 398 Board of Education within 30 calendar days after it is received.
 399 The State Board of Education's decision is a final action
 400 subject to judicial review in the district court of appeal.

401 (h) The terms and conditions for the operation of a
 402 charter school shall be set forth by the sponsor and the
 403 applicant in a written contractual agreement, called a charter.
 404 The sponsor shall not impose unreasonable rules or regulations
 405 that violate the intent of giving charter schools greater
 406 flexibility to meet educational goals. The sponsor shall have 30
 407 ~~60~~ days after approval of the application to provide an initial
 408 proposed charter contract to the charter school. The applicant
 409 and the sponsor shall have 40 ~~75~~ days thereafter to negotiate
 410 and notice the charter contract for final approval by the
 411 sponsor unless both parties agree to an extension. The proposed
 412 charter contract shall be provided to the charter school at
 413 least 7 calendar days before ~~prior to~~ the date of the meeting at
 414 which the charter is scheduled to be voted upon by the sponsor.
 415 Any provision of a charter contract inconsistent with or not
 416 expressly provided for within the requirements of this section
 417 is void and unenforceable. The Department of Education shall
 418 provide mediation services for any dispute regarding this
 419 section subsequent to the approval of a charter application and
 420 for any dispute relating to the approved charter, except

421 | disputes regarding charter school application denials. If the
 422 | Commissioner of Education determines that the dispute cannot be
 423 | settled through mediation, the dispute may be appealed to an
 424 | administrative law judge appointed by the Division of
 425 | Administrative Hearings. The administrative law judge has final
 426 | order authority to ~~may~~ rule on issues of equitable treatment of
 427 | the charter school as a public school, whether proposed
 428 | provisions of the charter violate the intended flexibility
 429 | granted charter schools by statute, or on any other matter
 430 | regarding this section except a charter school application
 431 | denial, a charter termination, or a charter nonrenewal and shall
 432 | award the prevailing party reasonable attorney ~~attorney's~~ fees
 433 | and costs incurred to be paid by the losing party. The costs of
 434 | the administrative hearing shall be paid by the party whom the
 435 | administrative law judge rules against.

436 | (7) CHARTER.—The major issues involving the operation of a
 437 | charter school shall be considered in advance and written into
 438 | the charter. The charter shall be signed by the governing board
 439 | of the charter school and the sponsor, following a public
 440 | hearing to ensure community input.

441 | (a) The charter shall address and criteria for approval of
 442 | the charter shall be based on:

443 | 1. The school's mission, the students to be served, and
 444 | the ages and grades to be included.

445 | 2. The focus of the curriculum, the instructional methods
 446 | to be used, any distinctive instructional techniques to be
 447 | employed, and identification and acquisition of appropriate
 448 | technologies needed to improve educational and administrative

449 performance, which include a means for promoting safe, ethical,
 450 and appropriate uses of technology which comply with legal and
 451 professional standards.

452 a. The charter shall ensure that reading is a primary
 453 focus of the curriculum and that resources are provided to
 454 identify and provide specialized instruction for students who
 455 are reading below grade level. The curriculum and instructional
 456 strategies for reading must be consistent with the Next
 457 Generation Sunshine State Standards and grounded in
 458 scientifically based reading research.

459 b. In order to provide students with access to diverse
 460 instructional delivery models, to facilitate the integration of
 461 technology within traditional classroom instruction, and to
 462 provide students with the skills they need to compete in the
 463 21st century economy, the Legislature encourages instructional
 464 methods for blended learning courses in which a student learns
 465 in part through online delivery of content and instruction with
 466 some element of student control over time, place, path, or pace
 467 and in part at a supervised brick-and-mortar location away from
 468 home consisting of both traditional classroom and online
 469 ~~instructional techniques~~. Charter schools may implement blended
 470 learning courses that ~~which~~ combine traditional classroom
 471 instruction and virtual instruction. Students in a blended
 472 learning course must be full-time students of the charter school
 473 and receive the online instruction in a classroom setting at the
 474 charter school. Instructional personnel certified pursuant to s.
 475 1012.55 who provide virtual instruction for blended learning
 476 courses may be employees of the charter school or may be under

477 contract to provide instructional services to charter school
 478 students. At a minimum, such instructional personnel must hold
 479 an active state or school district adjunct certification under
 480 s. 1012.57 for the subject area of the blended learning course.
 481 The funding and performance accountability requirements for
 482 blended learning courses are the same as those for traditional
 483 courses.

484 3. The current incoming baseline standard of student
 485 academic achievement, the outcomes to be achieved, and the
 486 method of measurement that will be used. The criteria listed in
 487 this subparagraph shall include a detailed description of:

488 a. How the baseline student academic achievement levels
 489 and prior rates of academic progress will be established.

490 b. How these baseline rates will be compared to rates of
 491 academic progress achieved by these same students while
 492 attending the charter school.

493 c. To the extent possible, how these rates of progress
 494 will be evaluated and compared with rates of progress of other
 495 closely comparable student populations.

496
 497 The district school board is required to provide academic
 498 student performance data to charter schools for each of their
 499 students coming from the district school system, as well as
 500 rates of academic progress of comparable student populations in
 501 the district school system.

502 4. The methods used to identify the educational strengths
 503 and needs of students and how well educational goals and
 504 performance standards are met by students attending the charter

505 school. The methods shall provide a means for the charter school
 506 to ensure accountability to its constituents by analyzing
 507 student performance data and by evaluating the effectiveness and
 508 efficiency of its major educational programs. Students in
 509 charter schools shall, at a minimum, participate in the
 510 statewide assessment program created under s. 1008.22.

511 5. In secondary charter schools, a method for determining
 512 that a student has satisfied the requirements for graduation in
 513 s. 1003.428, s. 1003.429, or s. 1003.43.

514 6. A method for resolving conflicts between the governing
 515 board of the charter school and the sponsor.

516 7. The admissions procedures and dismissal procedures,
 517 including the school's code of student conduct.

518 8. The ways by which the school will achieve a
 519 racial/ethnic balance reflective of the community it serves or
 520 within the racial/ethnic range of other public schools in the
 521 same school district.

522 9. The financial and administrative management of the
 523 school, including a reasonable demonstration of the professional
 524 experience or competence of those individuals or organizations
 525 applying to operate the charter school or those hired or
 526 retained to perform such professional services and the
 527 description of clearly delineated responsibilities and the
 528 policies and practices needed to effectively manage the charter
 529 school. A description of internal audit procedures and
 530 establishment of controls to ensure that financial resources are
 531 properly managed must be included. Both public sector and
 532 private sector professional experience shall be equally valid in

533 such a consideration.

534 10. The asset and liability projections required in the
 535 application which are incorporated into the charter and shall be
 536 compared with information provided in the annual report of the
 537 charter school.

538 11. A description of procedures that identify various
 539 risks and provide for a comprehensive approach to reduce the
 540 impact of losses; plans to ensure the safety and security of
 541 students and staff; plans to identify, minimize, and protect
 542 others from violent or disruptive student behavior; and the
 543 manner in which the school will be insured, including whether or
 544 not the school will be required to have liability insurance,
 545 and, if so, the terms and conditions thereof and the amounts of
 546 coverage.

547 12. The term of the charter, which shall provide for
 548 termination ~~cancellation~~ of the charter if insufficient progress
 549 has been made in attaining the student achievement objectives of
 550 the charter and if it is not likely that such objectives can be
 551 achieved before expiration of the charter. The initial term of a
 552 charter shall be for 4 or 5 years. ~~In order to facilitate access~~
 553 ~~to long term financial resources for charter school~~
 554 ~~construction~~, Charter schools that are operated by a
 555 municipality or other public entity as provided by law are
 556 eligible for up to a 15-year charter, subject to approval by the
 557 district school board. A charter lab school is eligible for a
 558 charter for a term of up to 15 years. In addition, ~~to facilitate~~
 559 ~~access to long term financial resources for charter school~~
 560 ~~construction~~, charter schools that are operated by a private,

561 not-for-profit, s. 501(c)(3) status corporation are eligible for
 562 up to a 15-year charter, subject to approval by the district
 563 school board. Such long-term charters remain subject to annual
 564 review and may be terminated during the term of the charter, but
 565 only according to ~~the provisions set forth in~~ subsection (8).

566 13. The facilities to be used and their location. The
 567 sponsor may not require a charter school to have a certificate
 568 of occupancy for such a facility earlier than 15 calendar days
 569 before the first day of school.

570 14. The qualifications to be required of the teachers and
 571 the potential strategies used to recruit, hire, train, and
 572 retain qualified staff to achieve best value.

573 15. The governance structure of the school, including the
 574 status of the charter school as a public or private employer as
 575 required in paragraph (12)(i).

576 16. A timetable for implementing the charter which
 577 addresses the implementation of each element thereof and the
 578 date by which the charter shall be awarded in order to meet this
 579 timetable.

580 17. In the case of an existing public school that is being
 581 converted to charter status, alternative arrangements for
 582 current students who choose not to attend the charter school and
 583 for current teachers who choose not to teach in the charter
 584 school after conversion in accordance with the existing
 585 collective bargaining agreement or district school board rule in
 586 the absence of a collective bargaining agreement. However,
 587 alternative arrangements shall not be required for current
 588 teachers who choose not to teach in a charter lab school, except

589 as authorized by the employment policies of the state university
 590 which grants the charter to the lab school.

591 18. Full disclosure of the identity of all relatives
 592 employed by the charter school who are related to the charter
 593 school owner, president, chairperson of the governing board of
 594 directors, superintendent, governing board member, principal,
 595 assistant principal, or any other person employed by the charter
 596 school who has equivalent decisionmaking authority. For the
 597 purpose of this subparagraph, the term "relative" means father,
 598 mother, son, daughter, brother, sister, uncle, aunt, first
 599 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
 600 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
 601 stepfather, stepmother, stepson, stepdaughter, stepbrother,
 602 stepsister, half brother, or half sister.

603 19. Implementation of the activities authorized under s.
 604 1002.331 by the charter school when it satisfies the eligibility
 605 requirements for a high-performing charter school. A high-
 606 performing charter school shall notify its sponsor in writing by
 607 March 1 if it intends to increase enrollment or expand grade
 608 levels the following school year. The written notice shall
 609 specify the amount of the enrollment increase and the grade
 610 levels that will be added, as applicable.

611 (c) A charter may be modified during its initial term or
 612 any renewal term upon the recommendation of the sponsor or the
 613 charter school's governing board and the approval of both
 614 parties to the agreement. Modification may include, but is not
 615 limited to, consolidation of multiple charters into a single
 616 charter if the charters are operated under the same governing

617 board and physically located on the same campus, regardless of
 618 the renewal cycle.

619 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

620 (a) The sponsor shall make student academic achievement
 621 for all students the most important factor when determining
 622 whether to renew or terminate the charter. However, the sponsor
 623 may also choose not to renew or may terminate the charter for
 624 any of the following grounds:

625 1. Failure to participate in the state's education
 626 accountability system created in s. 1008.31, as required in this
 627 section, or failure to meet the requirements for student
 628 performance stated in the charter.

629 2. Failure to meet generally accepted standards of fiscal
 630 management.

631 3. Violation of law.

632 4. Other good cause shown.

633 (9) CHARTER SCHOOL REQUIREMENTS.—

634 (n)1. The director and a representative of the governing
 635 board of a charter school that has earned a grade of "D" or "F"
 636 pursuant to s. 1008.34(2) shall appear before the sponsor to
 637 present information concerning each contract component having
 638 noted deficiencies. The director and a representative of the
 639 governing board shall submit to the sponsor for approval a
 640 school improvement plan to raise student achievement. Upon
 641 approval by the sponsor, the charter school shall begin
 642 implementation of the school improvement plan. The department
 643 shall offer technical assistance and training to the charter
 644 school and its governing board and establish guidelines for

645 developing, submitting, and approving such plans.

646 2.a. If a charter school earns three consecutive grades of
 647 "D," two consecutive grades of "D" followed by a grade of "F,"
 648 or two nonconsecutive grades of "F" within a 3-year period, the
 649 charter school governing board shall choose one of the following
 650 corrective actions:

651 (I) Contract for educational services to be provided
 652 directly to students, instructional personnel, and school
 653 administrators, as prescribed in state board rule;

654 (II) Contract with an outside entity that has a
 655 demonstrated record of effectiveness to operate the school;

656 (III) Reorganize the school under a new director or
 657 principal who is authorized to hire new staff; or

658 (IV) Voluntarily close the charter school.

659 b. The charter school must implement the corrective action
 660 in the school year following receipt of a third consecutive
 661 grade of "D," a grade of "F" following two consecutive grades of
 662 "D," or a second nonconsecutive grade of "F" within a 3-year
 663 period.

664 c. The sponsor may annually waive a corrective action if
 665 it determines that the charter school is likely to improve a
 666 letter grade if additional time is provided to implement the
 667 intervention and support strategies prescribed by the school
 668 improvement plan. Notwithstanding this sub-subparagraph, a
 669 charter school that earns a second consecutive grade of "F" is
 670 subject to subparagraph 4.

671 d. A charter school is no longer required to implement a
 672 corrective action if it improves by at least one letter grade.

673 However, the charter school must continue to implement
 674 strategies identified in the school improvement plan. The
 675 sponsor must annually review implementation of the school
 676 improvement plan to monitor the school's continued improvement
 677 pursuant to subparagraph 5.

678 e. A charter school implementing a corrective action that
 679 does not improve by at least one letter grade after 2 full
 680 school years of implementing the corrective action must select a
 681 different corrective action. Implementation of the new
 682 corrective action must begin in the school year following the
 683 implementation period of the existing corrective action, unless
 684 the sponsor determines that the charter school is likely to
 685 improve a letter grade if additional time is provided to
 686 implement the existing corrective action. Notwithstanding this
 687 sub-subparagraph, a charter school that earns a second
 688 consecutive grade of "F" while implementing a corrective action
 689 is subject to subparagraph 4.

690 3. A charter school with a grade of "D" or "F" that
 691 improves by at least one letter grade must continue to implement
 692 the strategies identified in the school improvement plan. The
 693 sponsor must annually review implementation of the school
 694 improvement plan to monitor the school's continued improvement
 695 pursuant to subparagraph 5.

696 4. The sponsor shall terminate a charter if the charter
 697 school earns two consecutive grades of "F" unless:

698 a. The charter school is established to turn around the
 699 performance of a district public school pursuant to s.
 700 1008.33(4)(b)3. Such charter schools shall be governed by s.

701 1008.33;

702 b. The charter school serves a student population the
 703 majority of which resides in a school zone served by a district
 704 public school that earned a grade of "F" in the year before the
 705 charter school opened and the charter school earns at least a
 706 grade of "D" in its third year of operation. The exception
 707 provided under this sub-subparagraph does not apply to a charter
 708 school in its fourth year of operation and thereafter; or

709 c. The state board grants the charter school a waiver of
 710 termination. The charter school must request the waiver within
 711 15 ~~30~~ days after the department's official release ~~completion~~ of
 712 school grades ~~grade~~-~~appeals~~. The state board may waive
 713 termination if the charter school demonstrates that the learning
 714 gains of its students on statewide assessments are comparable to
 715 or better than the learning gains of similarly situated students
 716 enrolled in nearby district public schools. The waiver is valid
 717 for 1 year and may only be granted once. Charter schools that
 718 have been in operation for more than 5 years are not eligible
 719 for a waiver under this sub-subparagraph.

720 5. The director and a representative of the governing
 721 board of a graded charter school that has implemented a school
 722 improvement plan under this paragraph shall appear before the
 723 sponsor at least once a year to present information regarding
 724 the progress of intervention and support strategies implemented
 725 by the school pursuant to the school improvement plan and
 726 corrective actions, if applicable. The sponsor shall communicate
 727 at the meeting, and in writing to the director, the services
 728 provided to the school to help the school address its

729 deficiencies.

730 6. Notwithstanding any provision of this paragraph except
 731 sub-subparagraphs 4.a.-c., the sponsor may terminate the charter
 732 at any time pursuant to subsection (8).

733 (o) Upon notification of nonrenewal or termination of its
 734 charter, a charter school may not expend more than \$10,000
 735 without prior written approval from the sponsor, unless such
 736 expenditure was included within the annual budget submitted to
 737 the sponsor pursuant to the charter contract, is for reasonable
 738 attorney fees and costs during the pendency of any appeal.

739 (p) Each charter school shall maintain a website that
 740 enables the public to obtain information regarding the school,
 741 its personnel, and its programs. The website shall include
 742 information or online links to information regarding any entity
 743 that owns, operates, or manages the school, including any
 744 nonprofit or for-profit entity; the names of all governing
 745 officers and administrative personnel of the entity; and any
 746 fees the school pays to the entity. The information or online
 747 links must be prominently displayed and easily accessible to
 748 visitors of the website.

749 (10) ELIGIBLE STUDENTS.-

750 (b) The charter school shall enroll an eligible student
 751 who submits a timely application, unless the number of
 752 applications exceeds the capacity of a program, class, grade
 753 level, or building. In such case, all applicants shall have an
 754 equal chance of being admitted through a random selection
 755 process. The selection process must be independently audited by
 756 a third party chosen by the sponsor or charter, observed by the

757 sponsor, or observed by a third party mutually agreed to by the
 758 charter school and sponsor. The charter school shall choose the
 759 option to apply to the selection process. These requirements
 760 apply to the initial selection process for each new school year.

761 (h) The capacity of the charter school shall be determined
 762 annually by the governing board, in conjunction with the
 763 sponsor, of the charter school in consideration of the factors
 764 identified in this subsection unless the charter school is
 765 designated as a high-performing charter school pursuant to s.
 766 1002.331. A sponsor may not require a charter school to waive
 767 the provisions of s. 1002.331 or require a student enrollment
 768 cap that prohibits a high-performing charter school from
 769 increasing enrollment in accordance with s. 1002.331(2) as a
 770 condition of approval or renewal of a charter.

771 (i) The capacity of a high-performing charter school
 772 identified pursuant to s. 1002.331 shall be determined annually
 773 by the governing board of the charter school. The governing
 774 board shall notify the sponsor of any increase in enrollment by
 775 March 1 of the school year preceding the increase. A sponsor may
 776 not require a charter school to identify the names of students
 777 to be enrolled or to enroll those students before the start of
 778 the school year as a condition of approval or renewal of a
 779 charter.

780 (16) EXEMPTION FROM STATUTES.—

781 (b) Additionally, a charter school shall be in compliance
 782 with the following statutes:

783 1. Section 286.011, relating to public meetings and
 784 records, public inspection, and criminal and civil penalties.

785 2. Chapter 119, relating to public records.

786 3. Section 1003.03, relating to the maximum class size,
 787 except that the calculation for compliance pursuant to s.
 788 1003.03 shall be the average at the school level.

789 4. Section 1012.22(1)(c)5.b. ~~1012.22(1)(e)~~, relating to
 790 the implementation of a compensation system that requires annual
 791 salary adjustments for instructional personnel to be based upon
 792 performance and salary schedules.

793 5. Section 1012.33(5), relating to workforce reductions,
 794 if the charter school awards contracts to instructional
 795 personnel and the term of a contract exceeds 1 year.

796 6. Section 1012.335, relating to contracts with
 797 instructional personnel hired on or after July 1, 2011, if the
 798 charter school awards contracts to instructional personnel and
 799 the term of a contract exceeds 1 year.

800 7. Section 1012.34(2), (3), and (7) ~~1012.34~~, relating to
 801 ~~the substantive requirements for performance evaluations for~~
 802 instructional personnel and school administrators. For purposes
 803 of compliance with this subparagraph, the duties assigned to a
 804 district school superintendent apply to a charter school
 805 principal or his or her equivalent, and the duties assigned to a
 806 district school board apply to a charter school's governing
 807 board.

808 (17) FUNDING.—Students enrolled in a charter school,
 809 regardless of the sponsorship, shall be funded as if they are in
 810 a basic program or a special program, the same as students
 811 enrolled in other public schools in the school district. Funding
 812 for a charter lab school shall be as provided in s. 1002.32.

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813 (c) If the district school board is providing programs or
814 services to students funded by federal funds, any eligible
815 students enrolled in charter schools in the school district
816 shall be provided federal funds for the same level of service
817 provided students in the schools operated by the district school
818 board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all
819 charter schools shall receive all federal funding for which the
820 school is otherwise eligible, including Title I funding, not
821 later than 5 months after the charter school first opens and
822 within 5 months after any subsequent expansion of enrollment.
823 Unless otherwise mutually agreed to by the charter school and
824 its sponsor, and consistent with state and federal rules and
825 regulations governing the use and disbursement of federal funds,
826 the sponsor shall reimburse the charter school on a monthly
827 basis for all invoices submitted by the charter school for
828 federal funds available to the sponsor for the benefit of the
829 charter school, the charter school's students, and the charter
830 school's students as public school students in the school
831 district. Such federal funds include, but are not limited to,
832 Title I, Title II, and Individuals with Disabilities Education
833 Act (IDEA) funds. To receive timely reimbursement for an
834 invoice, the charter school must submit the invoice to the
835 sponsor at least 30 days before the monthly date of
836 reimbursement set by the sponsor. In order to be reimbursed, any
837 expenditure made by the charter school must comply with all
838 applicable state and federal rules and regulations, including,
839 but not limited to, the applicable federal Office of Management
840 and Budget Circulars, the federal Education Department General

841 Administrative Regulations, and program-specific statutes,
 842 rules, and regulations. Such funds may not be made available to
 843 the charter school until a plan is submitted to the sponsor for
 844 approval of the use of the funds in accordance with applicable
 845 federal requirements. The sponsor has 30 days to review and
 846 approve any plan submitted pursuant to this paragraph.

847 (18) FACILITIES.—

848 (e) If a district school board-owned ~~board~~ facility that
 849 has previously been used for K-12 educational purposes ~~or~~
 850 ~~property is available because it is surplus, marked for~~
 851 ~~disposal, or otherwise unused,~~ no longer used in support of
 852 public education, it shall be made available ~~provided~~ for a
 853 charter school's use ~~on the same basis as it is made available~~
 854 ~~to other public schools in the district.~~ A charter school using
 855 such a facility receiving property from the school district may
 856 not sell, sublease, or dispose of such facility ~~property~~ without
 857 written permission of the school district. The charter school
 858 may not earn capital outlay funds; however, the school district
 859 shall include the charter school's capital outlay full-time
 860 equivalent (COFTE) student count in the district's capital
 861 outlay calculations. The charter school may choose to maintain
 862 the charter school facility or pay the school district the
 863 actual cost to maintain the facility at the same standard and
 864 level it would maintain any other district-operated school
 865 similar in age and condition. Maintenance does not include
 866 capital improvements. Similarly, for an existing public school
 867 converting to charter status, no rental or leasing fee for the
 868 existing facility or for the property normally inventoried to

869 the conversion school may be charged by the district school
 870 board to the parents and teachers organizing the charter school.
 871 The charter school shall agree to reasonable maintenance
 872 provisions in order to maintain the facility in a manner similar
 873 to district school board standards. The Public Education Capital
 874 Outlay maintenance funds or any other maintenance funds
 875 generated by the facility operated as a conversion school shall
 876 remain with the conversion school.

877 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—

878 (a) The Department of Education shall provide information
 879 to the public, directly and through sponsors, on how to form and
 880 operate a charter school and how to enroll in a charter school
 881 once it is created. This information shall include a model
 882 ~~standard~~ application form format, standard charter contract
 883 ~~format~~, standard evaluation instrument, and standard charter
 884 renewal contract format, which shall include the information
 885 specified in subsection (7) and shall be developed by consulting
 886 and negotiating with both school districts and charter schools
 887 before implementation. The charter and charter renewal contracts
 888 ~~formats~~ shall be used by charter school sponsors.

889 (26) STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—

890 (c) An employee of a charter school or his or her spouse
 891 or an employee of a charter management organization or his or
 892 her spouse may not be a member of the charter school governing
 893 board.

894 (27) RULEMAKING.—The Department of Education, after
 895 consultation with school districts and charter school directors,
 896 shall recommend that the State Board of Education adopt rules to

897 implement specific subsections of this section. Such rules shall
 898 require minimum paperwork and shall not limit charter school
 899 flexibility authorized by statute. The State Board of Education
 900 shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to
 901 implement a charter model application form, standard evaluation
 902 instrument, and standard charter and charter renewal contracts
 903 ~~formats~~ in accordance with this section.

904 Section 2. Creates subsection (2) of section 1002.331,
 905 Florida Statutes, and subsections (3), (5), and (6) of that
 906 section, are amended to read:

907 1002.331 High-performing charter schools.—

908 (2) A charter school is a high-performing charter school
 909 if it established primarily to serve students in the attendance
 910 zone of a school identified in need of intervention and support
 911 pursuant to s. 1008.33(3)(b) and is operated by an entity
 912 classified as a high-performing charter school system by the
 913 State Board of Education pursuant to s. 1002.332(2).

914
 915 A virtual charter school established under s. 1002.33 is not
 916 eligible for designation as a high-performing charter school.

917 (3) A high-performing charter school is authorized to:

918 (a) Increase its student enrollment more than the capacity
 919 identified in the charter once per school year by up to 15
 920 percent more than the capacity identified in the charter in an
 921 amount not to exceed the current facility capacity.

922 (b) Expand grade levels within kindergarten through grade
 923 12 to add grade levels not already served if any annual
 924 enrollment increase resulting from grade level expansion is

925 within the limit established in paragraph (a).

926 (c) Submit a quarterly, rather than a monthly, financial
927 statement to the sponsor pursuant to s. 1002.33(9)(g).

928 (d) Consolidate under a single charter the charters of
929 multiple high-performing charter schools operated in the same
930 school district by the charter schools' governing board
931 regardless of the renewal cycle.

932 (e) Receive a modification of its charter to a term of 15
933 years or a 15-year charter renewal. The charter may be modified
934 or renewed for a shorter term at the option of the high-
935 performing charter school. The charter must be consistent with
936 s. 1002.33(7)(a)19. and (10)(h) ~~and (i)~~, is subject to annual
937 review by the sponsor, and may be terminated during its term
938 pursuant to s. 1002.33(8).

939
940 A high-performing charter school shall notify its sponsor in
941 writing by March 1 if it intends to increase enrollment or
942 expand grade levels the following school year. The written
943 notice shall specify the amount of the enrollment increase and
944 the grade levels that will be added, as applicable. If a high-
945 performing charter school requests to consolidate multiple
946 charters or to modify its charter pursuant to this subsection,
947 the sponsor shall have 40 days after receipt of that request to
948 provide an initial draft charter to the charter school. The
949 sponsor and charter school shall have 50 days thereafter to
950 negotiate and notice the charter contract for final approval by
951 the sponsor.

952 (43) (a) A high-performing charter school may submit an

953 application pursuant to s. 1002.33(6) in any school district in
 954 the state to establish and operate a new charter school that
 955 will substantially replicate its educational program. An
 956 application submitted by a high-performing charter school must
 957 state that the application is being submitted pursuant to this
 958 paragraph and must include the verification letter provided by
 959 the Commissioner of Education pursuant to subsection (5). If the
 960 sponsor fails to act on the application within 60 days after
 961 receipt, the application is deemed approved and the procedure in
 962 s. 1002.33(6)(h) applies. If the sponsor denies the application,
 963 the high-performing charter school may appeal pursuant to s.
 964 1002.33(6).

965 (b) A high-performing charter school may not establish
 966 more than one charter school within the state under paragraph
 967 (a) in any year. A subsequent application to establish a charter
 968 school under paragraph (a) may not be submitted unless each
 969 charter school established in this manner achieves high-
 970 performing charter school status.

971 (54) A high-performing charter school may not increase
 972 enrollment or expand grade levels following any school year in
 973 which it receives a school grade of "C" or below. If the charter
 974 school receives a school grade of "C" or below in any 2 years
 975 during the term of the charter awarded under subsection (2), the
 976 term of the charter may be modified by the sponsor ~~and the~~
 977 ~~charter school loses its high performing charter school status~~
 978 ~~until it regains that status under subsection (1).~~

979 (65) The Commissioner of Education, upon request by a
 980 charter school, shall verify that the charter school meets the

981 criteria in subsection (1) and provide a letter to the charter
 982 school and the sponsor stating that the charter school is a
 983 high-performing charter school pursuant to this section. The
 984 commissioner shall annually determine whether a high-performing
 985 charter school continues to meet the criteria in subsection (1).
 986 A high-performing charter school shall maintain its high-
 987 performing status unless the commissioner determines that the
 988 charter school no longer meets the criteria in subsection (1),
 989 at which time the commissioner shall send a letter providing
 990 notification of its declassification as a high-performing
 991 charter school.

992 Section 3. Section 1002.332, Florida Statutes, is amended
 993 to read:

994 1002.332 High-performing charter school system.—

995 (1) For purposes of this section, the term:

996 (a) "Entity" means a municipality or other public entity
 997 that is authorized by law to operate a charter school; a
 998 private, nonprofit corporation with tax-exempt status under s.
 999 501(c)(3) of the Internal Revenue Code; or a private, for-profit
 1000 education management corporation.

1001 (b) "High-performing charter school system" means an
 1002 entity that:

1003 1. Operated ~~Operates~~ at least three high-performing
 1004 charter schools in the state during each of the previous 3
 1005 school years;

1006 2. Operated ~~Operates~~ a system of charter schools in which
 1007 at least 50 percent of the charter schools were ~~are~~ high-
 1008 performing charter schools pursuant to s. 1002.331 and no

1009 | charter school earned a school grade of "D" or "F" pursuant to
 1010 | s. 1008.34 in any of the previous 3 school years, except that:
 1011 | a. If the entity ~~has~~ assumed operation of a public school
 1012 | pursuant to s. 1008.33(4)(b)3. with a school grade of "F," that
 1013 | school's grade may not be considered in determining high-
 1014 | performing charter school system status for a period of 3 years.
 1015 | b. If the entity established ~~establishes~~ a new charter
 1016 | school that served ~~serves~~ a student population the majority of
 1017 | which resided ~~resides~~ in a school zone served by a public school
 1018 | that earned a grade of "F" or three consecutive grades of "D"
 1019 | pursuant to s. 1008.34, that charter school's grade may not be
 1020 | considered in determining high-performing charter school system
 1021 | status if it attained ~~attains~~ and maintained ~~maintains~~ a school
 1022 | grade that was ~~is~~ higher than that of the public school serving
 1023 | that school zone within 3 years after establishment; and
 1024 | 3. Did ~~Has~~ not receive ~~received~~ a financial audit that
 1025 | revealed one or more of the financial emergency conditions set
 1026 | forth in s. 218.503(1) for any charter school assumed or
 1027 | established by the entity in the most recent 3 fiscal years for
 1028 | which such audits are available.
 1029 | (2) An entity that successfully operates a system of
 1030 | charter schools outside the state may apply to the State Board
 1031 | of Education for status as a high-performing charter school
 1032 | system solely for the purpose of establishing a charter school
 1033 | that primarily serves students in the attendance zone of a
 1034 | school identified in need of intervention and support pursuant
 1035 | to s. 1008.33(3)(b). The State Board of Education shall adopt
 1036 | rules prescribing a process for determining whether the entity

1037 meets the requirements of this subsection by reviewing student
 1038 demographic and performance data from all schools operated by
 1039 the entity.

1040 (3)-(2)(a) The Commissioner of Education, ~~upon request by~~
 1041 ~~an entity,~~ shall verify all charter schools served by an entity
 1042 and verify that the entity meets the criteria in this section
 1043 ~~subsection (1)~~ for the previous ~~prior~~ school year and provide a
 1044 letter to the entity stating that it is a high-performing
 1045 charter school system. The commissioner shall annually determine
 1046 whether a high-performing charter school system continues to
 1047 meet the criteria in this section. A high-performing charter
 1048 school system shall maintain its high-performing status unless
 1049 the commissioner determines that the charter school system no
 1050 longer meets the criteria in this section, at which time the
 1051 commissioner shall send a letter providing notification of its
 1052 declassification as a high-performing charter school system.

1053 (b) A high-performing charter school system may replicate
 1054 its high-performing charter schools pursuant to s. 1002.331(3).

1055 Section 4. The Department of Education, in consultation
 1056 with stakeholders, shall develop a proposed statewide standard
 1057 charter contract and shall provide it to the Governor, the
 1058 President of the Senate and the Speaker of the House of
 1059 Representatives by November 1, 2013.

1060 Section 5. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 7009 Charter Schools
SPONSOR(S): Education Committee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Ammel <i>JA</i>	Mizereck <i>MM</i>

SUMMARY ANALYSIS

The bill includes several provisions that increase charter school accountability and transparency, including, but not limited to:

- Prohibiting a charter school, upon termination of the charter, from expending more than \$10,000 without prior written permission from the sponsor, unless such expenditure was included within the annual budget submitted to the sponsor, or is for reasonable attorney's fees and costs during the pendency of an appeal.
- Providing disclosure requirements for charter applicants of previous charter schools that were subject to corrective action or financial emergency recovery plans.
- Requiring sponsors to submit to DOE specific information for each application received to be compiled in a summary report regarding the number of applications received, approved, denied and withdrawn each year.
- Prohibiting employees of the charter school or the charter management organization and their spouses, from serving on the charter school governing board.
- Requiring DOE, in consultation with stakeholders, to develop a proposed statewide charter contract and provide it to the Governor, the Speaker of the House of Representatives, and the President of the Senate by November 1, 2013.

The bill also includes several provisions to expand charter school growth and flexibility, such as:

- Allowing charter applicants to submit a draft charter by May 1 each year, with an application fee, and to receive district feedback on material deficiencies by July 1, prior to final submission on August 1.
- Allowing high-performing charter schools to determine their own capacity and enrollment caps and allowing them to increase those caps under certain circumstances.
- Providing statutory clarification that provisions affecting instructional personnel contracts, do not apply to charter schools under certain circumstances.
- Clarifying that district K-12 educational facilities not being used for to support public education be made available to charters, and requiring the charter school to pay maintenance costs of the facility.
- Authorizing out-of-state operators to qualify for high-performing status to operate schools or systems in Florida under certain circumstances; requiring the State Board of Education to adopt the review and qualification process in rule.
- Enabling the Florida College System institutions that provide teacher preparation programs to operate charter schools serving PreK-12th grades under certain circumstances.

The bill has no fiscal impact on state government.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter schools¹ are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a "charter."² The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.³ One of the guiding principles of charter schools is to meet high standards of student achievement and increase parental choice and student learning opportunities.⁴

A charter school may be sponsored by a district school board or, in the case of a charter lab school, by a state university.⁵ Each charter school is administered by a governing board.⁶ State universities, Florida College System (FCS) institutions, municipalities, and private, nonprofit s. 501(c)(3) of the Internal Revenue Code status organizations⁷ may operate a charter school.⁸

Charter School Accountability

Present Situation

Florida law establishes several requirements designed to hold charter schools accountable both financially and academically, including:⁹

- A detailed application and rigorous review and approval process.¹⁰
- The execution and maintenance of charter agreements between the charter school and its sponsor.¹¹
- Annual reporting,¹² annual financial audits,¹³ and sponsor monitoring of monthly financial statements.¹⁴
- Participation in statewide assessments and Florida's school grading system.¹⁵
- Interventions for unsatisfactory academic performance and financial instability.¹⁶

¹ In the 2012-13 school year, there are currently 574 charter schools operating in 44 of Florida's 67 school districts and at two state universities. Charter schools currently serve over 200,000 students. Florida Department of Education, *Charter Schools Program Fast Facts Report* (November 2012) available at http://www.floridaschoolchoice.org/Information/Charter_Schools/ (last visited January 29, 2013).

² Section 1002.33(7), F.S.

³ Section 1002.33(2) and (16), F.S.

⁴ Section 1002.33(2), F.S.

⁵ Section 1002.33(5)(a), F.S.

⁶ Section 1002.33(9)(h)-(j), F.S.

⁷ The internal revenue code defines a 501(c)(3) status organization as a private, nonprofit organization that is organized exclusively for religious, scientific, literary, or educational purposes or for the purpose of promoting amateur sports or for preventing cruelty to animals or children. These organizations are exempt from federal income taxes. 26 U.S.C. s. 501(c)(3).

⁸ Section 1002.33(5)(b)4., (12)(i), and (15)(b)-(c), F.S.

⁹ Sections 218.39, 218.503, 1002.33, and 1002.345, F.S. Charter technical career centers are subject to many of the same accountability requirements as charter schools. There are three charter technical career centers operating in Florida – the Advanced Technology College in Volusia County, the First Coast Technical College in St. Johns County, and the Lake Technical Center in Lake County. See 218.39, 218.503, 1002.34, and 1002.345, F.S.; Florida Department of Education, *List of Charter Technical Career Centers* (2012), available at <http://www.fldoe.org/workforce/pdf/chartertechnicalcenterlist.pdf>.

¹⁰ Section 1002.33(6), F.S.

¹¹ Section 1002.33(6)(h) and (7), F.S.

¹² Section 1002.33(9)(g), F.S.

¹³ Sections 218.39(1)(e) and (f), 1002.33(9)(j)1. and 2., F.S.

¹⁴ Section 1002.33(9)(g), F.S.

¹⁵ Section 1002.33(7)(a)4. and (16)(a)2., F.S.

¹⁶ Sections 1002.33(9)n. and 1002.345, F.S.

- Reporting of student performance information to parents and the public.¹⁷
- Compliance with ethical standards for employees and governing board members.¹⁸

Parental choice also holds charter schools accountable. Parents choose whether to enroll their children in a charter or traditional public school. Dissatisfied parents of charter school students may withdraw them from the school. This creates an incentive for the charter school to provide quality educational programs for its students. Parental choice also fosters healthy competition between charter schools and traditional public schools, improving the performance of both.¹⁹

Each charter school must enter into a performance contract with its sponsor, known as a charter. The charter lists specific objectives that the charter school must meet to remain in operation. A sponsor may terminate or not renew a charter for any of the following reasons:

- Failure to participate in the state's education accountability system or meet the requirements for student performance stated in the charter;
- Failure to meet generally accepted standards of financial management;
- A violation of law; or
- Other good cause shown.²⁰

When a charter school is terminated or not renewed, the law requires reversion of state and federal funds. Unencumbered public funds revert to the sponsor while unencumbered capital outlay funds and federal charter school program grant funds revert to the department to be redistributed among eligible charter schools. The charter school is responsible for all debts of the charter school, and the district may not assume the debt from any contract made between the governing body of the school and a third party, unless previously agreed upon in writing by both parties.²¹

Charter schools that qualify for a school grade are graded annually.²² In addition, charter schools are required to submit an annual report to its sponsor. At a minimum, each charter school's annual report must include student achievement and financial data, the facilities currently used or planned for use by the school, and descriptive information about the charter school's personnel.²³

A charter school that earns two consecutive grades of "F" may qualify for one of three exceptions to mandatory termination. The first two exceptions provide charter schools that specifically target hard-to-serve students with an additional year to raise student performance. A charter school may qualify for one of these exceptions if:

- It is in its first three years of operation and serves a student population in the same school zone as a failing public school. Such a charter school must earn at least a grade of "D" by year three. In year four and thereafter, the exception no longer applies to the charter school.
- The state board grants the charter school a waiver of termination. To obtain a waiver, the charter school must demonstrate that the learning gains of its students on statewide assessments are comparable or better than the learning gains of similarly situated students enrolled in nearby district public schools. The waiver is valid for one year and may only be granted once. Charter schools that have been in operation for more than five years are not eligible for a waiver.²⁴

¹⁷ Section 1002.33(21)(b) and (23), F.S.

¹⁸ Section 1002.33(24) and (26), F.S.

¹⁹ Florida Department of Education, Office of Independent Education and Parental Choice, *Florida's Charter Schools: A Decade of Progress* (Nov. 2006), available at http://www.floridaschoolchoice.org/information/charter_schools/files/Charter_10Year_Book.pdf.

²⁰ Section 1002.33(8)(a), F.S.

²¹ Section 1002.33(8)(e) and (f), F.S.

²² Sections 1002.33(7)(a)4. and (9)(k)1. and 1008.34(3), F.S. Charter schools that are classified as alternative schools may choose to receive a school improvement rating in lieu of a school grade. Section 1008.341, F.S.

²³ Section 1002.33(9)(k), F.S. The sponsor must submit the report to the Commissioner of Education. *Id.*

²⁴ Section 1002.33(9)(n)4.b.-c., F.S.

The third exception applies to traditional public schools that are reconstituted as charter schools pursuant to the differentiated accountability process. The law governing differentiated accountability controls in such cases.²⁵

Members of the charter school governing board are subject to specific standards of conduct for public officers, employees of agencies, local governmental attorneys, voting conflicts and disclosure of financial interests.²⁶ The law requires disclosure of the identity of all relatives employed by the charter school who are related to individuals with certain decision making authority, including governing board members.²⁷ Governing board members are required to participate in governance training approved by the Department of Education which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.²⁸

Effect of Proposed Changes

The federal government imposed additional requirements on state agencies receiving grants under the United States Department of Education's Charter Schools Program during the 2011-12 legislative session. One of the new requirements is as follows:

3. State law, regulations, or other policies in the State where the applicant is located require that –

B) Authorized public chartering agencies use increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining to renew or revoke a school's charter.²⁹

In accordance with this federal requirement, the bill requires the sponsor to make student academic achievement for all students the most important factor when determining whether or not to renew or terminate a charter. Charter schools may still be terminated or non-renewed for any of the following grounds: failure to participate in the state's education accountability system created in s. 1008.31, as required in this section, or failure to meet the requirements for student performance; failure to meet generally accepted standards of fiscal management; violation of law; or other good cause shown.

The bill requires each charter school to maintain an internet website that enables the public to obtain information regarding the school, its personnel, and its programs. The website must include information or online links to information regarding any entity who owns, operates, or manages the school, including any nonprofit or for-profit entity; the names of all governing officers and administrative personnel of the entity; and any management fees the school pays to the entity. The information or online links must be prominently displayed and easily accessible to visitors of the website.

Once a charter school receives a notice of nonrenewal or termination it must obtain prior written approval from the sponsor before expending more than \$10,000, unless such expenditure was included within the annual budget submitted to the sponsor pursuant to the charter contract, or is necessary to cover expenses related to reasonable attorney fees and costs during pendency of an appeal.

Currently, charter schools earning two consecutive grades of "F" may request a waiver from the State Board of Education. The bill reduces the number of days a charter school has to file a waiver request from 30 to 15. Additionally, the bill clarifies that the waiver must be submitted within 15 days of the

²⁵ Section 1002.33(9)(n)4.a., F.S.; s. 1008.33(4)(b)3. and (e), F.S.

²⁶ Section 1002.33(26), F.S.

²⁷ Section 1002.33(7)(a)18., F.S.

²⁸ Section 1002.33(9)(j)4., F.S.

²⁹ Email, Florida Department of Education, Independent Education and Parental Choice (Jan. 11, 2013). See The Department of Defense and Full-Year Continuing Appropriations Act, 2011, Division B, Title VIII (P.L. 112-10).

Department's official release of school grades and not after school grade appeals. These measures will expedite the waiver requests and hearings.

Employees of the charter school and the charter management organization or their spouses, may not serve as members of the charter school governing board.

Charter School Application Process

Present Situation

A person or entity wanting to open a charter school must submit an application on the model application form prepared by the Department of Education.³⁰ Sponsors shall receive and review all applications that are received on or before August 1 of each calendar year for charter schools that will open at the beginning of the next school year or upon a date agreed to by the sponsor and the charter applicant. Before approving or denying an application, the sponsor must allow the applicant, upon receipt of written notification, at least 7 calendar days to make technical or nonsubstantive corrections and clarifications, including, but not limited to, corrections of grammatical, typographical, and like errors or missing signatures, if such errors are identified by the sponsor as cause to deny the application.³¹

Effect of Proposed Changes

The bill prohibits a sponsor from refusing to accept a charter application prior to August 1. To promote collaboration between the sponsor and the applicant, the bill allows applicants to submit a draft application on May 1 each year and requires districts to review and provide feedback to the applicant as to any material deficiencies by July 1. This allows applicants to rectify any major issues prior to final submission and affords the district more time for review of applications that are submitted early. Sponsors may approve the draft application. Draft applications require a \$500 application fee.

The bill requires the applicant to disclose whether or not they were a member of a charter school governing board or some other person with decision making authority for a charter school that was subject to a corrective action plan or financial emergency plan. The applicant must describe the circumstances surrounding that plan and the resolution of the plan.

The bill also requires sponsors to submit the following data to the DOE annually:

- The number of draft applications received on or before May 1, by applicant;
- The number of applications received on or before August 1, by applicant;
- The number of applications received after August 1, by applicant;
- The date each application was approved, denied, or withdrawn;
- The date the final contract was executed.

Data submitted will be from the prior school year. DOE will compile a summary report, by district, and post the report on its website by November 1 each year.

Contractual Agreements

Present Situation

Upon approval of an application, the sponsor and the charter school must set forth the terms and conditions for the operation of the school in a written contractual agreement called a charter. The sponsor has 60 days to provide an initial contract to the charter school. The sponsor and the charter

³⁰ Section 1002.33(6)(a), F.S.

³¹ Section 1002.33(6)(b), F.S.

school then have 75 days to negotiate and notice the contract for final approval.³² Several school districts have included in their charters a requirement that charter schools have a certificate of occupancy (CO) 30 days prior to the first day of school and if charter schools fail to meet that deadline, it constitutes an automatic termination of the charter. As a result, some charter applicants were required to re-submit applications and work through the approval and contract process again.³³

In the case of a contract dispute, the Department of Education must provide mediation services. If the Commissioner of Education determines that the dispute cannot be settled through mediation, it may be appealed to an administrative law judge appointed by the Division of Administrative Hearings.³⁴

Currently, sponsor policies may not apply to charter schools, unless they are mutually agreed to by both the sponsor and the charter school.³⁵ These policies may or may not be incorporated into the contract. If not, and the sponsor subsequently revises such policies, the charter school may become subject to new provisions that were not mutually agreed to at the onset.

Current law stipulates that charter schools operated by a municipality or other public entity or a private, not-for-profit, s. 501(c)(3) status corporation are eligible for a 15-year charter upon approval of the district school board, if the purpose is to facilitate access to long-term financial resources for charter school construction.³⁶

In 2009, the Legislature required the Department of Education to adopt State Board of Education rules to implement, among other documents, charter and charter renewal formats for use by all charter sponsors and charter schools.³⁷

A charter may be modified, only during its initial term or any renewal term, upon the recommendation of the sponsor or the charter school's governing board and upon approval of both parties to the agreement.³⁸

Effect of Proposed Changes

Currently, the charter contracts utilized by sponsors vary from district to district. This variety lengthens the contract negotiation timeline and affects a charter school's ability to open on time. The bill requires the Department of Education, in consultation with stakeholders to develop a proposed statewide standard charter contract and provide it to the Governor, the Speaker of the House of Representatives, and the President of the Senate by November 1, 2013. The bill provides that any provision in a contract that is inconsistent with current law is void and unenforceable. The bill also reduces the number of days for an initial contract from 60 to 30 and the number of days for negotiations from 75 to 40.

The bill requires that, if a sponsor subsequently amends any agreed upon sponsor policy, the version of the policy in effect at the time the charter was executed, or any modification thereof, shall remain in effect, and the sponsor may not hold the charter school responsible for any new provisions until the revised policy is mutually agreed upon.

The bill specifically prohibits a sponsor from requiring a charter school to have a CO prior to 15 days before the first day of school and clarifies that the administrative law judge does have final order authority to rule on issues outlined in Section 1002.33(6)(h), F.S.³⁹

³² Section 1002.33(6)(h), F.S.

³³ Telephone interview with Charter Schools Director, Florida Department of Education (Jan. 24, 2013).

³⁴ Section 1002.33(6)(h), F.S.

³⁵ Section 1002.33(5)(b)1.d., F.S.

³⁶ Section 1002.33(7)(a)12. F.S.

³⁷ Section 7, ch.2009-214. L.O.F.

³⁸ Section 1002.33(7)(c), F.S.

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Charter schools and sponsors are provided more flexibility when negotiating long-term charters (beyond the initial 4 or 5 years), by removing the need to demonstrate that the long-term charter is necessary to facilitate access to long-term financial resources for construction.

The bill clarifies that modifications to the charter may include, but not be limited to, consolidation of multiple charters into a single charter if the charters are operated under the same governing board and are physically located on the same campus. It also allows this type of modification to occur outside the normal contract renewal period.

The bill aligns timelines for sponsor review and approval of a charter modification requested by a high-performing charter school with the timelines established for a charter school. The sponsor, upon receipt of such request, has 40 days to provide an initial charter to the high-performing charter school, and then the sponsor and high-performing charter school have 50 days thereafter to negotiate and notice the charter contract for final approval by the sponsor.

Student Eligibility, Enrollment and Capacity

Present Situation

Charter schools must enroll all eligible students who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, the school must conduct a random selection and enroll students accordingly.⁴⁰

Currently, the capacity of a charter school is determined annually by the charter school governing board in conjunction with the sponsor, unless the charter school has obtained high-performing status pursuant to s. 1002.331, F.S. The sponsor may not require a high-performing charter school to waive its right to determine its capacity or require an enrollment cap as a condition of approval or renewal of a charter.⁴¹ Charter schools with high-performing status are also allowed to increase their enrollment once per year by up to 15 percent more than the capacity identified in the charter.⁴²

Effect of Proposed Changes

The bill requires that the random selection process be subject to one of the following requirements, to be determined by the charter school: to be observed by the sponsor; to be observed by a third party mutually agreed to by the charter school and sponsor; or to be subject to an independent audit by a third party chosen by the sponsor or charter. These requirements only apply to the initial selection process for each new school year.

The bill removes the 15% enrollment increase cap, and allows a high-performing charter school to increase its student enrollment more than the capacity identified in the charter once per school year in an amount not to exceed the current facility capacity. The sponsor may not require the charter school to enroll, or identify the specific students it will enroll, prior to the start of the school year as a condition of approval or renewal of a charter.

³⁹ In the Division of Administrative Hearings Case No. 12-0087, Renaissance Charter School, INC., Petitioner, vs. Leon County School Board, Respondent, it was determined that, "The statute does not specify whether the order of the administrative law judge is a final or a recommended order."

⁴⁰ Section 1002.33(10)(b), F.S.

⁴¹ Section 1002.33(10)(h), F.S.

⁴² Section 1002.331(2)(a), F.S.

Exemption from Statutes – Teacher Compensation

Present Situation

Charter schools are generally exempt from the Florida K-20 Education Code (Chapters 1000-1013, F.S.), unless compliance with a particular statute is specifically required by law.⁴³ In 2011, the Legislature enacted the Student Success Act (Act), which required school districts and charter schools to implement reforms to educator compensation, performance evaluations, and contracts. These reforms were designed for implementation by traditional public schools; however, charter schools are required to implement them in the same manner as school districts.⁴⁴ As an unintended result, some school districts have interpreted the Act to require charter schools to implement the same employment policies as traditional public schools, even though implementation of a particular policy requires a complete structural shift from a private sector employment model to a model designed for public employers.⁴⁵

Effect of Proposed Changes

The bill makes several changes to clarify the extent to which charter schools must comply with the Act's educator compensation, performance evaluation, and contracting requirements. The bill clarifies that provisions related to instructional personnel workforce reductions and contracts do not apply to charter schools, unless the school awards contracts and such contracts are for a term longer than one year. Charter schools must award annual salary adjustments to instructional personnel based upon annual performance evaluation results (like traditional public schools). However, flexibility is provided to determine salary supplements and other methods of compensation.⁴⁶

The bill clarifies the meaning of "substantive requirements" by requiring that a charter school's evaluation instrument comply with subsection (2), (3), and (7) of s. 1012.34, F.S. Thus, charter schools must develop a performance evaluation that differentiates among four performance levels, supports effective instruction and student learning growth, is designed to improve instructional quality, and uses student data from multiple sources. The evaluation must be conducted at least once per year, personnel must be fully informed of the criteria and procedures prior to evaluation, the individual's supervisor must conduct the evaluation, and the evaluator may amend an evaluation based on specific assessment data. Charter schools must also comply by using the state approved student growth formula and requirements for measuring student growth in courses without statewide assessments.⁴⁷ The net effect of the bill's educator compensation, performance evaluation, and contracting provisions is to require charter schools to adopt employment policies that incorporate key concepts promoted by the Act, while providing flexibility to shape these policies in a manner that fits the charter school context.

For purposes of interpreting Education Code statutes that a charter school is required to comply with, the bill equates a charter school's principal with a district school superintendent and a governing board

⁴³ Section 1002.33(16), F.S.

⁴⁴ Chapter 2011-1, L.O.F. There are 224 charter schools participating in Florida's Race to the Top grant. These charter schools will be implementing reforms to performance evaluations and compensation systems. Florida Department of Education, *LEA Approval Status List*, <http://www.fldoe.org/arra/Racetothetop-archive.asp> (last visited Feb. 27, 2012).

⁴⁵ Brief for School Board of Orange County, at 12-13, *Response to the State Board of Education in Appeal by Renaissance Charter School, Orlando* (Dec. 12, 2011)(on file with committee). For example, at least one school district has interpreted the Act's contract and workforce reduction provisions to prohibit charter schools from employing teachers on an at-will basis. *Id.*

⁴⁶ For example, the Act's salary schedule provisions provide opportunities for teachers to earn salary supplements based upon assignment to a Title I school or low-performing school. Charter school teachers are not assigned to schools in the same manner as teachers employed by a school district and many charter schools are single-school operations. Teachers in a charter school that does not meet these criteria, or that is not part of a system of charter schools that includes schools that meet these criteria, have no opportunity to earn these salary supplements. *See, e.g.*, s. 1012.27(1), F.S.

⁴⁷ Section 1012.34(2), (3), and (7), F.S.

with a school board. Thus, for example, when a charter school must comply with a statutory provision that imposes a duty on school boards, the charter school's governing board must perform the duty.

Federal Funding Reimbursement

Present Situation

Charter schools, like traditional public schools, receive federal education funding through such programs as the Individuals with Disabilities Education Act (IDEA),⁴⁸ Title I programs for disadvantaged students,⁴⁹ and Title II programs for improving teacher quality.⁵⁰ Typically, federal education programs are structured so that funding flows from the federal government to a state educational agency,⁵¹ which then awards subgrants to local education agencies (LEA) within the state.⁵² School districts are the LEA for district public schools, including charter schools. Federal education funds are received by the school district, which then distributes to the charter school its proportionate share of funding.⁵³

Each federal education program has unique policy goals and expenditure, record keeping, and annual financial and performance accountability reporting requirements.⁵⁴ Federal regulations provide penalties for grantees and subgrantees⁵⁵ that fail to comply with grant requirements. These penalties include withholding, suspension, or termination of grant funds or designation as a "high risk" grantee.⁵⁶

Federal law requires school districts to ensure that charter schools receiving federal funds comply with federal grant requirements.⁵⁷ School districts typically address issues related to a charter school's compliance with federal grant requirements in the charter.⁵⁸ In addition, Florida law provides several mechanisms which enable school districts to provide financial oversight of charter schools. Charter schools must submit annual financial reports,⁵⁹ provide for an annual financial audit,⁶⁰ and submit to the district monthly financial statements.⁶¹ Among other things, a charter school's annual financial audit must include violations of law, contract provisions, or grant agreements.⁶²

According to the DOE, school districts distribute federal funds directly to charter schools, provide in-kind services in lieu of funds, or use a combination of both methods. School districts use a variety of

⁴⁸ 20 U.S.C. s. 1411(e).

⁴⁹ 20 U.S.C. s. 6301 et. seq.

⁵⁰ 20 U.S.C. ss. 6601-6641; s. 1002.33(17)(c)-(d), F.S.

⁵¹ The Florida Department of Education is Florida's state educational agency for federal funding purposes. See 20 U.S.C. s. 1412(a).

⁵² See 20 U.S.C. ss. 1412(a) and 1413(a).

⁵³ Section 1002.33(17)(c), F.S.

⁵⁴ 34 C.F.R. ss. 76.702, 80.36, 80.32, 80.33, and 80.42 (fiscal, procurement, and inventory management records); 34 C.F.R. s. 80.41 (financial reports include status, cash transaction, and capital outlay reports).

⁵⁵ 34 C.F.R. s. 80.3. Federal regulations governing administration of federal education grant programs define "grantee" to mean the government to which a grant is awarded and which is accountable for the use of the funds provided, i.e. DOE. Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided, i.e., school districts. *Id.*

⁵⁶ 34 C.F.R. s. 80.43 (noncompliance with grant terms); 34 C.F.R. s. 80.12 (high-risk grantees). Special conditions are placed upon "high risk" grantees, including payment of grant funds on a reimbursement basis; withholding of authority to proceed to subsequent grant phases until performance expectations are met; or requiring additional financial reports, project monitoring, and technical or management assistance. 34 C.F.R. s. 80.12. Grant recipients who commit fraud may be debarred or suspended from participation in all federally funded programs. 34 C.F.R. s. 80.43(d); Exec. Order No. 12549, 34 C.F.R. s. 80.35.

⁵⁷ 34 C.F.R. s. 80.3; 34 C.F.R. s. 300.209(b).

⁵⁸ Telephone interview with Florida Department of Education, Charter Schools Director (Feb. 1, 2012).

⁵⁹ Section 1002.33(9)(g), F.S.

⁶⁰ Sections 218.39(1)(e) and (f) and 1002.33(9)(j)1. and 2., F.S.

⁶¹ Section 1002.33(9)(g), F.S. High-performing charter schools may submit quarterly, rather than monthly, financial statements. Section 1002.331(2)(c), F.S.

⁶² Section 10.856(2)(b)2.c., Rules of the Auditor General.

methods to distribute federal funds directly to charter schools, including directly advancing funds, reimbursing expenditures, or making purchases on behalf of charter schools.⁶³

Effect of Proposes Changes

The bill requires a sponsor to monthly reimburse a charter school for expenditures of federal funds, unless another method of disbursing federal funds is mutually agreed to by the charter school and sponsor. The charter school must provide invoices evidencing expenditures to the sponsor at least 30 days before the monthly reimbursement date set by the sponsor. Charter schools that choose to receive federal funds on a reimbursement basis must comply with applicable state and federal requirements governing use of federal funds. In order to receive federal funds on a reimbursement basis, a charter school must submit to the sponsor for approval a plan outlining the charter school's use of federal funds. Allowing charter schools to receive federal funds on a reimbursement basis provides charter schools with greater autonomy regarding purchases made with federal funds, while enabling the sponsor to oversee the charter school's compliance with state and federal requirements governing use of such funds.

Facilities for Charter Schools

Present Situation

Currently, if a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it shall be provided for a charter school's use on the same basis it is made available to other public schools in the district.⁶⁴ However, there have been instances in which facilities are used for storage (some partially) or some other purpose, or not marked for disposal and such facilities still remain unavailable to charter schools. Other districts have provided buildings, at cost, to charter schools.

Effect of Proposed Changes

The bill clarifies that if a district school board facility or property that has previously been used for K-12 education purposes, is no longer used in support of public education, it shall be made available for a charter school's use. The charter school shall not earn capital outlay funds. The charter school is responsible for maintenance fees for the facility and may choose to do this themselves or pay the school district the actual cost to maintain the facility to the same standard it would any other district operated school in similar age and condition.

Florida College System Institution Charter Schools

Present Situation

Florida College System (FCS) institutions are statutorily authorized to, in cooperation with the school board or boards within the institution's service area, develop charter schools that offer secondary education⁶⁵ and allow students to obtain an associate degree⁶⁶ upon graduation from high school.

⁶³ *Funding Report, supra* note 1, at 21-22.

⁶⁴ Section 1002.33(18)(e), F.S.

⁶⁵ Under Florida law, the term "secondary school" is synonymous with "high school" (grades 9 through 12). Section 1003.01(2), F.S. (definition of "school"). Generally speaking, elementary schools serve students in kindergarten through grade 5, middle schools serve students in grades 6 through 8, and high schools serve students in grades 9 through 12. Section 1003.01(2), F.S. High school grade levels served by FCS institution charter schools vary. For example, St. Petersburg Collegiate High School serves students in grades 10 through 12. St. Petersburg Collegiate High School, *Admissions*, <http://www.spcollege.edu/spchs/Admission.html> (last visited Feb. 2, 2012). In contrast, Edison State College's two collegiate high schools serve students in grades 9 through 12. *See, e.g.*, Edison Collegiate High School, *Admissions*, <http://echs.edison.edu/about/admission-process/> (last visited Feb. 2, 2012).

Students have full access to all college facilities, activities, and services.⁶⁷ According to an October 2012 survey, 3 colleges reported having charter and collegiate high schools. An additional four indicated they had a charter school.⁶⁸ FCS institution charter schools may not serve students in the elementary or middle grades.⁶⁹

Effect of Proposed Changes

The bill authorizes FCS institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12. The bill further requires that charter schools offering kindergarten through grade eight under the FCS utilize a formal education program in which the student learns at least in part through online delivery of content and instruction and at least part at a supervised brick-and-mortar location away from home. This will enable FCS institutions to use these charter schools as teaching labs for prospective teachers enrolled in their teacher preparation programs.

High-Performing Charter Schools and Charter School Systems

Present Situation

Legislation enacted in 2011 established criteria for identifying charter schools and charter school systems with a track record of exemplary academic performance and financial stability.⁷⁰ A high-performing charter school is a charter school that during each of the three previous years:

- Received at least two school grades of “A” and no grade below “B;”
- Received an unqualified opinion⁷¹ on each annual financial audit; and
- Had not received an annual financial audit that reveals a financial emergency condition.⁷²

A high-performing charter school system is a system of charter schools operated by a municipality or other public entity that is authorized by law to operate a charter school; a private, nonprofit, s. 501(c)(3) of the Internal Revenue Code status corporation; or a private for-profit education management corporation that:

- Includes at least three high-performing charter schools in Florida;
- Has at least 50 percent of its charter schools designated as “high-performing” with no charter school receiving a school grade of “D” or “F;” and
- Has not received an annual financial audit that revealed a financial emergency condition for any charter school operated by the entity in Florida.⁷³

⁶⁶ Associate degrees include the associate in arts, associate in science, and associate in applied science degrees. See rule 6A-14.030(1)-(3), F.A.C.

⁶⁷ Section 1002.33(5)(b)4., F.S.

⁶⁸ See *Charter and Collegiate High Schools in the Florida College System*, Division of Florida Colleges, Florida Department of Education available at <http://www.fldoe.org/cc/OSAS/Evaluations/pdf/FYI2011-01.pdf>

⁶⁹ Section 1002.33(5)(b)4., F.S.

⁷⁰ Sections 1 and 2, ch. 2011-232, L.O.F.

⁷¹ An unqualified audit opinion means that the charter school’s financial statements are materially correct. Telephone interview with Florida Auditor General staff (March 24, 2011).

⁷² Section 1002.331(1), F.S. A financial emergency condition includes failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes; failure for one pay period to pay wages, salaries, and retirement benefits owed; or a fund balance or total net assets deficit. Section 218.503(1), F.S. A charter school in the workplace satisfies audit requirements for “high-performing” status if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition. Section 1002.331(1)(c), F.S. A “deteriorating financial condition” is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition. Section 1002.345(1)(a)3., F.S.

⁷³ Section 1002.332(1), F.S.

High-performing charter schools receive various advantages. A high-performing charter school may:

- Increase the school's enrollment once per year;
- Expand grade levels within kindergarten through grade 12 to add grade levels not already served;⁷⁴
- Submit quarterly, rather than monthly, financial statements to its sponsor;
- Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the school's governing board, regardless of the charter renewal cycle; and
- Receive a modification of its charter to a term of 15 years or a 15-year charter renewal.⁷⁵

In addition to these advantages, a high-performing charter school may submit a charter school application to replicate its educational program in any school district in the state.⁷⁶ Such applications may only be denied based upon limited criteria.⁷⁷ If an application submitted by a high-performing charter school is denied, the sponsor must provide the applicant and the Department of Education (DOE) with a letter of denial stating its reasoning with supporting documentation. Like other application denials, a high-performing charter school may appeal the sponsor's denial to the State Board of Education and the sponsor may submit a response to the appeal. The appeals process for high-performing charter school applications differs from other appeals in that the state board conducts the appeal without convening the Charter School Appeal Commission⁷⁸ and independently reviews whether the sponsor based its decision upon the statutory denial criteria.⁷⁹

In order to receive "high-performing" status, a charter school or charter school system must request verification by the Commissioner of Education that the school meets the eligibility requirements.⁸⁰ The law provides for removal of a charter school's "high-performing" status if it receives a school grade of "C" in any two years during the term of the 15-year charter.⁸¹ The law does not provide a process for annually reviewing a charter school's, or charter school system's, continued eligibility for "high-performing" status. Nor does it specify a process for removing the status if a school or system is no longer eligible.⁸²

⁷⁴ Enrollment increases and grade level expansion may not exceed 15 percent of the student capacity authorized by the charter. Section 1002.331(2)(a) and (b), F.S.

⁷⁵ Section 1002.331(2), F.S. The charter may be modified or renewed for a lesser term at the option of the charter school, is subject to annual review by the sponsor, and may be terminated for grounds currently specified in statute. *Id.* A sponsor may terminate or not renew a charter school's charter if the school fails to participate in Florida's accountability system; fails to meet the student performance outcomes agreed upon in the charter; fails to meet generally accepted standards of fiscal management; or violates the law. Section 1002.33(8)(a), F.S.

⁷⁶ Section 1002.331(3)(a), F.S.

⁷⁷ Section 1002.33(6)(b)3.b., F.S. An application to replicate a high-performing charter school may only be denied if clear and convincing evidence demonstrates material noncompliance with application requirements related to curricula, student learning goals, reading instruction, and financial management; material noncompliance with law requiring charter schools to be nonsectarian; comply with student enrollment requirements; be accountable to the sponsor; be tuition free; and meet state and local health, safety, and civil rights requirements; that the proposed charter school does not substantially replicate one of the applicant's high-performing charter schools; that the applicant misrepresented important facts or concealed information during the application process; or the proposed charter school's educational program and financial management practices do not materially comply with the charter school statute. *Id.* "Material noncompliance" is a failure to follow requirements or a violation of prohibitions applicable to charter school applications which is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. Section 1002.33(6)(b), F.S. (flush-left provisions at end of paragraph).

⁷⁸ The Charter School Appeal Commission (CSAC) is a body comprised of school district and charter school representatives that reviews charter school application appeals filed with the state board. CSAC must review the appeal and make a written recommendation to the state board as to whether it should be upheld or denied. The state board must consider the CSAC's recommendation, but is not bound by it when making its final decision. Section 1002.33(6)(e)1. and 2., F.S.

⁷⁹ Section 1002.33(6)(c)3.b., F.S.

⁸⁰ Sections 1002.331(5) and 1002.332(2), F.S.

⁸¹ Section 1002.331(4), F.S.

⁸² See ss. 1002.331 and 1002.332, F.S.

Effect of Proposed Changes

The bill requires the commissioner to annually determine a charter school's, or charter school system's, continued eligibility for "high-performing" status. A high-performing charter school or charter school system may maintain its "high-performing" status, unless the commissioner determines that the charter school or system no longer meets the eligibility criteria. If a high-performing charter school or system fails to meet the eligibility criteria, the commissioner must notify the school or system of its declassification as "high-performing." These changes establish explicit standards for reviewing continued eligibility for "high-performing" status and for declassifying high-performing charter schools and systems that fail to meet eligibility criteria.

The bill clarifies that the high-performing charter school application appeals process is conducted in the same manner as other application appeals, except that the state board conducts the appeal without convening the Charter School Appeal Commission.⁸³ It does require the Commissioner of Education to review the appeal and make a recommendation to the State Board of Education.

The bill includes provisions by which an out-of-state entity that successfully operates a system of charter schools may qualify for high-performing status as a charter school system. The operators must apply to the State Board of Education for such status, solely for the purpose of establishing charter schools that primarily serve students in the attendance zone of a school identified as in need of intervention and support services pursuant to s. 1008.33(3)(b), F.S. The State Board of Education must adopt, by rule, a process for determining whether an entity meets the requirements by reviewing student demographic and performance data from all schools operated by the entity.

The bill also expands the definition of a high-performing charter school to include schools established by operators who have obtained high performing status through the process outlined above.

SECTION DIRECTORY:

Section 1: Amending s. 1002.33, F.S.; clarifying enforcement of policies agreed to by the sponsor and charter school that are subsequently amended; requiring sponsors to report, annually, specific information regarding charter applications; authorizing a charter school operated by a Florida College System institution to serve students in kindergarten through grade 12 if certain criteria are met; providing disclosure requirements for applicants of previous charter schools subject to corrective action or financial recovery plans; revising provisions relating to the timely submission of charter school applications; providing requirements relating to the appeal of a denied application submitted by a high-performing charter school; reducing the amount of time for negotiation of a charter; revising provisions relating to the issuance of a final order in contract dispute cases; providing a restriction relating to a required certificate of occupancy; authorizing the consolidation of multiple charters into a single charter in certain circumstances; establishing student academic achievement as a priority in determining charter renewals and terminations; revising the timeline for charter schools to submit waiver of termination requests to the Department of Education; restricting expenditures upon nonrenewal or termination of a charter school; requiring a charter school to maintain specified information on a website; revising provisions relating to determination of a charter school's student enrollment; revising provisions requiring charter school compliance with statutes relating to education personnel compensation, contracts, and performance evaluations and workforce reductions; providing requirements for the reimbursement of federal funds to charter schools; requiring that certain unused school district facilities be made available to charter schools; restricting capital outlay funding; providing restrictions on the membership of a governing board.

⁸³ Telephone interview with Charter Schools Director, Florida Department of Education (Jan. 7, 2013). In August of 2011, 44 applications were submitted by high-performing charter schools, 4 were denied and 3 appealed directly to the State Board of Education.

Section 2: Amending s. 1002.331, F.S.; providing requirements for modification of a charter; requiring the Commissioner of Education to annually review a high-performing charter school's eligibility for high-performing status; authorizing declassification as a high-performing charter school; removing the 15% enrollment increase cap; providing additional criteria for determining high-performing status.

Section 3: Amending s. 1002.332, F.S.; revising requirements for classification as a high-performing charter school system; requiring the commissioner to annually review a high-performing charter school system's eligibility for high-performing status; authorizing declassification as a high-performing charter school system; allowing out-of-state operators to apply and qualify for high-performing status as a charter school system if they meet certain requirements; requiring the State Board of Education to adopt, by rule, the process for reviewing and approving such applications; expanding the definition of high-performing charter school to include schools opened by such operators.

Section 4: Requiring DOE, in consultation with stakeholders, to develop a proposed statewide standard charter contract and provide it to the Governor, the Speaker of the House of Representatives, and the President of the Senate by November 1, 2013.

Section 5: Providing an effective date of July 1, 2013.

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

1 A bill to be entitled
 2 An act relating to parent empowerment in education;
 3 amending s. 1001.10, F.S.; conforming a cross-
 4 reference; amending s. 1002.20, F.S.; providing that
 5 parents who have a student in a public school that is
 6 implementing a turnaround option may petition to have
 7 a particular turnaround option implemented; requiring
 8 the school district to notify parents of a public
 9 school student being taught by an out-of-field teacher
 10 or by a teacher with an unsatisfactory performance
 11 rating; specifying requirements for the notice;
 12 amending s. 1002.32, F.S.; conforming a cross-
 13 reference; amending s. 1002.33, F.S.; requiring a
 14 charter school to comply with certain procedures for
 15 the assignment of teachers; creating s. 1003.07, F.S.;
 16 creating the Parent Empowerment Act; specifying what
 17 constitutes an eligible student and a parental vote;
 18 requiring that a school district send a written notice
 19 to parents of public school students regarding the
 20 parents' options to petition the school for a
 21 particular turnaround option; requiring the notice to
 22 include certain information; authorizing up to one
 23 parental vote per eligible student; establishing the
 24 process to solicit signatures for a petition;
 25 prohibiting a person from being paid for signatures;
 26 prohibiting a for-profit corporation, business, or
 27 entity from soliciting signatures or paying a person
 28 to solicit signatures; establishing criteria to verify

29 the signatures on a petition; requiring the State
 30 Board of Education to adopt rules for filing a
 31 petition; specifying that a petition is valid if it is
 32 signed and dated by a majority of the parents of
 33 eligible students and those signatures are verified;
 34 requiring the school district to consider the
 35 turnaround option on the valid petition with the most
 36 signatures at a publicly noticed school board meeting;
 37 requiring the school district to submit an
 38 implementation plan to the state board; amending s.
 39 1008.33, F.S.; authorizing a parent to petition the
 40 school district to implement a turnaround option
 41 selected by the parent; amending s. 1012.2315, F.S.;
 42 providing for assistance to teachers teaching out-of-
 43 field; requiring the school district to notify parents
 44 and inform them of their options if a student is being
 45 taught by an out-of-field teacher; providing that a
 46 student may not be assigned to a teacher with a
 47 performance evaluation rating of less than effective
 48 for a specified number of consecutive school years;
 49 repealing s. 1012.42, F.S., relating to teachers who
 50 are teaching out-of-field; providing an effective
 51 date.

52
 53 Be It Enacted by the Legislature of the State of Florida:

54
 55 Section 1. Subsection (3) of section 1001.10, Florida
 56 Statutes, is amended to read:

57 1001.10 Commissioner of Education; general powers and
 58 duties.—

59 (3) To facilitate innovative practices and ~~to allow~~ local
 60 selection of educational methods, the State Board of Education
 61 may authorize the commissioner to waive, upon the request of a
 62 district school board, rules of the State Board of Education
 63 relating ~~rules that relate~~ to ~~district~~ school instruction and
 64 ~~school~~ operations, except those rules pertaining to civil
 65 rights, and student health, safety, and welfare. The
 66 commissioner ~~of Education~~ is not authorized to grant waivers for
 67 any provisions in rule pertaining to the allocation and
 68 appropriation of state and local funds for public education; the
 69 election, compensation, and organization of school board members
 70 and superintendents; graduation and state accountability
 71 standards; financial reporting requirements; reporting of out-
 72 of-field teaching assignments under s. 1012.2315 ~~s. 1012.42~~;
 73 public meetings; public records; or due process hearings
 74 governed by chapter 120. No later than January 1 of each year,
 75 the commissioner shall report to the Legislature and the State
 76 Board of Education all approved waiver requests in the preceding
 77 year.

78 Section 2. Paragraph (d) is added to subsection (21) of
 79 section 1002.20, Florida Statutes, and subsection (25) is added
 80 to that section, to read:

81 1002.20 K-12 student and parent rights.—Parents of public
 82 school students must receive accurate and timely information
 83 regarding their child's academic progress and must be informed
 84 of ways they can help their child to succeed in school. K-12

85 students and their parents are afforded numerous statutory
 86 rights including, but not limited to, the following:

87 (21) PARENTAL INPUT AND MEETINGS.-

88 (d) Parent empowerment.-Parents of students who are
 89 assigned to a public school that is required to implement a
 90 turnaround option pursuant to s. 1008.33 may submit a petition
 91 to the school district requesting implementation of a turnaround
 92 option pursuant to s. 1003.07.

93 (25) ASSIGNMENT TO TEACHERS.-

94 (a) Out-of-field classroom teachers.-Each school district
 95 shall annually notify the parent of a public school student who
 96 is assigned to a classroom teacher teaching out-of-field. The
 97 notice must inform the parent that virtual instruction from a
 98 certified in-field teacher having an annual performance
 99 evaluation rating of "effective" or "highly effective" is
 100 available pursuant to s. 1012.2315(5).

101 (b) Underperforming classroom teachers.-Each school
 102 district shall annually notify the parent of a public school
 103 student assigned to a classroom teacher or school administrator
 104 who, under s. 1012.34, has two consecutive annual performance
 105 evaluation ratings of "unsatisfactory," two annual performance
 106 evaluation ratings of "unsatisfactory within a 3-year period,"
 107 or three consecutive annual performance evaluation ratings of
 108 "needs improvement" or a combination of "needs improvement" and
 109 "unsatisfactory." The notice must inform the parent that virtual
 110 instruction from a teacher who has an annual performance
 111 evaluation rating of "effective" or "highly effective" is
 112 available pursuant to s. 1012.2315(7).

113 Section 3. Paragraph (c) of subsection (7) of section
 114 1002.32, Florida Statutes, is amended to read:

115 1002.32 Developmental research (laboratory) schools.—

116 (7) PERSONNEL.—

117 (c) Lab school faculty members shall meet the
 118 certification requirements of s. 1012.32 ~~ss. 1012.32~~ and
 119 ~~1012.42~~.

120 Section 4. Paragraph (b) of subsection (16) of section
 121 1002.33, Florida Statutes, is amended to read:

122 1002.33 Charter schools.—

123 (16) EXEMPTION FROM STATUTES.—

124 (b) Additionally, a charter school shall comply ~~be in~~
 125 ~~compliance~~ with the following statutes:

126 1. Section 286.011, relating to public meetings and
 127 records, public inspection, and criminal and civil penalties.

128 2. Chapter 119, relating to public records.

129 3. Section 1003.03, relating to the maximum class size,
 130 except that the calculation for compliance pursuant to s.
 131 1003.03 must ~~shall~~ be the average at the school level.

132 4. Section 1012.22(1)(c), relating to compensation and
 133 salary schedules.

134 5. Section 1012.33(5), relating to workforce reductions.

135 6. Section 1012.335, relating to contracts with
 136 instructional personnel hired on or after July 1, 2011.

137 7. Section 1012.34, relating to the substantive
 138 requirements for performance evaluations for instructional
 139 personnel and school administrators.

140 8. Section 1012.2315(5) and (7), relating to the

141 assignment of teachers and notification to parents.

142 Section 5. Section 1003.07, Florida Statutes, is created
 143 to read:

144 1003.07 Parent empowerment.-

145 (1) This section may be cited as the "Parent Empowerment
 146 Act."

147 (2) As used in this section, the term:

148 (a) "Eligible student" means a student enrolled in a
 149 school in which a turnaround option will be implemented or a
 150 student who, under the school district's enrollment policy, is
 151 scheduled for assignment to that school the following school
 152 year. A student who is graduating or being promoted out of a
 153 school that is eligible for a turnaround option and who will not
 154 be enrolled in that school the following school year is not an
 155 eligible student.

156 (b) "Parental vote" means the signature of one parent of
 157 an eligible student.

158 1. If the other parent objects in writing to the parental
 159 vote before the date the petition is scheduled to be submitted,
 160 and if the parents have equal parental rights, the parental vote
 161 counts for one-half of a vote.

162 2. If one parent has sole parental responsibility or holds
 163 the right to make educational decisions for the student pursuant
 164 to s. 61.13, only that parent can vote regarding the eligible
 165 student.

166 (3) Each school district shall notify, in writing, the
 167 parents of eligible students and the school advisory council
 168 when a public school has been unable to improve performance and

169 is required to implement a turnaround option pursuant to s.
 170 1008.33. The written notice must inform parents that, before the
 171 district school board selects a turnaround option, parents may
 172 petition for implementation of a particular turnaround option
 173 pursuant to s. 1008.33. The notice must be provided to parents
 174 within 30 calendar days after the school district receives
 175 notice from the department that the school is required to
 176 implement a turnaround option. The notice must include:

177 (a) A description of each turnaround option available for
 178 selection under s. 1008.33;

179 (b) A description of the process for implementing a
 180 turnaround option, including the date by which the school
 181 district must submit its implementation plan to the State Board
 182 of Education;

183 (c) The date and location for submission of the petition;

184 (d) The date and location of the publicly noticed district
 185 school board meeting required in this section at which the
 186 school board will consider the available turnaround options; and

187 (e) The contact information of the district school board.

188 (4) A person who solicits signatures may not offer
 189 monetary compensation, a promise of employment, or any other
 190 reward to a parent for signing a petition. A person who solicits
 191 signatures may not be paid per signature and, if asked, must
 192 disclose the organization he or she represents. A for-profit
 193 corporation, business, or entity is prohibited from gathering
 194 signatures or paying others to solicit signatures.

195 (5) The State Board of Education shall adopt rules to
 196 establish a petition format, the petition submission process,

197 standards for verifying signatures, and timeframes for the
 198 verification and consideration of a petition at a publicly
 199 noticed meeting. Petition forms must be easily accessible to
 200 parents. Each petition form must clearly identify only one
 201 turnaround option on the front page of the petition and on each
 202 page thereafter. The school district shall provide clear
 203 instructions and a sample petition form for each turnaround
 204 option available for selection under s. 1008.33.

205 (6) The petition process must provide that:

206 (a) Parents of eligible students have at least 30 days
 207 after initial notification to gather petition signatures.

208 (b) The school district shall verify signatures no more
 209 than 30 days after the date the petition is submitted.

210 (c) The district school board may not meet sooner than 30
 211 days after the petition is submitted.

212 (d) A submitted petition may list only one turnaround
 213 option identified in s. 1008.33 which is not currently being
 214 implemented at the school. A parent may sign more than one
 215 petition for a turnaround option.

216 (e) A parent signature constitutes a certification that
 217 the parent has a present intention to enroll his or her child,
 218 who must be identified on the petition, if the turnaround option
 219 identified on the petition is selected. A school district may
 220 not reject a parent's signature on a petition on the basis that
 221 the parent signed the petition before the initial notice.

222 (f) The school district shall verify at least a majority
 223 of the signatures on the petition using existing student
 224 enrollment documentation or other records containing parent

225 signatures. A school district may not reject a parent's
226 signature on a petition based on a lack of conformity to
227 signatures in school records if the parent's identity and
228 signature can be easily validated with a photographic
229 identification or a notarized signature verifying the identity
230 of the signer, or by the personal knowledge of a school
231 employee. The school district is not required to verify
232 notarized signatures, and signatures verified outside an
233 established verification period are valid.

234 (g) For a petition to be valid, it must bear the dated
235 signatures of a majority of the parents of eligible students.
236 For purposes of this section, a majority is more than one-half
237 of the parents who are eligible to sign the petition. Only one
238 parental vote per eligible student may be counted with respect
239 to each petition.

240 (h) If valid petitions for more than one turnaround option
241 are submitted, the petition having the most signatures is the
242 official turnaround option selected by parents.

243 (7) The turnaround option selected by parents must be
244 considered for implementation by the school district at a
245 publicly noticed district school board meeting. The district
246 school board may adopt the turnaround option selected by parents
247 or a different turnaround option selected by the district school
248 board. Pursuant to s. 1008.33, an implementation plan for the
249 adopted turnaround option must be submitted to the state board.

250 (a) If the district school board adopts a turnaround
251 option that is different from the turnaround option selected by
252 parents, it shall identify with its submission the turnaround

253 option selected by parents.

254 (b) If the state board determines that the turnaround
 255 option selected by parents is more likely to improve the
 256 academic performance of students at the school, the district
 257 school board shall submit to the state board an implementation
 258 plan for the turnaround option selected by parents.

259 (c) If the school improves by at least one letter grade,
 260 implementation of a turnaround option is no longer required in
 261 accordance with s. 1008.33(4) (d).

262 Section 6. Subsection (4) of section 1008.33, Florida
 263 Statutes, is amended to read:

264 1008.33 Authority to enforce public school improvement.--

265 (4)(a) The state board shall apply the most intense
 266 intervention and support strategies to schools earning a grade
 267 of "F." In the first full school year after a school initially
 268 earns a grade of "F," the school district must implement
 269 intervention and support strategies prescribed in rule under
 270 paragraph (3)(c), select a turnaround option from those provided
 271 in subparagraphs (b)1.-5., and submit a plan for implementing
 272 the turnaround option to the department for approval by the
 273 state board. Upon approval by the state board, the turnaround
 274 option must be implemented in the following school year.

275 (b) Except as provided in subsection (5), the turnaround
 276 options available to a school district to address a school that
 277 earns a grade of "F" are:

- 278 1. Convert the school to a district-managed turnaround
- 279 school;
- 280 2. Reassign students to another school and monitor the

281 | progress of each reassigned student;

282 | 3. Close the school and reopen the school as one or more
283 | charter schools, each with a governing board that has a
284 | demonstrated record of effectiveness;

285 | 4. Contract with an outside entity that has a demonstrated
286 | record of effectiveness to operate the school; or

287 | 5. Implement a hybrid of turnaround options set forth in
288 | subparagraphs 1.-4. or other turnaround models that have a
289 | demonstrated record of effectiveness.

290 | (c) Parents of students who are assigned to a public
291 | school that is required by the State Board of Education to
292 | implement a turnaround option may petition the school district
293 | to implement one of the turnaround options in paragraph (b)
294 | selected by the parents pursuant to s. 1003.07.

295 | ~~(d)~~ Except for schools required to implement a
296 | turnaround option pursuant to subsection (5), a school earning a
297 | grade of "F" shall have a planning year followed by 2 full
298 | school years to implement the initial turnaround option selected
299 | by the school district and approved by the state board.
300 | Implementation of the turnaround option is no longer required if
301 | the school improves by at least one letter grade.

302 | ~~(e)~~ A school earning a grade of "F" that improves its
303 | letter grade must continue to implement strategies identified in
304 | its school improvement plan pursuant to s. 1001.42(18)(a). The
305 | department must annually review implementation of the school
306 | improvement plan for 3 years to monitor the school's continued
307 | improvement.

308 | ~~(f)~~ If a school earning a grade of "F" does not improve

309 by at least one letter grade after 2 full school years of
 310 implementing the turnaround option selected by the school
 311 district under paragraph (b), the school district must select a
 312 different option and submit another implementation plan to the
 313 department for approval by the state board. Implementation of
 314 the approved plan must begin the school year following the
 315 implementation period of the existing turnaround option, unless
 316 the state board determines that the school is likely to improve
 317 a letter grade if additional time is provided to implement the
 318 existing turnaround option.

319 Section 7. Section 1012.2315, Florida Statutes, is amended
 320 to read:

321 1012.2315 Assignment of teachers.—

322 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
 323 disparities between teachers assigned to teach in a majority of
 324 schools that do not need improvement and schools that do need
 325 improvement pursuant to s. 1008.33. The disparities may be found
 326 in the assignment of temporarily certified teachers, teachers in
 327 need of improvement, and out-of-field teachers and in the
 328 performance of the students. It is the intent of the Legislature
 329 that district school boards have flexibility through the
 330 collective bargaining process to assign teachers more equitably
 331 across the schools in the district.

332 (2) ASSIGNMENT TO SCHOOLS GRADED "D" or "F".—School
 333 districts may not assign a higher percentage than the school
 334 district average of temporarily certified teachers, teachers in
 335 need of improvement, or out-of-field teachers to schools graded
 336 "D" or "F" pursuant to s. 1008.34. Each school district shall

337 annually certify to the commissioner ~~of Education~~ that this
 338 requirement has been met. If the commissioner determines that a
 339 school district is not in compliance with this subsection, the
 340 State Board of Education must ~~shall~~ be notified and shall take
 341 action pursuant to s. 1008.32 in the next regularly scheduled
 342 meeting to require compliance.

343 (3) SALARY INCENTIVES.—District school boards may ~~are~~
 344 ~~authorized to~~ provide salary incentives to meet the requirement
 345 of subsection (2). A district school board may not sign a
 346 collective bargaining agreement that precludes the school
 347 district from providing sufficient incentives to meet this
 348 requirement.

349 (4) COLLECTIVE BARGAINING.—Notwithstanding provisions of
 350 chapter 447 relating to district school board collective
 351 bargaining, collective bargaining provisions may not preclude a
 352 school district from providing incentives to high-quality
 353 teachers and assigning such teachers to low-performing schools.

354 (5) ASSISTANCE TO OUT-OF-FIELD TEACHERS.—

355 (a) Each district school board shall adopt rules for
 356 administering an assistance plan for each classroom teacher who
 357 is teaching out-of-field. The assistance plan must provide
 358 teachers who are teaching out-of-field with priority
 359 consideration in professional development activities and require
 360 such teachers to participate in a certification or staff
 361 development program that provides the competencies required for
 362 the assigned duties. A school district may reimburse a teacher
 363 who is teaching out-of-field for a certification fee. The
 364 assistance plan must also include duties of administrative

365 personnel and other instructional personnel for assisting a
 366 teacher who is teaching out-of-field.

367 (b) The school district shall annually notify the parent
 368 of a student who is assigned to a classroom teacher teaching a
 369 subject matter that is:

- 370 1. Outside the field in which the teacher is certified;
 371 2. Outside the field that was the teacher's minor field of
 372 study; or
 373 3. Outside the field in which the teacher has demonstrated
 374 sufficient subject area expertise, as determined by district
 375 school board policy, in the subject area to be taught.

376
 377 The notice must inform the parent that virtual instruction from
 378 a certified in-field teacher who has an annual performance
 379 evaluation rating of "effective" or "highly effective" under s.
 380 1012.34 is available to his or her child through the virtual
 381 instruction options specified in s. 1002.321(4).

382 (6)(5) REPORT.-

383 (a) By July 1, 2012, the department of Education shall
 384 annually report on its website, in a manner that is accessible
 385 to the public, the performance rating data reported by district
 386 school boards under s. 1012.34. The report must include the
 387 percentage of classroom teachers, instructional personnel, and
 388 school administrators receiving each performance rating
 389 aggregated by school district and by school.

390 (7) ASSIGNMENT OF TEACHERS BASED UPON PERFORMANCE
 391 EVALUATIONS.-

392 (a)(b) Notwithstanding the provisions of s.

393 1012.31(3)(a)2., each school district shall annually notify
 394 ~~report to~~ the parent of a any student who is assigned to a
 395 classroom teacher or school administrator having two consecutive
 396 annual performance evaluation ratings of "unsatisfactory" under
 397 s. 1012.34, two annual performance evaluation ratings of
 398 unsatisfactory within a 3-year period under s. 1012.34, or three
 399 consecutive annual performance evaluation ratings of "needs
 400 improvement" or a combination of "needs improvement" and
 401 "unsatisfactory" under s. 1012.34. The notice must inform the
 402 parent that virtual instruction from a teacher having a
 403 performance evaluation rating of "highly effective" or
 404 "effective" under s. 1012.34 is available to his or her child
 405 through the virtual instruction options specified in s.
 406 1002.321(4).

407 (b) If a high school or middle school student is currently
 408 taught by a classroom teacher who, during that school year,
 409 receives a performance evaluation rating of "needs improvement"
 410 or "unsatisfactory" under s. 1012.34, the student may not be
 411 assigned the following school year to a classroom teacher in the
 412 same subject area who received a performance evaluation rating
 413 of "needs improvement" or "unsatisfactory" in the preceding
 414 school year.

415 (c) If an elementary school student is currently taught by
 416 a classroom teacher who, during that school year, receives a
 417 performance evaluation rating of "needs improvement" or
 418 "unsatisfactory" under s. 1012.34, the student may not be
 419 assigned the following school year to a classroom teacher who
 420 received a performance evaluation rating of "needs improvement"

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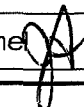
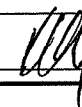
421 | or "unsatisfactory" in the preceding school year.

422 | Section 8. Section 1012.42, Florida Statutes, is repealed.

423 | Section 9. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 867 Parent Empowerment in Education
SPONSOR(S): Choice & Innovation Subcommittee, Trujillo and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 862

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	8 Y, 5 N, As CS	Ammel	Fudge
2) Education Appropriations Subcommittee	7 Y, 5 N	Seifert	Heflin
3) Education Committee		Ammel 	Mizereck 

SUMMARY ANALYSIS

The bill enables parents, by petitioning the school district, to request implementation of a parent-selected turnaround option when a school is required to implement a turnaround option. The turnaround option requested by parents must be considered for implementation by the district school board at a publicly noticed meeting if the petition is signed and dated by a majority of the parents of students enrolled in the school or students who are scheduled for assignment to the school in the following school year.

The district school board may adopt the turnaround option selected by parents or a different option selected by the school board. If the district school board does not adopt the parent-selected option, it must include that option with the implementation plan submitted to the State Board of Education. The state board may approve the district's plan or, if it determines that the parent-selected option is more likely to improve student performance at the school, require the school board to submit a plan for implementing the parent-selected option. However, if the school improves by at least one letter grade, the school no longer has to implement the turnaround option.

Florida's system of school improvement provides the lowest performing schools with the most comprehensive interventions. If such a school does not improve by one letter grade during the first year of intervention, the school district must implement a school turnaround option at the beginning of the next school year. If the school does not improve at least one letter grade after two years of implementing the turnaround option, the school district must submit a plan for implementing a different option at the beginning of the next school year. No process presently exists that requires school districts to consider implementation of a parent-selected turnaround option.

The bill creates new requirements for school districts and charter schools regarding the assignment of students to classroom teachers. The bill prohibits consecutive student assignments to teachers with an annual performance evaluation rating of unsatisfactory or needs improvement and requires that parents of students assigned to an out-of-field or chronically low-performing teacher be informed of the availability of virtual instruction delivered by an in-field, high-performing teacher.

Florida law does not prohibit school districts and charter schools from assigning a student in consecutive years to a low-performing teacher. School districts must notify each parent when his or her child is assigned to an out-of-field teacher or chronically low performing teacher; however, notification that virtual instruction is available as an alternative to such teacher assignments is not required.

The bill has a fiscal impact on state or local governments.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Improvement and Intervention

Present Situation

In 2012, the Legislature revised Florida's school accountability system to comply with the federal Elementary and Secondary Education Act (ESEA), its implementing regulations, and the ESEA flexibility waiver approved for Florida by the Secretary of Education.¹ It required the Department of Education, beginning with the 2011-12 school year, to identify each public school in need of intervention and support to improve student academic achievement. Schools earning a school grade of "D" or "F" are schools in need of intervention and support.² The State Board of Education was required to adopt, in rule, a differentiated matrix of intervention and support strategies that defined the strategies and the roles for the department and the board.³ The state board shall apply the most intense intervention and support strategies to schools earning an "F". In the first full school year after a school initially earns a grade of "F", the school district must: implement intervention and support strategies as outlined in rule; select a turn-around option; and submit a plan for implementing the turnaround option to the department for state board approval. The school district may select one of the following turnaround options:

- Convert the school to a district-managed turnaround school;
- Reassign students to another school and monitor the progress of each reassigned student;
- Close the school and reopen it as one or more charter schools, each with a governing board with a demonstrated record of effectiveness;
- Contract with an outside entity that has a demonstrated record of effectiveness to operate the school; or
- Implement a hybrid of turnaround options set forth in subparagraphs 1.-4. or other turnaround models that have a demonstrated record of excellence.

A school earning a grade of "F" has one planning year followed by 2 full school years to implement the turnaround option approved by the state board. Implementation of the turnaround option is no longer required if the school improves by at least one letter grade.⁴ The school must continue to implement strategies identified in its school improvement plan pursuant to s. 1001.42(18)(a), F.S., and the department must annually review the school's implementation of the plan for 3 years.⁵

Effect of Proposed Changes

The bill enables parents, by petition, to request that the school district implement a parent-selected turnaround option if a school earns a grade of "F". The turnaround option requested by parents must be considered for implementation by the district school board at a publicly noticed meeting if the petition is signed and dated by a majority of the parents⁶ of eligible students, i.e., students enrolled in the school or students who are scheduled for assignment to the school in the following school year.

¹ Section 6, ch. 2012-194, L.O.F.

² Section 1008.33(3)(b), F.S.

³ Section 1008.33(3)(c), F.S.

⁴ Section 1008.33(4)(c), F.S.

⁵ 1008.33(4)(d), F.S.

⁶ The law defines "parent" as either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent. Section 1000.21(5), F.S.

Within 30 days of receiving notice from the Department of Education (DOE) that the school is required to implement a turnaround option, each school district must notify parents and the school advisory council. The notice must inform parents of the opportunity to petition for a turnaround option and include; a description of each available option and the petition process; the date and location for submitting the petition; the date and location of the publicly noticed school board meeting at which a turnaround option will be determined; and the contact information for the district school board.

At least 30 days must be allowed to circulate parent petitions. A petition may propose one turnaround option; however, multiple petitions each proposing different options may be circulated. Parents may sign more than one petition and may sign before the notice beginning the petition period.

Only one parent per eligible student may sign the petition. One signature may be given by the parent for each child who is an eligible student. If a child's other parent submits a written objection to the petition, the signing parent's signature counts as one-half.

A parent must date the petition on the day it is signed and identify the eligible student on the petition. The parent's signature also certifies the parent's present intent to enroll the student in the school the following school year if the turnaround option supported by the petition is implemented. A majority is achieved when parent signatures are collected for more than one-half of eligible students. If more than one petition obtains a majority of signatures, the one with the most signatures is the option the school board must consider.

The school board must verify signatures on the petition using existing student enrollment documentation or other records containing parent signatures. A signature may also be validated by notarization or photographic identification. The petition must be submitted before the school district selects a turnaround option. The bill prohibits signature gatherers from being paid per signature and requires them to disclose what organization they represent, if asked.

The district school board may adopt the parent-selected turnaround option or a different option selected by the school board. If the district school board does not adopt the parent-selected option, it must include that option with the implementation plan submitted to the state board. If the state board determines that the turnaround option selected by parents is more likely to improve the academic performance of students at the school, the school board must resubmit a plan implementing the parent-selected option.

The bill enables parents of students attending a low-performing school to play a larger role in improving the school's performance. Likewise, the petition process may result in increased parental involvement in school affairs, which research identifies as a key component of school improvement.⁷

Educator Performance and Student Assignments

Present Situation

Research indicates that teacher effectiveness is the most important school-level variable influencing student learning. Students who are taught by ineffective teachers perform at much lower levels than students demonstrating comparable ability taught by high-performing teachers. Students taught by an ineffective teacher for even one year experience long-term negative impacts on achievement.⁸

⁷ The PEW Center on the States, *Engaged Families, Effective Pre-K: State Policies that Bolster Student Success*, at 1 (June 2010), available at http://www.pewcenteronthestates.org/uploadedFiles/PkN_Family_Engagement_FINAL.pdf?n=4141; Southwest Educational Development Laboratory, *A New Wave of Evidence: The Impact of School, Family, and Community Connections on Student Achievement*, at 24 (2002), available at <http://www.sedl.org/cgi-bin/pdfexit.cgi?url=http://www.sedl.org/connections/resources/evidence.pdf> (review of research regarding parental involvement and student success).

⁸ Sanders and Rivers, *Cumulative and Residual Effects of Teachers on Future Student Achievement*, at 6-8 (Nov. 1996), available at <http://www.mccsc.edu/~curriculum/cumulative%20and%20residual%20effects%20of%20teachers.pdf>. Sanders and Rivers found that

In Florida, the performance of classroom teachers⁹ is annually evaluated based upon student performance and instructional practice criteria. Student performance must comprise at least 50 percent of the performance evaluation and must be measured in terms of student learning growth on statewide assessments or, for subjects and grades not tested by statewide assessments, school district-selected assessments.¹⁰ Measurement of student learning growth for classroom teachers must be based upon students assigned to the employee over the course of three school years.¹¹

Instructional practice criteria for classroom teachers are based upon the state board adopted Florida Educator Accomplished Practices (FEAP). The FEAPs include such essential teaching skills as subject matter knowledge, classroom management, and lesson planning and delivery. These criteria are primarily evaluated through classroom observation.¹²

Each classroom teacher is assigned one of four performance ratings:

- Highly effective;
- Effective;
- Needs improvement, or for classroom teachers in their first three years of employment who need improvement, developing; or
- Unsatisfactory.

Performance evaluation results must be used as a basis for professional development, compensation, retention, transfers, and promotions. The law authorizes a school principal to refuse the placement or transfer of a classroom teacher who is not rated effective or highly effective. However, the law does not prohibit a school district from assigning a student in consecutive school years to a classroom teacher rated unsatisfactory or needs improvement.¹³

Information regarding educator performance evaluations is provided to the public annually. School districts must annually report to DOE educator performance evaluation ratings. DOE must annually post on its website the percentage of classroom teachers, other instructional personnel, and school administrators receiving each performance rating by school district and school.¹⁴

Additionally, school districts must annually report to parents the fact that their child is assigned to a classroom teacher whose performance evaluations indicate chronic low-performance, i.e., teachers who have two consecutive unsatisfactory performance evaluations, two unsatisfactory evaluations in a three-year period, or three consecutive evaluations of needs improvement or any combination of needs

standardized mathematics assessment scores for students who were taught by a low-performing teacher for three consecutive years were 53 percentile points lower than those of students who were taught by a high-performing teacher for three consecutive years.

⁹ Classroom teachers are a sub-set of the larger personnel class known as “instructional personnel.” Instructional personnel and school administrators are evaluated annually. Instructional personnel also include guidance counselors, social workers, career specialists, school psychologists, librarians and media specialists, learning resource specialists, instructional trainers, adjunct educators, and education paraprofessionals. Section 1012.01(2)(a)-(e), F.S. School administrators are school principals, school directors, career center directors, and assistant principals. Section 1012.01(3)(a), F.S.

¹⁰ Section 1012.34(3)(a) and (7), F.S. Newly hired teachers must be evaluated at least twice in the first year of teaching. Section 1012.34(3)(a), F.S. School districts may request approval by the Department of Education to use a student achievement measure or a combination of student learning growth and achievement when such measures are appropriate. Likewise, districts may request approval to determine appropriate measures based upon course characteristics and personnel assignments. Section 1012.34(2)(d) and (7)(c)-(d), F.S.

¹¹ Section 1012.34(3)(a)1.a.-b., F.S. Exceptions apply based upon personnel classification or availability of data. *Id.*

¹² Section 1012.34(3)(a), F.S.

¹³ Sections 1012.28(6), F.S.

¹⁴ Section 1012.34(1)(c), F.S.

improvement and unsatisfactory.¹⁵ Such evaluations become public records after one year, at which time the evaluation must be furnished to any parent or member of the public who requests it.¹⁶

Each district school board must adopt a plan for assisting teachers teaching subject matter outside their certification area, minor field of study, or a subject area in which the teacher has demonstrated sufficient expertise. The plan must provide such teachers with priority consideration in professional development activities and require their participation in a certification or staff development program that addresses the competencies required for the assigned duties. The assistance plan must include duties of administrative personnel and other instructional personnel for assisting out-of-field teachers. The law requires each district school board to notify in writing the parents of students who are assigned to an out-of-field teacher.¹⁷

Effect of Proposed Changes

The bill expands parental notification regarding a child's assignment to classroom teachers teaching out-of-field to also require that the parent of the child be informed of the availability of virtual instruction delivered by an in-field teacher with an annual performance evaluation rating of effective or highly effective. Likewise, notification sent to parents regarding a child's assignment to a classroom teacher whose performance evaluations indicate chronic low-performance¹⁸ must also inform the parent that virtual instruction from a teacher with an annual performance evaluation rating of effective or highly effective is available. Both traditional public schools and charter schools must provide these notifications. These changes will better inform parents of their options when their child is assigned to out-of-field or low-performing teachers. Additionally, the bill authorizes school districts to reimburse teachers for certification fees incurred when he or she is assigned to teach out-of-field.

The bill adds provisions prohibiting a school district or charter school from assigning a student in consecutive school years to a classroom teacher of the same subject who is evaluated as unsatisfactory or needs improvement. This will decrease the likelihood of long-term negative impacts on a student's achievement resulting from repeated assignments to low-performing teachers.

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.10, F.S., relating to Commissioner of Education powers and duties; corrects a cross reference.

Section 2. Amends s. 1002.20, F.S., relating to K-12 student and parent rights; authorizes parents to petition the school district to implement a school turnaround option; authorizes a parent to request the performance evaluation of a teacher; requires certain notifications regarding student assignment to teachers.

Section 3. Amends s. 1002.32, F.S., relating to developmental research lab schools; corrects a cross-reference.

Section 4. Amends s. 1002.33, F.S., relating to charter schools; requires certain notifications regarding student assignment to teachers.

¹⁵ Section 1012.2315(5)(b), F.S.

¹⁶ Section 1012.31(3)(a)2., F.S.

¹⁷ Section 1012.42(1) and (2), F.S. This reporting requirement applies to teachers who are teaching subject matter that is outside the field in which the teacher is certified, outside the field that was the applicant's minor field of study, or outside the field in which the applicant has demonstrated sufficient subject area expertise. Section 1012.42(2), F.S.

¹⁸ This reporting requirement applies to a classroom teacher who has two consecutive unsatisfactory performance evaluations, two unsatisfactory evaluations in a three-year period, or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory. Section 1012.2315(5)(b), F.S.

Section 5. Creates s. 1003.07, F.S., relating to parent empowerment; establishes a petition process enabling parents to request implementation of a school turnaround option; specifies requirements regarding the petition process; provides for consideration of the petition by the school board; provides for review of proposed turnaround options by the state board.

Section 6. Amends s. 1008.33, F.S., authority to enforce public school improvement; authorizes parents to petition the school district to implement a school turnaround option.

Section 7. Amends s. 1012.2315, F.S., relating to assignment of teachers; requires certain notifications regarding student assignment to teachers; prohibits school districts from assigning a student in consecutive school years to a low-performing classroom teacher.

Section 8. Repeals s. 1012.42, F.S., relating to teacher teaching out of field.

Section 9. Provides an effective date of July 1, 2013.

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 bill requires parental notification if a student's teacher is out-of-field or is rated "unsatisfactory" or "needs improvement". The bill requires each district to have an assistance plan for out-of-field teachers and provide those teachers with priority for professional development and require those teachers to participate in a certification or staff development program, which the school district may reimburse a certification fee. The costs to the school districts are indeterminable, but could be significant.

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 State Board of Education to adopt rules establishing a model parent petition form, clear instructions to be provided, petition submission process, standards for verifying signatures, and timelines for school board consideration of a petition at a publicly noticed meeting. The bill provides sufficient specificity to permit the state board to adopt necessary rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2013, the Choice & Innovation Subcommittee reported the proposed committee substitute (PCS) to HB 867 favorably as a committee substitute. The proposed committee substitute removed the provision that allowed parents to request and receive the performance evaluation for each of their student's teachers. It clarified that if a failing school improves by at least one letter grade after interventions and support, a turnaround option does not need to be implemented. It also clarified that elementary students assigned to a classroom teacher who receives an annual evaluation rating of "needs improvement" or "unsatisfactory" cannot be assigned to a teacher who received the same rating the following year. This analysis is drafted to the committee substitute as passed by the Choice & Innovation Subcommittee.