



Education Committee

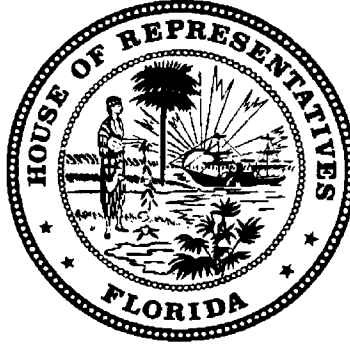
**Thursday, April 10, 2014
10:00 a.m. – 12:00 p.m.**

102 HOB

Meeting Packet

**Will Weatherford
Speaker**

**H. Marlene O'Toole
Chair**



AGENDA

Education Committee
Thursday, April 10, 2014
10:00 a.m. – 12:00 p.m.

102 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bill(s):
 - CS/CS/HB 875 Education Fiscal Accountability Diaz, M.
 - CS/CS/HB 921 Instructional Materials for K-12 Public Education by Gaetz
 - CS/HB 1053 Teacher Education by Castor Dentel
 - CS/CS/HB 1059 Nursing Education Programs by Pigman
 - CS/HB 1121 Hazardous Walking Conditions by Metz
- I. Closing Remarks and Adjournment



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WITHDRAWN	___	(Y/N)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 Diaz, M. offered the following:

4 **Amendment**

5 Remove lines 222-227 and insert:
 6 program-specific statutes, rules, and regulations.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 875 (2014)

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WITHDRAWN ___ (Y/N)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 Diaz, M. offered the following:

3
4 **Amendment**

5 Remove lines 124-144 and insert:

6 (b) Participating pilot schools.—A district school board
7 may select middle schools and high schools to participate in the
8 pilot program beginning in the 2015-2016 school year. A selected
9 school must represent diverse student populations, including
10 minority students, students receiving free or reduced-price
11 lunches, and students with disabilities. A district school board
12 that selects a school for participation shall submit written
13 notification to the department of each school it has selected
14 and submit documentation evidencing how each selected school
15 meets the requirements in subparagraph 2. The department shall
16 accept the first 15 submitted middle schools and the first 15

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 875 (2014)

Amendment No. 2

17 submitted high schools that meet the requirements of this
18 subparagraph for participation in the pilot program.

19 (c) Professional development.-The principal, and if
20 possible the assistant principals, of a pilot school selected by
21 its district school board accepted by the department shall
22



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 Diaz, M. offered the following:

Amendment

5 Remove lines 146-154 and insert:

6 in the General Appropriations Act. The professional development
 7 must be provided in partnership with an organization that can
 8 demonstrate a record of improving school leadership practices
 9 linked to increased student achievement. The professional
 10 development program must include on-the-job leadership training
 11 for the school's principal and leadership team that focuses on
 12 all of the following:

13 1. Setting high expectations and improving student
 14 achievement.

15 2. Providing instructional leadership, including aligning
 16 standards, assessment, curriculum, and instruction.



Amendment No. 3

17 | 3. Managing talent, including developing a high-performing
18 | team.

19 | 4. Using data to drive instruction.

20 | 5. Leveraging autonomy, including staffing authority and
21 | using best financial management practices to drive student
22 | achievement.

23 |

24 |

1 A bill to be entitled
2 An act relating to education fiscal accountability;
3 amending s. 1008.02, F.S.; defining the terms
4 "operating expenditures" and "return-on-investment
5 rating"; amending s. 1008.34, F.S.; requiring school
6 report cards to include school and school district
7 return-on-investment ratings; requiring the
8 Commissioner of Education to establish a return-on-
9 investment rating to evaluate the extent to which
10 schools and school districts are using financial
11 resources to improve student performance; requiring
12 the commissioner to assign and publish return-on-
13 investment ratings; amending s. 1011.69, F.S.;
14 creating the Schoolhouse Funding Pilot Program;
15 defining terms; providing a procedure for a public
16 school to participate in the pilot program; requiring
17 the principal of a pilot school to participate in a
18 professional development program; providing assessment
19 and accountability requirements for a pilot school;
20 providing funding for students enrolled in a pilot
21 school and calculation therefor; providing for the
22 receipt of federal funds and for the distribution of
23 state and federal funds; requiring a school district
24 to provide certain specified administrative and
25 educational services to a pilot school; requiring a
26 school district to provide student performance data to

27 a pilot school in the same manner as it provides data
 28 to other public schools; providing for an
 29 administrative fee for the specified services;
 30 providing requirements relating to employees of a
 31 pilot school, including selection, contracting,
 32 certification, background screening, and employment
 33 history checks; requiring a pilot school to adopt
 34 policies that establish standards of ethical conduct
 35 for instructional personnel and school administrators;
 36 amending ss. 1003.621 and 1011.64, F.S.; conforming
 37 cross-references; providing an effective date.
 38

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

41 Section 1. Subsections (4) and (5) are added to section
 42 1008.02, Florida Statutes, to read:

43 1008.02 Definitions.—As used in this chapter, the term:

44 (4) "Operating expenditures" means the expenditure of
 45 school district general and special revenue funds in accordance
 46 with the uniform chart of accounts included in the publication
 47 "Financial and Program Cost Accounting and Reporting for Florida
 48 Schools." The commissioner may specify expenditures, funds, and
 49 functional and object categories as operating expenditures.

50 (5) "Return-on-investment rating" or "ROI rating" means a
 51 calculation developed by the commissioner which results in an
 52 annual ordinal rating for a public school and a school district

53 that displays to the public the extent by which operating
 54 expenditures have been used to positively impact student
 55 performance. Ratings shall be assigned, as provided in s.
 56 1008.34(6), based on operating expenditures and student
 57 performance.

58 Section 2. Subsection (5) of section 1008.34, Florida
 59 Statutes, is amended, subsections (6) through (8) are renumbered
 60 as subsections (7) through (9), respectively, and a new
 61 subsection (6) is added to that section, to read:

62 1008.34 School grading system; school report cards;
 63 district grade.—

64 (5) SCHOOL REPORT CARD.—The Department of Education shall
 65 annually develop, in collaboration with the school districts, a
 66 school report card to be provided by the school district to
 67 parents within the district. The report card shall include the
 68 school's grade, information regarding school improvement, an
 69 explanation of school performance as evaluated by the federal
 70 Elementary and Secondary Education Act (ESEA), 20 U.S.C. ss.
 71 6301 et seq., and indicators of return on investment as provided
 72 in subsection (6). Each school's report card shall be published
 73 annually by the department on its website.

74 (6) RETURN-ON-INVESTMENT (ROI) RATING.—

75 (a) By February 28, 2015, the Commissioner of Education
 76 shall establish a ROI rating system. The ROI rating evaluates
 77 the extent to which public schools and school districts are
 78 using their financial resources in a cost-effective manner to

79 improve student performance. Student performance means student
 80 learning gains on statewide, standardized assessments as
 81 provided for in this section.

82 (b) Schools shall be grouped for comparison as determined
 83 by the commissioner.

84 (c) The commissioner shall assign the ordinal ROI ratings
 85 for all public schools and school districts in a sortable, easy-
 86 to-understand format that allows for comparisons among school
 87 districts and public schools. Beginning with the 2015-2016
 88 school year, the commissioner shall publish ratings on the
 89 Department of Education's website when school report cards are
 90 made publicly available. Each public school shall provide a link
 91 to this information on its website and annually post a copy of
 92 its most recent rating in a visible location.

93 (d) The ROI application shall include a metric to evaluate
 94 the resources available to a school as a percentage of the
 95 revenues generated by students at the school.

96 (e) Beginning with the 2015-2016 school year, each
 97 school's report card shall include the ordinal ROI rating of the
 98 school and the school district.

99 (f) The commissioner shall make every attempt to use
 100 aggregated student data that is already being collected from
 101 public schools to develop the ROI rating, including, but not
 102 limited to, data from:

- 103 1. School report cards issued under this section.

104 2. Accountability measures, including the annual school
 105 accountability report required by ss. 1001.42(18) and 1008.345.

106 3. Profiles of school districts pursuant to ss. 1010.20
 107 and 1011.60.

108 4. The state's program cost reporting system.

109 Section 3. Subsection (5) is added to section 1011.69,
 110 Florida Statutes, to read:

111 1011.69 Equity in School-Level Funding Act.—

112 (5) Subject to annual appropriation in the General
 113 Appropriations Act, the Schoolhouse Funding Pilot Program is
 114 created for the purpose of giving principals increased authority
 115 over school budgets and human capital decisions and then
 116 determining whether the increased flexibility positively impacts
 117 the return on investment at that school, as that term is defined
 118 in s. 1008.02(6).

119 (a) Definitions.—As used in this subsection, the term:

120 1. "Pilot program" means the Schoolhouse Funding Pilot
 121 Program.

122 2. "Pilot school" means a public school that participates
 123 in the pilot program.

124 (b) Participating pilot schools.—

125 1. The Commissioner of Education shall select a minimum of
 126 15 high schools and 15 middle schools from throughout the state
 127 to participate in a 2-year Schoolhouse Funding Pilot Program,
 128 beginning with the 2015-2016 school year. Participating pilot
 129 schools shall be selected as follows:

130 a. The school received a school grade of "C," "D," or "F"
 131 in the prior school year and has not received a school grade of
 132 "A" or "B" in the past 5 years.

133 b. The school represents diverse student populations,
 134 including minority students, students receiving free or reduced-
 135 price lunches, and students with disabilities.

136 2. The district school board must approve a school's
 137 participation in the pilot program for a school in the district
 138 that is recommended by the commissioner. If the district school
 139 board fails to approve a school for participation in the pilot
 140 program, the district school board must provide the commissioner
 141 with a detailed written explanation for its refusal.

142 (c) Professional development.—The principal, and if
 143 possible the assistant principals, of a pilot school selected by
 144 the commissioner and approved by the district school board must
 145 participate in a professional development program, as provided
 146 in the General Appropriations Act. The professional development
 147 program must include leadership training that focuses on all of
 148 the following:

149 1. Improving student achievement.

150 2. Aligning standards, assessment, curriculum, and
 151 instruction.

152 3. Using data to drive instruction.

153 4. Using best financial management practices to drive
 154 student achievement.

155 (d) Assessment and accountability.—

156 1. A pilot school must participate in the student
 157 assessment program for public schools under s. 1008.22 and is
 158 subject to the school grading system under s. 1008.34.

159 2. The department shall measure the return on investment
 160 of each school upon its acceptance into the pilot program and
 161 annually thereafter in accordance with s. 1008.34(6).

162 (e) Funding.—A student enrolled in a pilot school shall be
 163 funded as if the student were in a basic program or a special
 164 program at any other public school within the school district.

165 1. A pilot school shall report its student enrollment to
 166 the district as required under s. 1011.62. The district shall
 167 include each pilot school's enrollment in the district's report
 168 of student enrollment. When submitting student record
 169 information required by the Department of Education, a pilot
 170 school shall comply with the department's guidelines for
 171 electronic data formats. Each district shall accept electronic
 172 data that complies with the department's electronic format.

173 2. The amount of funding for students enrolled in a pilot
 174 school shall be the sum of the school district's operating funds
 175 from the Florida Education Finance Program as provided in s.
 176 1011.62 and the General Appropriations Act, including gross
 177 state and local funds, discretionary lottery funds, and funds
 178 from the school district's current operating discretionary
 179 millage levy; divided by total funded weighted full-time
 180 equivalent students in the school district; multiplied by the
 181 weighted full-time equivalent students for the pilot school. A

182 pilot school whose students or programs meet the eligibility
183 criteria in law is entitled to its proportionate share of
184 categorical program funds included in the total funds made
185 available in the Florida Education Finance Program by the
186 Legislature, including transportation funds if applicable. Total
187 funding for each pilot school shall be recalculated during the
188 year to reflect the revised calculations under the Florida
189 Education Finance Program by the state and the actual weighted
190 full-time equivalent students reported by the pilot school
191 during the full-time equivalent student survey periods
192 designated by the Commissioner of Education.

193 3. If the district school board is providing programs or
194 services to students funded by federal funds, any eligible
195 student enrolled in a pilot school in the school district shall
196 be provided federal funds at the same level as is provided to
197 students in the schools operated by the district school board.
198 Pursuant to the federal Elementary and Secondary Education Act
199 (ESEA), 20 U.S.C. ss. 7221-7225g, each pilot school shall
200 receive all federal funding for which the school is otherwise
201 eligible, including Title I funding, no later than 5 months
202 after the pilot school begins the pilot program and within 5
203 months after any subsequent expansion of enrollment. Unless
204 otherwise mutually agreed to by the pilot school and the
205 district, and consistent with state and federal rules and
206 regulations governing the use and disbursement of federal funds,
207 the district shall reimburse the pilot school on a monthly basis

208 | for all invoices submitted by the pilot school using federal
 209 | funds available to the district for the benefit of the pilot
 210 | school, the pilot school's students, and the pilot school's
 211 | students as public school students in the school district. Such
 212 | federal funds include, but are not limited to, Title I, Title
 213 | II, and Individuals with Disabilities Education Act (IDEA)
 214 | funds. To receive timely reimbursement for an invoice, the pilot
 215 | school must submit the invoice to the district at least 30 days
 216 | before the monthly date of reimbursement set by the district. In
 217 | order to be reimbursed, any expenditure made by the pilot school
 218 | must comply with all applicable state and federal rules and
 219 | regulations, including, but not limited to, the applicable
 220 | federal Office of Management and Budget circulars; the
 221 | regulations of the United States Department of Education; and
 222 | program-specific statutes, rules, and regulations. Such funds
 223 | may not be made available to the pilot school until a plan is
 224 | submitted to the district for approval of the use of the funds
 225 | in accordance with applicable federal requirements. The district
 226 | has 30 days to review and approve any plan submitted pursuant to
 227 | this subparagraph.

228 | 4. Each district school board shall make timely and
 229 | efficient payment and reimbursement to pilot schools and shall
 230 | process paperwork required to access special state and federal
 231 | funding for which they may be eligible. The district school
 232 | board may distribute funds to a pilot school for up to 3 months
 233 | based on the projected full-time equivalent student membership

234 of the pilot school. Thereafter, the results of full-time
 235 equivalent student membership surveys shall be used in adjusting
 236 the amount of funds distributed monthly to the pilot school for
 237 the remainder of the fiscal year. The payment shall be issued no
 238 later than 10 working days after the district school board
 239 receives a distribution of state or federal funds. If a warrant
 240 for payment is not issued within 10 working days after receipt
 241 of funding by the district school board, the school district
 242 shall pay to the pilot school, in addition to the amount of the
 243 scheduled disbursement, interest at a rate of 1 percent per
 244 month calculated on a daily basis on the unpaid balance from the
 245 expiration of the 10 working days until such time as the warrant
 246 is issued.

247 (f) Services.-

248 1. A school district shall provide certain administrative
 249 and educational services to pilot schools. These services must
 250 include contract management services; full-time equivalent and
 251 data reporting services; exceptional student education
 252 administrative services; services related to eligibility and
 253 reporting duties required to ensure that school lunch services
 254 under the federal lunch program, consistent with the needs of
 255 the pilot school, are provided by the district at the request of
 256 the pilot school, that any funds due to the pilot school under
 257 the federal lunch program be paid to the pilot school if the
 258 pilot school begins serving food under the federal lunch
 259 program, and that the pilot school is paid at the same time and

260 in the same manner under the federal lunch program as other
 261 public schools serviced by the district; test administration
 262 services, including payment of the costs of state-required or
 263 district-required student assessments; processing of teacher
 264 certificate data services; and information services, including
 265 equal access to student information systems that are used by
 266 public schools in the district in which the pilot school is
 267 located. Student performance data for each student in a pilot
 268 school, including, but not limited to, statewide test scores,
 269 standardized test scores, previous public school student report
 270 cards, and student performance measures, shall be provided by
 271 the district to a pilot school in the same manner as they are
 272 provided to other public schools in the district.

273 2. A total administrative fee for the provision of such
 274 services shall be calculated based upon up to 5 percent of the
 275 available funds under paragraph (e) for all students, except
 276 that if 75 percent or more of the students enrolled in the pilot
 277 school are exceptional students as defined in s. 1003.01(3), the
 278 5 percent of those available funds shall be calculated based on
 279 unweighted full-time equivalent students. However, a district
 280 may withhold up to a 5-percent administrative fee only for
 281 enrollment for 250 students or less. Pursuant to its authority
 282 under s. 11.45, the Auditor General shall audit and report any
 283 noncompliance by a participating district.

284 (g) Employees of pilot schools.-

285 1. A pilot school principal shall select the employees of

286 the pilot school. A pilot school may contract with its school
 287 district for the services of personnel who are employed by the
 288 district.

289 2. Instructional personnel at a pilot school may choose to
 290 be part of a professional group that subcontracts with the
 291 district to operate an instructional program under the auspices
 292 of a partnership or cooperative that the instructional personnel
 293 collectively own. Under this arrangement, such personnel are not
 294 considered public employees for purposes of contract
 295 negotiations or for purposes of the Florida Retirement System.

296 3. An employee of a school district may take leave to
 297 accept employment in a pilot school upon the approval of the
 298 district school board. While employed by the pilot school and on
 299 leave that is approved by the district school board, the
 300 employee may retain seniority accrued in that district and may
 301 continue to be covered by the benefit programs of that district
 302 if the pilot school and the district school board agree to this
 303 arrangement and its financing. A district may not require the
 304 resignation of an employee who desires to teach in a pilot
 305 school. This subparagraph does not prohibit a district school
 306 board from approving alternative leave arrangements consistent
 307 with chapter 1012.

308 4. A teacher who is employed by or under contract to a
 309 pilot school must be certified as required under chapter 1012. A
 310 pilot school may employ or contract with skilled selected
 311 noncertified personnel to provide instructional services or to

312 assist instructional staff members as education
 313 paraprofessionals in the same manner as provided under chapter
 314 1012 and as provided by State Board of Education rule. A pilot
 315 school may not knowingly employ an individual to provide
 316 instructional services or to serve as an education
 317 paraprofessional if the individual's certification or licensure
 318 as an educator is suspended or revoked by this state or any
 319 other state. A pilot school may not knowingly employ an
 320 individual who has resigned from a school district in lieu of
 321 disciplinary action with respect to child welfare or safety or
 322 who has been dismissed for just cause by any school district
 323 with respect to child welfare or safety. The qualifications of
 324 teachers shall be disclosed to parents.

325 5.a. A pilot school shall employ or contract with
 326 employees who have undergone background screening as provided in
 327 s. 1012.32.

328 b. A pilot school shall disqualify instructional personnel
 329 and school administrators, as defined in s. 1012.01, from
 330 employment in any position that requires direct contact with
 331 students if the personnel or administrators are ineligible for
 332 such employment under s. 1012.315.

333 c. A pilot school shall adopt policies establishing
 334 standards of ethical conduct for instructional personnel and
 335 school administrators. The policies must require all
 336 instructional personnel and school administrators, as defined in
 337 s. 1012.01, to complete training on the standards; establish the

338 duty of instructional personnel and school administrators to
 339 report alleged misconduct by other instructional personnel or
 340 school administrators that affects the health, safety, or
 341 welfare of a student and procedures for such reporting; and
 342 include an explanation of the liability protections provided
 343 under ss. 39.203 and 768.095.

344 d. A pilot school or an employee of a pilot school may not
 345 enter into a confidentiality agreement regarding terminated or
 346 dismissed instructional personnel or school administrators, or
 347 personnel or administrators who resign in lieu of termination,
 348 based in whole or in part on misconduct that affects the health,
 349 safety, or welfare of a student and may not provide
 350 instructional personnel or school administrators with employment
 351 references or discuss such persons' performance with prospective
 352 employers in another educational setting without disclosing such
 353 misconduct. Any part of an agreement or contract that has the
 354 purpose or effect of concealing misconduct by instructional
 355 personnel or school administrators which affects the health,
 356 safety, or welfare of a student is void, is contrary to public
 357 policy, and may not be enforced.

358 e. Before employing instructional personnel or school
 359 administrators in any position that requires direct contact with
 360 students, a pilot school must conduct employment history checks
 361 of each such person's previous employers, screen such person
 362 using the educator screening tools described in s. 1001.10(5),
 363 and document the findings. If unable to contact such person's

364 previous employer, the pilot school must document efforts to
 365 contact the employer.

366 Section 4. Paragraphs (a) and (d) of subsection (1) of
 367 section 1003.621, Florida Statutes, are amended to read:

368 1003.621 Academically high-performing school districts.—It
 369 is the intent of the Legislature to recognize and reward school
 370 districts that demonstrate the ability to consistently maintain
 371 or improve their high-performing status. The purpose of this
 372 section is to provide high-performing school districts with
 373 flexibility in meeting the specific requirements in statute and
 374 rules of the State Board of Education.

375 (1) ACADEMICALLY HIGH-PERFORMING SCHOOL DISTRICT.—

376 (a) A school district is an academically high-performing
 377 school district if it meets the following criteria:

378 1.a. ~~Beginning with the 2004-2005 school year,~~ Earns a
 379 grade of "A" under s. 1008.34(8) ~~1008.34(7)~~ for 2 consecutive
 380 years; and

381 b. Has no district-operated school that earns a grade of
 382 "F" under s. 1008.34;

383 2. Complies with all class size requirements in s. 1, Art.
 384 IX of the State Constitution and s. 1003.03; and

385 3. Has no material weaknesses or instances of material
 386 noncompliance noted in the annual financial audit conducted
 387 pursuant to s. 218.39.

388 (d) In order to maintain the designation as an
 389 academically high-performing school district pursuant to this

390 section, a school district must meet the following requirements:

391 1. Comply with the provisions of subparagraphs (a)2. and
392 3.; and

393 2. Earn a grade of "A" under s. 1008.34(8) ~~1008.34(7)~~ for
394 2 years within a 3-year period.

395

396 However, a district in which a district-operated school earns a
397 grade of "F" under s. 1008.34 during the 3-year period may not
398 continue to be designated as an academically high-performing
399 school district during the remainder of that 3-year period. The
400 district must meet the criteria in paragraph (a) in order to be
401 redesignated as an academically high-performing school district.

402 Section 5. Paragraph (a) of subsection (2) of section
403 1011.64, Florida Statutes, is amended to read:

404 1011.64 School district minimum classroom expenditure
405 requirements.—



406 (2) For the purpose of implementing the provisions of this
407 section, the Legislature shall prescribe minimum academic
408 performance standards and minimum classroom expenditure
409 requirements for districts not meeting such minimum academic
410 performance standards in the General Appropriations Act.

411 (a) Minimum academic performance standards may be based
412 on, but are not limited to, district grades determined pursuant
413 to s. 1008.34(8) ~~1008.34(7)~~.

414 Section 6. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 875 Education Fiscal Accountability
SPONSOR(S): Appropriations Committee, K-12 Subcommittee; Diaz, Jr. and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 1100

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	10 Y, 2 N, As CS	Brink	Ahearn
2) Appropriations Committee	17 Y, 8 N, As CS	Heflin	Leznoff
3) Education Committee		Brink 	Mizereck 

SUMMARY ANALYSIS

The bill requires the Commissioner of Education to establish a return on investment (ROI) rating system by January 31, 2015, in order to evaluate the extent to which public school and school districts use financial resources in a cost-effective manner to improve student performance. The ROI rating must place the most weight on indicators designed to measure how dollars are being used to facilitate increased student academic performance.

The bill defines the terms "return on investment rating" and "operating expenditure" for the purpose of determining return on investment ratings for schools and districts.

The bill creates the Schoolhouse Funding Pilot Program for the purpose of giving pilot school principals increased authority over school budgets and human capital decisions and determining whether the increased authority positively impacts the return on investment for the principals' schools. The bill requires the commissioner to select at least 15 middle schools and 15 high schools to participate as pilot schools and establishes criteria for their selection. In addition, participation by a selected school is subject to district school board approval. The bill requires the Auditor General to audit and report any noncompliance by a participating district.

The bill also establishes requirements for the pilot program relating to participation in state assessment and school accountability systems, educator certification, background screening, and personnel evaluation. The bill also provides requirements with respect to employment contracts, personnel decisions, and distribution of state and federal funding.

The fiscal impact of the bill is indeterminate. See Fiscal Impact on State Government.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Return on Investment

Present Situation

The K-20 performance accountability system maintained by the Department of Education (DOE) must measure student progress toward goals that include, among other things, quality efficient services as measured by evidence of return on investment.¹

In addition, school report cards, including school report cards for alternative schools, must include, along with information regarding school improvement and performance, indicators of return on investment.

Effect of Proposed Changes

The bill requires the Commissioner of Education (commissioner) to establish a return on investment (ROI) rating system by January 31, 2015 which evaluates the extent to which public school and school districts use financial resources in a cost-effective manner to improve student performance. The ROI rating must place the most weight on indicators designed to measure how dollars are being used to facilitate increased student academic performance.

The bill defines the term "return-on-investment rating," or "ROI rating," to mean a calculation developed by the commissioner which results in an annual ordinal rating for a public school and a school district that displays to the public the extent by which operating expenditures have been used to positively impact student achievement. Ratings shall be assigned, as provided for under s. 1008.34(6), based on spending and student performance.

The bill defines "operating expenditure" for the purpose of calculating a ROI rating as the expenditure of school district general and special revenue funds, in accordance with the uniform chart of accounts included in the publication "Financial and Program Cost Accounting and Reporting for Florida Schools." The Commissioner of Education may classify other expenditures, funds, and functional and object categories as core operating expenditures.

The bill requires the commissioner to assign the ROI ratings for all public schools and school districts in a sortable, easy-to-understand format that allows for comparison among districts, public schools, charter school.

Beginning with the 2015-2016 school year, the commissioner must publish ratings on the Department of Education's (DOE) website when school report cards are published. Each school must provide a link to this information on its website and annually post a copy of its most recent ROI rating. Each school report card must include the ordinal ROI rating of the school and the school district.

The bill requires the commissioner to make every attempt to use aggregated student data that is already collected from public schools to develop the ROI rating. This includes, but is not limited to, data from:

¹ Section 1008.31(c)4., F.S. A statutory statement of legislative intent provides that that the K-20 education performance accountability system be established as a single, unified accountability system with multiple components, including, but not limited to, measures of adequate yearly progress, individual student learning gains in public school, school grades, and return on investment.

- School report cards;
- Accountability measures, including the school accountability report;
- Profiles of school districts; and
- The state program cost reporting system.

The Schoolhouse Funding Pilot Program

Effect of Proposed Changes

The bill creates the Schoolhouse Funding Pilot Program for the purpose of giving pilot school principals increased authority over school budgets and human capital decisions and determining whether the increased authority positively impacts the return on investment for the principals' schools. The program is subject to annual appropriation as provided in the GAA. The bill defines the term "pilot school" to mean a public school that participates in the program.

The bill requires the commissioner to select a minimum of 15 high schools and 15 middle schools from throughout the state to participate in a two-year Schoolhouse Funding Pilot Program beginning with the 2015-2016 school year. To be eligible for selection, a middle or high school must:

- Have received a school grade of "C," "D," or "F" in the prior school year and have not received a school grade of "A" or "B" in the past five years; and
- Represent diverse student populations, including minority students, students receiving free or reduced-price lunches, and students with disabilities.

The DOE must measure the return on investment of each school upon its acceptance into the pilot program and annually thereafter.

The bill requires district school boards to approve a school's participation in the pilot program for a school in the district that is recommended by the commissioner. A district school board that refuses to allow a recommended school to participate must provide the commissioner with a detailed written explanation for the refusal.

The bill requires, subject to appropriation, principals, and if possible, assistant principals, of selected and approved schools to participate in a professional development program which focuses on improving student achievement; aligning standards, assessment, curriculum, and instruction; using data to drive instruction; and using best financial management practices to drive student achievement.

Under the pilot program, participating schools enjoy greater authority over managerial decisions in a manner analogous to charter schools, including decisions over allocation of specified funds. However, the bill provides that state assessment, school accountability, educator certification, background screening, and personnel evaluation requirements still apply. The bill also provides requirements with respect to personnel decisions and distribution of state and federal funding. School districts that do not disburse state and federal funds to participating schools within 10 working days after receipt of the funding must pay the scheduled funding amount with interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance until a warrant for payment is issued.

In addition, the bill requires school districts to provide certain administrative and educational services to pilot schools, including transmittal of student performance data to each participating school in the same manner as provided to other schools in the district. A total administrative fee for the provision of such services must be calculated based upon up to 5 percent of the available funds for all students, except that if 75 percent or more of the students enrolled in the pilot school are exceptional students,² the 5

² Under section 1003.01(3), F.S., an exceptional student is "any student who has been determined eligible for a special program in accordance with rules of the State Board of Education. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; an

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percent of those available funds must be calculated based on unweighted full-time equivalent students. A district may withhold up to a 5-percent administrative fee only for enrollment for 250 students or less. The bill requires the auditor general to audit and report any noncompliance by a participating district.

The bill charges the pilot school principal with selecting employees for the school and allows a pilot school to contract with its district for the services of district personnel. The bill provides that acceptance of employment at a pilot school constitutes leave from the district and that accrued seniority and benefits remain in place while the teacher is employed by the school. A school district may not require the resignation of an employee who desires to teach in a pilot school.

B. SECTION DIRECTORY:

Section 1. Amends s. 1008.02, F.S., defining the terms "operating expenditure" and "return-on-investment rating."

Section 2. Amends s. 1008.34, F.S., requiring school report cards to include school and school district return-on-investment ratings; requiring the Commissioner of Education to establish a return-on-investment rating to evaluate the extent to which schools and school districts are using financial resources to improve student performance; requiring the commissioner to assign and publish return-on-investment ratings.

Section 3. Amends s. 1011.69, F.S., creating the Schoolhouse Funding Pilot Program; defining terms; providing a procedure for a public school to participate in the pilot program; requiring the principal of a pilot school to participate in a professional development program; providing assessment and accountability requirements for a pilot school; providing funding for students enrolled in a pilot school and calculation therefor; providing for the receipt of federal funds and for the distribution of state and federal funds; requiring a school district to provide certain specified administrative and educational services to a pilot school; requiring a school district to provide student performance data to a pilot school in the same manner as it provides data to other public schools; providing for an administrative fee for the specified services; providing requirements relating to employees of a pilot school, including selection, contracting, certification, background screening, and employment history checks; requiring a pilot school to adopt policies that establish standards of ethical conduct for instructional personnel and school administrators.

Section 4. Amends s. 1003.621, F.S., conforming cross-references.

Section 5. Amends s. 1011.64, F.S., conforming cross-references.

Section 6. Provides that the bill is effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

other health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules."

Indeterminate. To the extent establishment of the return on investment rating and determination of fiscal peers requires development of additional data collection and reporting processes, there may be associated costs. However, because the bill requires the commissioner to make every attempt to use aggregated student data already collected by the DOE, any costs would likely be minimal.

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:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2014, the K-12 Subcommittee reported the PCS to HB 875 favorably. The PCS increases the number of schools that may participate as a pilot school from no more than 14 to at least 15 middle schools and 15 high schools. The PCS also removes eligibility for elementary schools to participate as a pilot school, restricting participation to middle schools and high schools that have received a school grade of "C," "D," or "F" in each of the past five years and that represent diverse student populations.

The PCS removes administration of the pilot program from the DOE and provides for continued local operation of participating schools. In addition, the PCS provides that participation in the pilot program by a selected school is subject to district school board approval. The PCS requires district school boards that withhold approval for a selected school to provide the commissioner with a detailed written explanation for its refusal. The PCS also requires the Auditor General to audit and report any noncompliance by a participating district.

The PCS also makes various technical changes.

On April 1, 2014, the Appropriations Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed the requirement for "operating expenditures" to include function and object categories of expenses. The information collected annually by the department from the districts is not collected at this level and would have required an indeterminate fiscal to both the department and the districts to update program cost reporting software. The amendment removed the potential fiscal impact required to update reporting software.

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A bill to be entitled
 An act relating to instructional materials for K-12
 public education; amending s. 1006.28, F.S.; providing
 that the district school board has the constitutional
 duty and responsibility to select and provide adequate
 instructional materials for all students; providing
 that the district school board is responsible for the
 content of all instructional materials; amending s.
 1006.283, F.S.; providing requirements for a district
 instructional materials program and district school
 board rules relating thereto; including criteria for
 the review, recommendation, and adoption of
 instructional materials and the process by which a
 school district will notify parents of their ability
 to access their children's instructional materials;
 providing for inspection of purchased instructional
 materials; amending s. 1006.31, F.S.; providing duties
 for instructional materials reviewers; amending s.
 1006.40, F.S.; deleting provisions regarding the
 adoption of certain instructional materials for
 mathematics; authorizing each district school board to
 use all of the instructional materials annual
 allocation for the purchase of digital or electronic
 instructional materials that meet certain
 requirements; providing that each district school
 board is responsible for the content of all

27 | instructional materials used in a classroom; requiring
 28 | district school boards to provide a process for public
 29 | review of, and comment on, instructional materials;
 30 | providing an effective date.

31 |

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

33 |

34 | Section 1. Subsection (1) of section 1006.28, Florida
 35 | Statutes, is amended to read:

36 | 1006.28 Duties of district school board, district school
 37 | superintendent; and school principal regarding K-12
 38 | instructional materials.—

39 | (1) DISTRICT SCHOOL BOARD.—The district school board has
 40 | the constitutional duty and responsibility to select and provide
 41 | adequate instructional materials for all students in accordance
 42 | with the requirements of this part. The term "adequate
 43 | instructional materials" means a sufficient number of student or
 44 | site licenses or sets of materials that are available in bound,
 45 | unbound, kit, or package form and may consist of hardbacked or
 46 | softbacked textbooks, electronic content, consumables, learning
 47 | laboratories, manipulatives, electronic media, and computer
 48 | courseware or software that serve as the basis for instruction
 49 | for each student in the core courses of mathematics, language
 50 | arts, social studies, science, reading, and literature. The
 51 | district school board has the following specific duties and
 52 | responsibilities:

53 (a) Courses of study; adoption.—Adopt courses of study,
 54 including instructional materials, for use in the schools of the
 55 district. Each district school board is responsible for the
 56 content of all instructional materials used in a classroom,
 57 whether purchased through an adoption process or otherwise
 58 purchased or made available in the classroom.

59 (b) Instructional materials.—Provide for proper
 60 requisitioning, distribution, accounting, storage, care, and use
 61 of all instructional materials and furnish such other
 62 instructional materials as may be needed. The district school
 63 board shall ensure that instructional materials used in the
 64 district are consistent with the district goals and objectives
 65 and the course descriptions established in rule of the State
 66 Board of Education, as well as with the state ~~and district~~
 67 ~~performance~~ standards provided for in s. 1003.41 ~~1001.03(1)~~.

68 (c) Other instructional materials.—Provide such other
 69 teaching accessories and aids as are needed for the school
 70 district's educational program.

71 (d) School library media services; establishment and
 72 maintenance.—Establish and maintain a program of school library
 73 media services for all public schools in the district, including
 74 school library media centers, or school library media centers
 75 open to the public, and, in addition such traveling or
 76 circulating libraries as may be needed for the proper operation
 77 of the district school system.

78 Section 2. Section 1006.283, Florida Statutes, is amended
79 to read:

80 1006.283 District school board instructional materials
81 review process.-

82 (1) A district school board or consortium of school
83 districts may implement an instructional materials program that
84 includes the review, recommendation ~~approval~~, adoption, and
85 purchase of instructional materials. ~~Beginning in the 2013-2014~~
86 ~~school year,~~ The district school superintendent shall certify to
87 the department by March 31 of each year that all instructional
88 materials for core courses used by the district are aligned with
89 applicable state standards. ~~Included in the certification shall~~
90 ~~be~~ A list of the core instructional materials that will be used
91 or purchased for use by the school district shall be included in
92 the certification.

93 (2)(a) If a district ~~The~~ school board chooses to implement
94 its own instructional materials program, the school board shall
95 adopt rules implementing the district's instructional materials
96 program which must include its processes, criteria, and
97 requirements for the following, ~~but need not be limited to:~~

98 1. Selection of reviewers, one or more of whom must be
99 parents with children in public schools.

100 2. Review of instructional materials.

101 3. Selection of instructional materials, including a
102 thorough review of curriculum content.

103 4. Reviewer recommendations.

104 5. District school board adoption.
 105 6. Purchase of instructional materials.
 106 (b) District school board rules shall also:
 107 ~~(a) Its review and purchase process.~~
 108 1.(b) Identify, by subject area, Identification of a
 109 review cycle for instructional materials.
 110 2.(c) Specify the duties and qualifications for an of the
 111 instructional materials reviewer and the process for selecting
 112 reviewers; list a reviewer's duties and responsibilities,
 113 including compliance with the requirements of s. 1006.31; and
 114 provide that all instructional materials recommended by a
 115 reviewer be accompanied by the reviewer's statement that the
 116 materials align with the state standards pursuant to s. 1003.41
 117 and the requirements of s. 1006.31.
 118 3.(d) State the requirements for an affidavit to be made
 119 by each a district instructional materials reviewer which
 120 substantially meet includes the requirements of s. 1006.30.
 121 4.(e) Comply Compliance with s. 1006.32, relating to
 122 prohibited acts.
 123 5.(f) Establish a process that certifies the accuracy of
 124 instructional materials.
 125 6.(g) Incorporate The incorporation of applicable
 126 requirements of s. 1006.31, which relates to the duties of
 127 instructional materials reviewers.
 128 7.(h) Incorporate The incorporation of applicable
 129 requirements of s. 1006.38, relating to the duties,

130 responsibilities, and requirements of publishers of
 131 instructional materials.

132 8. Establish the process by which instructional materials
 133 are adopted by the district school board, which must include:

134 a. A process to allow student editions of recommended
 135 instructional materials to be accessed and viewed online by the
 136 public at least 20 calendar days before the school board hearing
 137 and public meeting as specified in this subparagraph. This
 138 process must include reasonable safeguards against the
 139 unauthorized use, reproduction, and distribution of
 140 instructional materials considered for adoption.

141 b. An open, noticed school board hearing to receive public
 142 comment on the recommended instructional materials.

143 c. An open, noticed public meeting to approve an annual
 144 instructional materials plan to identify any instructional
 145 materials that will be purchased through the district school
 146 board instructional materials review process pursuant to this
 147 section. This public meeting must be held on a different date
 148 than the school board hearing.

149 d. Notice requirements for the school board hearing and
 150 the public meeting that must specifically state which
 151 instructional materials are being reviewed and the manner in
 152 which the instructional materials can be accessed for public
 153 review.

154 9. Establish the process by which the district school
 155 board shall receive public comment on, and review, the
 156 recommended instructional materials.

157 10.~~(i)~~ Establish the process by which instructional
 158 materials will be purchased, including advertising, bidding, and
 159 purchasing requirements.

160 11. Establish the process by which the school district
 161 will notify parents of their ability to access their children's
 162 textbooks and instructional materials through the district's
 163 local instructional improvement system and by which the school
 164 district will encourage parents to access the system. This
 165 notification must be displayed prominently on the district
 166 school board's website and provided annually in written format
 167 to all parents of enrolled students.

168 (3) (a) The school board may assess and collect fees from
 169 publishers participating in the instructional materials approval
 170 process. The amount assessed and collected must be posted on the
 171 school district's website and reported to the department. The
 172 fees may not exceed the actual cost of the review process, and
 173 the fees may not exceed \$3,500 per submission by a publisher.
 174 Any fees collected for this process shall be allocated for the
 175 support of the review process and maintained in a separate line
 176 item for auditing purposes.

177 (b) The fees shall be used to cover the actual cost of
 178 substitute teachers for each workday that a member of a school
 179 district's instructional staff is absent from his or her

180 assigned duties for the purpose of rendering service as an
 181 instructional materials reviewer. In addition, each reviewer may
 182 be paid a stipend and is entitled to reimbursement for travel
 183 expenses and per diem in accordance with s. 112.061 for actual
 184 service in meetings.

185 (4) Instructional materials that have been reviewed by the
 186 district instructional materials reviewers and approved must
 187 have been determined to align with all applicable state
 188 standards pursuant to s. 1003.41 and the requirements in s.
 189 1006.31. The district school superintendent shall annually
 190 certify to the department that all instructional materials for
 191 core courses used by the district are aligned with all
 192 applicable state standards and have been reviewed, selected, and
 193 adopted by the district school board in accordance with the
 194 school board hearing and public meeting requirements of this
 195 section.

196 (5) A publisher that offers instructional materials to a
 197 district school board must provide such materials at a price
 198 that, including all costs of electronic transmission, does not
 199 exceed the lowest price at which the publisher offers such
 200 instructional materials for approval or sale to any state or
 201 school district in the United States.

202 (6) A publisher shall reduce automatically the price of
 203 the instructional materials to the district school board to the
 204 extent that reductions in price are made elsewhere in the United
 205 States.

206 (7) The school district shall make available, upon request
 207 for public inspection, sample copies of all instructional
 208 materials that have been purchased by the district school board.

209 Section 3. Subsection (2) of section 1006.31, Florida
 210 Statutes, is amended to read:

211 1006.31 Duties of the Department of Education and school
 212 district instructional materials reviewer.—The duties of the
 213 instructional materials reviewer are:

214 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.— To use
 215 ~~evaluate carefully all instructional materials submitted, in~~
 216 ~~order to ascertain which instructional materials, if any,~~
 217 ~~submitted for consideration implement~~ the selection criteria
 218 listed in s. 1006.34(2)(b) developed by the department and
 219 recommend for adoption only those instructional materials
 220 aligned with the state those curricular objectives included
 221 ~~within applicable performance~~ standards provided for in s.
 222 1003.41 1001.03(1). Instructional materials recommended by each
 223 reviewer shall be, to the satisfaction of each reviewer,
 224 accurate, objective, balanced, noninflammatory, current, and
 225 suited to student needs and their ability to comprehend the
 226 material presented. Reviewers shall consider for recommendation
 227 materials developed for academically talented students such as
 228 those enrolled in advanced placement courses. When recommending
 229 instructional materials, each reviewer shall:

230 (a) ~~When recommending instructional materials for use in~~
 231 ~~the schools, each reviewer shall~~ Include only instructional

232 materials that accurately portray the ethnic, socioeconomic,
 233 cultural, religious, physical, and racial diversity of our
 234 society, including men and women in professional, career, and
 235 executive roles, and the role and contributions of the
 236 entrepreneur and labor in the total development of this state
 237 and the United States.

238 ~~(b) When recommending instructional materials for use in~~
 239 ~~the schools, each reviewer shall~~ Include only materials that
 240 accurately portray, whenever appropriate, humankind's place in
 241 ecological systems, including the necessity for the protection
 242 of our environment and conservation of our natural resources and
 243 the effects on the human system of the use of tobacco, alcohol,
 244 controlled substances, and other dangerous substances.

245 ~~(c) Include~~ When recommending instructional materials for
 246 ~~use in the schools, each reviewer shall require such materials~~
 247 that ~~as he or she deems necessary and proper to~~ encourage
 248 thrift, fire prevention, and humane treatment of people and
 249 animals.

250 ~~(d) When recommending instructional materials for use in~~
 251 ~~the schools, each reviewer shall~~ Require, when appropriate to
 252 the comprehension of students, that materials for social
 253 science, history, or civics classes contain the Declaration of
 254 Independence and the Constitution of the United States. A
 255 reviewer may not recommend any instructional materials that ~~for~~
 256 ~~use in the schools which~~ contain any matter reflecting unfairly
 257 upon persons because of their race, color, creed, national

258 origin, ancestry, gender, religion, disability, socioeconomic
 259 status, or occupation.

260 ~~(e) Any instructional material recommended by each~~
 261 ~~reviewer for use in the schools shall be, to the satisfaction of~~
 262 ~~each reviewer, accurate, objective, and current and suited to~~
 263 ~~the needs and comprehension of students at their respective~~
 264 ~~grade levels. Reviewers shall consider for adoption materials~~
 265 ~~developed for academically talented students such as those~~
 266 ~~enrolled in advanced placement courses.~~

267 Section 4. Subsection (2), paragraph (a) of subsection
 268 (3), and subsection (5) of section 1006.40, Florida Statutes,
 269 are amended to read:

270 1006.40 Use of instructional materials allocation;
 271 instructional materials, library books, and reference books;
 272 repair of books.—

273 (2) Each district school board must purchase current
 274 instructional materials to provide each student in kindergarten
 275 through grade 12 with a major tool of instruction in core
 276 courses of the subject areas of mathematics, language arts,
 277 science, social studies, reading, and literature ~~for~~
 278 ~~kindergarten through grade 12~~. Such purchase must be made within
 279 the first 3 years after the effective date of the adoption
 280 cycle. ~~For the 2012-2013 mathematics adoption, a district using~~
 281 ~~a comprehensive mathematics instructional materials program~~
 282 ~~adopted in the 2009-2010 adoption shall be deemed in compliance~~
 283 ~~with this subsection if it provides each student with such~~

284 ~~additional state-adopted materials as may be necessary to align~~
 285 ~~the previously adopted comprehensive program to common core~~
 286 ~~standards and the other criteria of the 2012-2013 mathematics~~
 287 ~~adoption.~~

288 (3) (a) Beginning in ~~By~~ the 2014-2015 ~~2015-2016~~ fiscal
 289 year, each district school board shall use at least 50 percent
 290 of the annual allocation, and may use all of the allocation, for
 291 the purchase of digital or electronic instructional materials
 292 that are consistent with district goals and objectives and the
 293 course descriptions adopted in rule by the State Board of
 294 Education, align with the state standards provided for in s.
 295 1003.41, and meet the requirements in s. 1006.31 ~~align with~~
 296 ~~state standards included on the state-adopted list, except as~~
 297 ~~otherwise authorized in paragraphs (b) and (c).~~ This section
 298 does not apply to a district school board or a consortium of
 299 school districts which implements an instructional materials
 300 program pursuant to s. 1006.283, except that by the 2015-2016
 301 fiscal year, each district school board shall use at least 50
 302 percent of the annual allocation for the purchase of digital or
 303 electronic instructional materials that align with state
 304 standards.

305 (5) Each district school board is responsible for the
 306 content of all instructional materials used in a classroom,
 307 whether purchased through an adoption process or otherwise
 308 purchased or made available in the classroom. Each district

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2014

309 school board shall adopt rules, and each district school
 310 superintendent shall implement procedures, that:

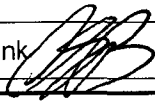

311 (a) Maximize student ~~will assure the maximum use by the~~
 312 ~~students~~ of the district-approved ~~authorized~~ instructional
 313 materials.

314 (b) Provide a process for public review of, and comment
 315 on, instructional materials before purchase, which satisfies the
 316 requirements of s. 1006.283(2).

317 Section 5. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 921 Instructional Materials for K-12 Public Education
SPONSOR(S): Education Appropriations Subcommittee; K-12 Subcommittee; Gaetz
TIED BILLS: IDEN./SIM. **BILLS:** SB 864

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	8 Y, 5 N, As CS	Brink	Ahearn
2) Education Appropriations Subcommittee	12 Y, 0 N, As CS	Seifert	Heflin
3) Education Committee		Brink 	Mizereck 

SUMMARY ANALYSIS

Currently, district school boards may implement their own instructional materials program or purchase state-adopted instructional materials. The bill maintains both options and states that under either option each school district has the constitutional duty and responsibility to select and provide adequate instructional materials for all the district's students.

The bill adds additional district rule requirements for those districts establishing their own instructional materials program; for example:

- The district's instructional materials review team must include parents with children in the public schools and each reviewer must provide a statement that the materials align with the state standards.
- The district must establish a process by which instructional materials are reviewed and adopted, including:
 - Online access by the public to student editions of the instructional materials to be considered for adoption at least 20-days prior a school board hearing or meeting regarding instructional materials.
 - An open, noticed school board hearing to receive public comment on recommended instructional materials and a separate, open, noticed school board meeting for the purpose of adopting instructional materials. The notices must state which instructional materials are being reviewed and the manner in which the instructional materials can be accessed for public review.

The bill adds the requirement that for districts purchasing state-adopted instructional materials, those districts also must provide a process for public review of, and comment on, the instructional materials before purchase.

The bill authorizes districts, beginning in the 2014-2015 fiscal year, to spend 100 percent of their instructional materials allocation for the purchase of digital or electronic instructional materials.

The bill does not require districts to adopt their own instructional materials program, but if they so choose, there will be an indeterminate fiscal impact associated with implementation. See Fiscal Comments section of this bill analysis.

For those districts without their own instructional materials program, the bill does require that before purchase of state-adopted instructional materials the district must provide a process for on-line public review and comment as is otherwise required for districts establishing their own instructional materials program. There may be a slight, indeterminate fiscal impact for certain districts to implement the public access requirements.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Instructional Materials Adoption

Instructional materials are items having intellectual content designed to serve as a major tool for instruction of a subject or course. Instructional materials may consist of hard-backed or soft-backed textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.¹ State law provides a statewide process for the adoption of instructional materials, and the Commissioner of Education (commissioner) annually determines the academic areas in which instructional materials must be submitted for adoption.²

Publishers and manufacturers that provide instructional materials as a single bundle must make the instructional materials available as separate and unbundled items, each priced individually. A publisher may also offer sections of state-adopted instructional materials in digital or electronic versions at reduced rates to districts, schools, and teachers.³

Funding for instructional materials is provided annually in the General Appropriations Act. Legislation enacted in 2013 provides each school district the option of implementing its own program for the review, approval, adoption, and purchase of instructional materials.⁴ School districts that participate in the state instructional materials adoption process must procure instructional materials for each content area every five years, with exceptions for content areas that require more frequent revision. The content areas scheduled for adoption rotate each year.⁵ State reviewers evaluate instructional materials for alignment with the applicable state academic standards and recommend materials for inclusion on a state-adopted list.⁶

School districts that choose to purchase instructional materials through the state adoption process must expend a portion of their state funding to purchase materials on the state-adopted list. School districts that implement their own instructional materials program are not required to purchase instructional materials on the state-adopted list or follow the same review cycle used for state instructional materials adoption.⁷

School District Use of State Instructional Materials Funds

School districts that purchase instructional materials through the state adoption process must purchase instructional materials within the first three years of the effective date of the adoption cycle.⁸ By fiscal year 2015-16, each school district that purchases instructional materials through the state adoption process must use at least 50 percent of the funds allocated for instructional materials to purchase digital or electronic instructional materials on the state-adopted list.⁹ The remainder of the funds may be used to purchase instructional materials not on the state-adopted list, but must be used for the purchase of instructional materials or other items having intellectual content which assist in the

¹ Sections 1006.28(1) and 1006.29(2), F.S.

² Section 1006.29(1), F.S.

³ Section 1006.29(2), F.S.

⁴ Section 2, ch. 2013-237, L.O.F., *codified at* s. 1006.283, F.S.; *see* part I, subpart F., ch. 1006, F.S.

⁵ Sections 1006.29(1) and 1006.36, F.S.

⁶ Sections 1006.29(1)(b) and 1006.31(2), F.S.

⁷ Sections 1006.283 and 1006.40, F.S.

⁸ Section 1006.40(2), F.S.

⁹ Section 1006.40(3)(a), F.S.

instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may include hardbacked or softbacked textbooks, electronic content, and replacements for items which were part of previously purchased instructional materials, consumables, learning laboratories, manipulatives, electronic media, computer courseware or software, and other commonly accepted instructional tools as prescribed by district school board rule.¹⁰ A school district may also use the remainder of funds for the repair and renovation of textbooks and library books.¹¹

One hundred percent of the state instructional materials funds used for kindergarten and 75 percent of the state instructional materials funds used for first grade may be spent to purchase materials that are not on the state-adopted list.¹²

A school district that implements its own instructional materials program must expend up to 50 percent of its annual instructional materials allocation on digital or electronic materials by FY 2015-16; however, the district is not required to purchase instructional materials on the state-adopted list. The remaining funds must be spent on instructional materials; however, unlike districts that purchase instructional materials through the state adoption process, the district has full discretion to determine the types of materials purchased.¹³

For all school districts, funds allocated to purchase instructional materials may only be used for other classroom expenditures or the purchase of hardware for student instruction when the district school board finds and declares in a resolution that the funds received for instructional materials are urgently needed to maintain school board specified academic classroom instruction.¹⁴

State Instructional Materials Adoption Process

The Commissioner of Education adopts instructional materials according to a 5-year rotating schedule. However, the commissioner may approve terms of adoption of less than five years for materials in content areas which require more frequent revision.¹⁵ The Department of Education (DOE) annually publishes an official schedule of subject areas calling for adoption for each of the succeeding two years, and a tentative schedule for years three through five. Under extenuating circumstances, the commissioner may direct the DOE to add one or more subject areas to the official schedule.¹⁶

Approximately one year before the adoption of instructional materials in a certain subject area, the DOE publishes specifications for the subjects to be adopted. These specifications detail the courses for which materials are sought and the standards the materials must meet.¹⁷

Beginning on or before May 15 of the adoption year, the DOE advertises¹⁸ a request for sealed bids or proposals from publishers of instructional materials. The advertisement must require each bidder to furnish electronic sample copies of all instructional materials submitted.¹⁹

¹⁰ Section 1006.40(4), F.S.

¹¹ Section 1006.40(3)(b), F.S.

¹² Section 1006.40(3)(c), F.S.

¹³ Section 1006.40(3)(a), F.S.

¹⁴ Section 1011.62(6)(b)5., F.S. The expenditure of funds for other classroom expenditures or for the purchase of hardware for student instruction may only occur if the school district has purchased all of the instructional materials necessary to provide updated materials aligned to the state academic standards for that fiscal year. Purchases may not be made before March 1. The funds available after March 1 may be used to purchase hardware for student instruction. *Id.*

¹⁵ Section 1006.36(1), F.S.

¹⁶ Section 1006.36(2), F.S.

¹⁷ Florida Department of Education, Bureau of Curriculum and Instruction, *Policies and Procedures for the Florida Instructional Materials Adoption*, at 1 (Dec. 2011), *incorporated by reference into rule 6A-7.0710, F.A.C.*

¹⁸ Beginning in FY 2010-11, all advertisements must state that each bidder must furnish electronic sample copies of all instructional materials submitted. Section 1006.33(1)(b), F.S.

¹⁹ Section 1006.33(1)(a) and (b), F.S. A school district may not request samples in addition to the electronic sample copies. Section 1006.33(1)(b), F.S.

Once all bids have been considered, the commissioner selects and adopts, from the list reported by the state instructional materials reviewers as “suitable, usable, and desirable” instructional materials for each grade and subject in the curriculum of public elementary, middle, and high schools in which adoptions are made and in the subject areas designated in the advertisement.²⁰

State Instructional Materials Reviewers

The state instructional materials reviewers are state or national experts in the content areas submitted for adoption. The reviewers are appointed by the commissioner by April 15 of each school year to review the instructional materials and evaluate the content for alignment with the applicable state academic standards.²¹

The state instructional material reviewers receive training in competencies related to the evaluation and selection of instructional materials.²² After receiving training, the reviewers must review the materials for the level of instructional support and the accuracy and appropriateness of progression of introduced content. Instructional materials must be made electronically available to the reviewers.²³

The initial review of the materials is made by only two of the three reviewers. If the two reviewers reach different results, the third reviewer must break the tie. The reviewers must independently make recommendations to the commissioner regarding materials that should be placed on the state-adopted list through an electronic feedback review system.²⁴

Each state instructional materials reviewer must sign an affidavit to the effect that he or she:

- Will faithfully discharge the duties imposed as a state instructional materials reviewer.
- Has no interest in any publishing or manufacturing organization that produces or sells instructional materials.
- Is in no way connected with the distribution of the instructional materials.
- Does not have any direct or indirect pecuniary interest in the business or profits of any person engaged in manufacturing, publishing, or selling instructional materials designed for use in public schools.
- Will not accept any emolument or promise of future reward from anyone intending to bias his or her judgment in the selection of materials to be adopted.
- Understands that it is unlawful to discuss matters relating to instructional materials submitted for adoption with any publisher or manufacturer of instructional materials, except during the period when the publisher or manufacturer is providing a presentation for the reviewer.²⁵

Duties of School Districts

Each district school superintendent, at the request of the commissioner, must nominate one classroom teacher or district-level content supervisor to review two or three of the submissions recommended by the state instructional materials reviewers. School districts must ensure that these district reviewers are provided with the support and time necessary to accomplish a thorough review of the instructional materials. District reviewers must independently rate the recommended submissions on the instructional usability of the resources.²⁶ Persons selected as school district reviewers must complete training, developed by the DOE, related to the evaluation and selection of instructional materials.²⁷

²⁰ Section 1006.34(2)(a), F.S.

²¹ Section 1006.29(1)(b), F.S.

²² Section 1006.29(4), F.S.

²³ Section 1006.29(1)(b), F.S.

²⁴ *Id.*

²⁵ Section 1006.30, F.S.

²⁶ Section 1006.29(1)(c), F.S.

²⁷ Section 1006.29(5), F.S.

School districts are required to purchase current instructional materials to provide each student adequate materials for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.²⁸ School districts review state-adopted instructional materials and select materials to be used in their local schools.²⁹ State-adopted instructional materials are available for purchase beginning April 1 of the year following adoption and must be requisitioned from the depository of the publisher.³⁰

Within the first three years of the adoption cycle, a school district superintendent must purchase instructional materials to provide each student with a textbook or other materials as a major tool of instruction for these core courses.³¹ The superintendent must keep adequate records and accounts for all financial transactions related to instructional materials.³² The superintendent is also required to notify the DOE by April 1 of which instructional materials will be used by the district. The notification must include a plan to be used to determine if adequate instructional materials have been purchased.³³

By July 1 of each year and before state instructional materials funds are released, a school district's superintendent must certify to the commissioner that the district school board has approved a comprehensive staff development plan that supports implementation of instructional materials programs. The school district must verify that training was provided and that the materials are being implemented as designed.³⁴

Instructional materials that are unserviceable, surplus, or no longer on state contract may be given by a school district to other education programs; teachers; students, including home education students; or any charitable organization, governmental agency, private school, or state. To dispose of instructional materials, a school district may also sell the materials to used-book dealers; recycling plants; pulp mills; or other persons, firms, or corporations. Any money received must be deposited in the school district's fund for instructional materials.³⁵

Duties of School Principals

A school principal is responsible for:

- Assuring that instructional materials are used to provide instruction to students enrolled at the grade level for which the materials are designed;
- Communicating to parents how instructional materials are used to implement curricular objectives;
- Selling instructional materials to parents upon request; and

²⁸ Section 1006.40(2), F.S. "Adequate instructional materials" means a "sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature." Section 1006.28(1), F.S.

²⁹ See s. 1006.28(1)(b), F.S.

³⁰ Sections 1006.36(1) and 1006.37(1), F.S.; see also s. 1006.28(2)(b), F.S.; Florida Department of Education, Bureau of Curriculum and Instruction, *Florida Instructional Materials Adoption Schedule for Adoption Years 2011-2012 through 2016-2017* (May 22, 2012), available at http://www.fldoe.org/BII/instruct_mat/pdf/cycle.pdf;

³¹ Section 1006.37(1), F.S.

³² Section 1006.28(2)(a), F.S.

³³ Section 1006.28(2)(a), F.S.

³⁴ Section 1011.67(2), F.S.

³⁵ Section 1006.41(1) and (3), F.S.

- Accounting for instructional materials and collecting payment from a student or parent for any lost, destroyed, or damaged instructional materials³⁶ and transmitting all money collected to the school district superintendent for deposit into the district school board fund.³⁷

Duties of Publishers and Manufacturers

Publishers and manufacturers of instructional materials must, among other things:

- Submit electronic sample copies of instructional materials to the DOE;
- Submit evidence that the materials provided address the state academic and the materials can be accessed through the district's local instructional improvement system and a variety of electronic, digital, and mobile devices;
- Furnish instructional materials at a price not to exceed the lowest price offered in other states;
- Automatically reduce the price of instructional materials or provide materials free of charge if provided to other states at a reduced rate or free of charge;
- Disclose the authors of the instructional materials;
- Keep the materials revised, free from all errors, and up-to-date; and
- Maintain a depository in Florida for the in-state distribution of instructional materials to school districts from the depository or contract with a depository in the state.³⁸

Additionally, publishers and manufacturers of instructional materials are prohibited from offering any emolument, money, or other valuable thing or any inducement, to any district school board official or state instructional materials reviewer to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional materials. Violating this prohibition is a second degree misdemeanor and will result in a ban from practicing business in the state for one calendar year.³⁹

School District Instructional Materials Adoption Programs

School districts that choose to implement their own instructional materials program are not required to purchase instructional materials from the state-adopted list,⁴⁰ requisition instructional materials from the publisher's depository,⁴¹ or follow the same review cycle used for state instructional materials adoption.⁴² Multiple school districts may form a consortium for the purpose of implementing an instructional materials program.⁴³

Each school board implementing an instructional materials program must adopt rules:

- Specifying the instructional materials review process, review cycle, and duties and qualifications of instructional materials reviewers;
- Requiring school district instructional materials reviewers to comply with statutorily prescribed conflict of interest affidavits and state instructional materials reviewer duties;
- Requiring reviewer and publisher compliance with law prohibiting the acceptance or solicitation of money or inducements to influence approval or purchase of instructional materials;
- Specifying a process for certifying the accuracy of instructional materials;

³⁶ Principals are authorized to suspend a student from participating in extracurricular activities if the debt is not paid or require the student to participate in community service activities to satisfy the debt. Section 1006.28(3)(b), F.S.

³⁷ Section 1006.28(3), F.S.

³⁸ Section 1006.38, F.S.

³⁹ Section 1006.32(1) and (4), F.S. A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

⁴⁰ Section 1006.40(3)(a), F.S.

⁴¹ Section 1006.37(3), F.S.

⁴² Section 1006.283(2)(b), F.S.

⁴³ Section 1006.283(1), F.S.

- Requiring publisher compliance with law regarding publisher duties, responsibilities, and requirements; and
- Specifying the instructional materials purchase process, including advertising, bidding, and purchasing requirements.⁴⁴

School district instructional materials reviewers must review instructional materials using standards similar to those currently specified for state instructional materials reviewers and for alignment to the state academic standards. Beginning in the 2013-14 school year, the district superintendent must annually certify that all instructional materials for core courses used by the school district are aligned with applicable state standards and provide a list of all core materials that will be used or purchased by the district.⁴⁵

School districts implementing their own instructional materials program may collect fees from publishers who submit instructional materials for review. Such fees may not exceed the actual cost to review a publisher submission up to a maximum of \$3,500. Fees assessed and collected must be posted on the district website, reported to the DOE, and maintained in a separate line item for auditing purposes.⁴⁶

School districts may only use revenues generated by fees to support the instructional materials review process, including the payment of stipends for reviewers, reimbursement of travel expenses and per diem incurred by reviewers, and costs relating to employing substitute teachers to fill in for instructional personnel serving as reviewers.⁴⁷

Transition to Digital and Electronic Instructional Materials

Beginning in the 2015-16 school year, all state-adopted instructional materials for students in kindergarten through grade 12 must be provided in an electronic or digital format.⁴⁸ Also, by 2015-2016, each school district must use at least 50 percent of its annually allocated instructional materials funding to purchase digital or electronic instructional materials.⁴⁹

Instructional materials in electronic format and digital format do not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, equipment, or supplies.⁵⁰

Local Instructional Improvement Systems

A local instructional improvement system is a system that uses electronic and digital tools that provide teachers, administrators, students, and parents with data and resources to systematically manage continuous instructional improvement. The system must support relevant activities such as instructional planning, information gathering and analysis, rapid-time reporting, decision making on appropriate instructional sequence, and evaluating the effectiveness of instruction. Additionally, the system must

⁴⁴ Section 1006.283(2), F.S.

⁴⁵ Section 1006.283(2) and (4), F.S.

⁴⁶ Section 1006.283(3)(a), F.S.

⁴⁷ Section 1006.283(3)(b), F.S.

⁴⁸ Section 1006.29(3), F.S. "Electronic format" means text-based or image-based content in a form that is produced on, published by, and readable on computers or other digital devices and is an electronic version of a printed book, whether or not any printed equivalent exists. "Digital format" means text-based or image-based content in a form that provides the student with various interactive functions; that can be searched, tagged, distributed, and used for individualized and group learning; that includes multimedia content such as video clips, animations, and virtual reality; and that has the ability to be accessed at any time and anywhere. Section 1006.29(3)(a) and (b), F.S.

⁴⁹ Section 1006.40(3)(a), F.S. School districts that purchase instructional materials through the state adoption process must purchase the digital instructional materials off the state-adopted list. School districts that implement their own instructional materials program are not required to purchase the digital instructional materials off the state-adopted list. *Id.*

⁵⁰ Section 1006.29(3), F.S. (flush left at the end of subsection)

integrate instructional information with student-level data to provide predictions of future student achievement.⁵¹

Each school district must provide teachers, administrators, students, and parents access to a local instructional improvement system. The system must provide access to electronic and digital instructional materials, and teaching and learning tools and resources, including the ability for teachers and administrators to manage, assess, and track student learning.⁵² By June 30, 2014, the local instructional improvement system should allow for a single, authenticated sign-on and include the following functionality:

- Vertically searches for, gathers, and organizes specific standards-based instructional materials.
 - Enables teachers to prepare lessons, individualize student instruction, and use best practices in providing instruction.
 - Provides communication, including access to up-to-date student performance data, in order to help teachers and parents better serve the needs of students.
 - Provides access for administrators to ensure quality.
 - Enables district staff to plan, create, and manage professional development and to connect professional development with staff information and student performance data.
- Provides access to multiple content providers and provides the ability to seamlessly connect the local instructional improvement system to electronic and digital content.⁵³

Instructional Materials Content

Any instructional materials recommended by reviewers for use in schools must be, to the satisfaction of each reviewer, accurate, objective, current, and suited to the needs and comprehension of students at their respective grade levels.⁵⁴

Effect of Proposed Changes

Currently, district school boards may implement their own instructional materials program or purchase state-adopted instructional materials. The bill maintains both options and states that under either option each school district has the constitutional duty and responsibility to select and provide adequate instructional materials for all the district's students.

If a district school board chooses to implement its own instructional materials program, district rules must specify the qualifications of an instructional materials reviewer and the process for selecting reviewers, which must include one or more parents which children in public schools.

The bill requires that each district instructional materials reviewer provide a statement that the materials recommended align with the state standards.

The bill clarifies that the district school board rule establishing the process by which the school board adopts instructional materials must provide for the following:

- An open, noticed district school board hearing to review recommended instructional material and receive public comment;
- An open, noticed public school board meeting, held on a different date than the public hearing, to approve an annual instructional materials plan, including the adoption of instructional materials;

⁵¹ Section 1006.281(1), F.S.

⁵² Section 1006.281(2), F.S.

⁵³ Section 1006.281(3), F.S.

⁵⁴ Section 1006.31(2)(e), F.S.

- Posting of the recommended instructional materials on the district school board's website at least 20 days in advance of public hearings and public meetings. The district must establish a process by which the public can submit, and the school board members receive comments and review on the recommended instructional materials; and
- The requirement that the notices for public hearing and public meetings specifically state which materials are being reviewed and the manner in which the materials can be accessed for public review.

Reasonable safeguards must be established against the unauthorized use, reproduction, and distribution of instructional materials posted online for public review and comment. Only the student editions of the instructional materials may be posted.

The bill also requires each district school to adopt in rule the process by which the school district will notify parents of their ability to access their children's textbooks and instructional materials through the district's local instructional improvement system and by which the school district will encourage parents to access the system.

The bill also requires that school districts that purchase state-adopted instructional materials must also provide a process for public review of, and comment on instructional materials.

The bill requires the district school superintendent to annually certify that instructional materials used by the district are aligned with all applicable state standards and have been reviewed, selected, and adopted by the district school board using the school board hearing and public meeting requirements as established in the bill.

The bill requires the state and school district instructional materials reviewers to recommend only books aligned with state standards for adoption. The instructional materials recommended shall be accurate, objective, balanced, noninflammatory, current, and suited to student needs and their ability to comprehend the material.

The bill provides that school districts, beginning in the 2014-2015 school year, may use all of their instructional materials allocation on digital or electronic instructional materials.

With respect to the requisition of instructional materials, the bill again provides that a district school board is responsible for the content of all instructional materials used in the classroom, whether purchased through an adoption process or other means of being made available in the classroom.

B. SECTION DIRECTORY:

Section 1. Amends s. 1006.28, F.S., providing that the district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students; providing that the district school board is responsible for the content of all instructional materials;

Section 2. Amends s. 1006.283, F.S.; providing requirements for a district instructional materials program and district school board rules relating thereto; including criteria for the review, recommendation, and adoption of instructional materials and the process by which a school district will notify parents of their ability to access their children's instructional materials; providing for inspection of purchased instructional materials;

Section 3. Amends s. 1006.31, F.S.; providing duties for instructional materials reviewers;

Section 4. Amends s. 1006.40, F.S.; deleting outdated provisions regarding the adoption of certain instructional materials for mathematics; authorizing each district school board to use all of the instructional materials annual allocation for the purchase of digital or electronic instructional materials that meet certain requirements; providing that each district school board is responsible for the content

of all instructional materials used in a classroom; requiring district school boards to provide a process for public review of, and comment on, instructional materials;

Section 5. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The fiscal impact of the bill on school districts that choose to their own instructional materials adoption process is indeterminate. Districts will likely incur costs related to the hiring of reviewers and establishing the infrastructure necessary to conduct reviews. See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Although school districts are likely to incur costs associated with the review of materials, s. 1006.283, F.S., authorizes the districts to collect fees from publishers who submit instructional materials for review. Such fees may not exceed the actual cost to review a publisher submission up to a maximum of \$3,500. Fees assessed and collected must be posted on the district website, reported to DOE, used to support the review process, and maintained in a separate line item for auditing purposes.

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 district school boards to adopt rules relating to the adoption of instructional materials.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 12, 2014, the K-12 Subcommittee adopted four amendments and reported the bill favorably as a committee substitute. The amendments:

- Require that adopted instructional materials, in addition to being accurate; objective; current; and suitable based on a student's needs, comprehension, and grade level, must also be balanced, nonflammable, and fact based;
- Provide that school districts, beginning in the 2014-2015 school year, may use all of their instructional materials allocation on digital instructional materials;
- Require that reasonable safeguards be put into place against the unauthorized use, reproduction, and distribution of instructional materials posted online for public review and comment and clarify that the student editions of the instructional materials must be posted; and
- Remove the bill's provision allowing a district school board or consortium of districts to request assistance from the publisher's depository to recommend instructional materials for review, approval, adoption, and purchase.

On April 1, 2014, the Education Appropriations Subcommittee adopted a strike-all amendment and reported the bill favorably. The amendment:

- Establishes responsibility with district school boards, and open, public procedures, whether adopting off the state adoption list or establishing their own program.
- Requires the school district to certify that all instructional materials have been reviewed, selected and adopted by the district school board in accordance with the public meeting and school board hearing requirements of the bill.
- Addresses the reviewer requirements but does not extend the review requirements to library media materials and all other reading materials
- Establishes criteria for district review and recommendation of instructional materials including establishment of a review committee, which must include a parent, but does not otherwise describe membership.
- Establishes a process to allow student editions of instructional materials to be reviewed, online, by public 20 days prior to adoption. Requires open, noticed meetings; requires instructional materials plan.
- Allows use of all instructional materials allocation for purchase of digital materials and require sample copies of instructional materials to be made available for public inspection.

1 A bill to be entitled
 2 An act relating to teacher education; amending s.
 3 1009.60, F.S.; revising eligibility criteria for
 4 receipt of a minority teacher education scholarship;
 5 amending s. 1009.605, F.S.; revising funding for
 6 administration and the training program carried out by
 7 the board of directors of the Florida Fund for
 8 Minority Teachers, Inc.; providing an effective date.

9

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

11

12 Section 1. Subsections (1) and (4) of section 1009.60,
 13 Florida Statutes, are amended to read:

14 1009.60 Minority teacher education scholars program.—There
 15 is created the minority teacher education scholars program,
 16 which is a collaborative performance-based scholarship program
 17 for African-American, Hispanic-American, Asian-American, and
 18 Native American students. The participants in the program
 19 include Florida's Florida College System institutions and its
 20 public and private universities that have teacher education
 21 programs.

22 (1) The minority teacher education scholars program shall
 23 provide an annual scholarship in an amount that shall be
 24 prorated based on available appropriations and may not exceed
 25 \$4,000 for each approved minority teacher education scholar who
 26 is enrolled in one of Florida's public or private colleges or

27 universities, ~~in the junior year and~~ is admitted into a teacher
 28 education program, and has not earned more than 18 credit hours
 29 of upper-division education courses.

30 (4) A student may receive a scholarship from the program
 31 for 3 consecutive years if the student remains enrolled full-
 32 time in the program and makes satisfactory progress toward a
 33 baccalaureate degree with a major in education or a graduate
 34 degree with a major in education.

35 Section 2. Paragraph (b) of subsection (2) and subsection
 36 (3) of section 1009.605, Florida Statutes, are amended, and
 37 subsection (4) is added to that section, to read:

38 1009.605 Florida Fund for Minority Teachers, Inc.-
 39 (2)

40 (b) The corporation shall report to the Department of
 41 Education, by the date established by the department, the
 42 eligible students to whom scholarship moneys are disbursed each
 43 academic term, the annual balance of the corporation's assets
 44 and cash reserves, and any other information requested by the
 45 department in accordance with s. 1009.94. By June 30 of each
 46 fiscal year, the corporation shall remit to the department any
 47 appropriated funds that were not distributed for scholarships,
 48 less the funds 5 percent for administration pursuant to
 49 subsection (3) and the funds for the training program required
 50 in subsection (4), including administration of the required
 51 training program, authorized pursuant to subsection (3).

52 (3) A board of directors shall administer the corporation.

53 The Governor shall appoint to the board at least 15 but not more
 54 than 25 members, who shall serve terms of 3 years, except that 4
 55 of the initial members shall serve 1-year terms and 4 shall
 56 serve 2-year terms. At least 4 members must be employed by
 57 Florida College System institutions and at least 11 members must
 58 be employed by public or private postsecondary institutions that
 59 operate colleges of education. At least one member must be a
 60 financial aid officer employed by a postsecondary education
 61 institution operating in Florida. Administrative costs for
 62 support of the Board of Directors and the Florida Fund for
 63 Minority Teachers may not exceed \$100,000 ~~5 percent of funds~~
 64 ~~allocated for the program~~. The board shall:

- 65 (a) Hold meetings to implement this section.
- 66 (b) Select a chairperson annually.
- 67 (c) Make rules for its own government.
- 68 (d) Appoint an executive director to serve at its
 69 pleasure. The executive director shall be the chief
 70 administrative officer and agent of the board.
- 71 (e) Maintain a record of its proceedings.
- 72 (f) Delegate to the chairperson the responsibility for
 73 signing final orders.
- 74 ~~(g) Carry out the training program as required for the~~
 75 ~~minority teacher education scholars program. No more than 5~~
 76 ~~percent of the funds appropriated and up to \$100,000 from other~~
 77 ~~available funds for the minority teacher education scholars~~
 78 ~~program may be expended annually for administration, including~~

79 ~~administration of the required training program.~~

80 (4) The board of directors shall carry out a training
 81 program as required for the minority teacher education scholars
 82 program. Up to \$100,000 from appropriated funds and other
 83 available funds for the minority teacher education scholars
 84 program may be expended annually for the required training
 85 program.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1053 Teacher Education
SPONSOR(S): Higher Education & Workforce Subcommittee, Castor Dentel and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 1456

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	12 Y, 0 N, As CS	Thomas	Sherry
2) Education Appropriations Subcommittee	12 Y, 0 N	Butler	Heflin
3) Education Committee		Thomas <i>not</i>	Mizereck <i>KM</i>

SUMMARY ANALYSIS

The Minority Teacher Education Scholars Program (scholarship program) is a collaborative performance-based scholarship program for African-American, Hispanic-American, Asian-American, and Native American students. The scholarship program provides an annual scholarship in an amount that must be prorated based on available appropriations; the award may not exceed \$4,000. Awards are available to approved minority teacher education scholars who are enrolled in a Florida public or private postsecondary institution in their junior year and who are admitted into a teacher education program.

The Florida Fund for Minority Teachers, Inc., (corporation) is a not-for-profit statutory corporation housed within the College of Education at the University of Florida that administers and manages the scholarship program.

The bill:

- Revises the eligibility requirements for the scholarship program by removing a requirement that students enrolled in an approved minority teacher education program must be in their junior year to be eligible for the award, and requires that the student may not have earned more than 18 credit hours of upper-division education courses.
- Allows students to use the scholarship to pursue a graduate degree with a major in education.
- Removes the requirement that administrative costs for the support of the Board of Directors and the corporation not exceed the five percent of appropriated funds for the scholarship program.
- Provides that the administrative costs for the scholarship program may not exceed \$100,000.
- Provides that an annual expenditure of up to \$100,000 of appropriated funds and other available funds may be used for a required training program.

The bill does not require an additional appropriation; however, by changing current caps for administrative and training program expenditures, scholarship awards to students may be affected. SEE FISCAL COMMENTS.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Minority Teacher Education Scholars Program

Present Situation

The Minority Teacher Education Scholars Program (scholarship program) is a collaborative performance-based scholarship program for African-American, Hispanic-American, Asian-American, and Native American students. The scholarship program provides an annual scholarship in an amount that must be prorated based on available appropriation and may not exceed \$4,000 for each recipient who is enrolled in one of Florida's public or private universities or Florida College System (FCS) institutions in their junior year and is admitted into a teacher education program.¹

To assist participating institutions in the recruitment and retention of minority teacher scholars, the administrators of the Florida Fund for Minority Teachers, Inc., are required to implement a training program.² The mandatory training has been accomplished in the past by sponsoring a state-wide annual symposium. Symposium participants consist of current scholars and potential scholarship recipients. The workshops and training are designed to provide professional development sessions for current scholars, and exploratory sessions designed to inform and attract potential scholars. According to staff representing the program, the symposium has not been held in the past three years due to budgetary constraints.³

A student may receive a scholarship for three consecutive years, if the student remains enrolled full-time in the scholarship program and makes satisfactory progress toward a baccalaureate degree with a major in education.

An eligible student is required to:⁴

- Meet Florida residency requirements;
- Have earned 60 credit hours or an Associate of Arts degree;
- Have not earned a baccalaureate degree in education;
- Be classified as a junior and have not exceeded 18 hours of upper-division education credit at the time of application;
- Have and maintain a minimum 2.5 grade point average;
- Be a member of one of the following ethnic groups: African-American/Black, Hispanic-Latino, Asian-American/Pacific Islander or American Indian/Alaskan native; and
- Be newly admitted into a teacher education program at any of the scholarship program's participating institutions.

Upon graduation, a recipient is required to teach one year in a Florida public school for each year the scholarship was received. If a recipient does not graduate within the two to three years of receiving scholarship funding, or if a recipient does not teach in a Florida public school, the recipient will be

¹ s. 1009.60(1), F.S.

² S. 1009.60(2), F.S.

³ Email: Cheryl Williams, College Liaison for the University of Florida, College of Education, March 28, 2014. Florida Fund for Minority Teachers, Inc., is the not-for-profit corporation housed at the UF, College of Education required to administer and manage the program, pursuant to s. 1009.605(1), F.S.

⁴ Florida Department of Education, Office of Student Financial Assistance, *Annual Report to the Commissioner 2012-13 (2013)*, available at <http://www.floridastudentfinancialaid.org/SSFAD/home/StateProgramLinks.htm>

required to repay the total amount of the scholarship received at an annual interest rate of eight percent, paid within ten years.⁵

Effect of Proposed Changes

The bill revises the eligibility requirements for the scholarship program by removing a requirement that students enrolled in an approved minority teacher education program must be in their junior year to be eligible for the award, and requires that the student may not have earned more than 18 credit hours of upper-division education courses. The bill also allows a student to use the scholarship to pursue a graduate degree with a major in education.

Florida Fund for Minority Teachers, Inc.

Present Situation

The Florida Fund for Minority Teachers, Inc., (corporation) is a not-for-profit statutory corporation housed within the College of Education at the University of Florida that administers and manages the scholarship program.⁶

The corporation is required to report to the Department of Education (DOE), the eligible students who received a scholarship each academic term, the annual balance of the corporation's assets and cash reserves, and any other information requested by DOE. By June 30th of each fiscal year, the corporation must remit to DOE any appropriated funds that were not distributed for scholarship, less the five percent for administration, which includes administration of the required training program.

Of the appropriated amount of \$885,468 for the 2012-2013 fiscal year,⁷ \$44,273 was expended as the allowable five percent for administrative costs. Scholarships totaling \$810,000 were disbursed to 278 students at an average award amount of \$2914.⁸ The remaining \$31,195 was refunded to DOE by the corporation.⁹

The Board of Directors (board) must administer the corporation. The Governor must appoint to the board at least 15 but not more than 25 members. At least four members must be employed by FCS institutions and at least 11 members must be employed by public and private postsecondary institutions that operate colleges of education. At least one member must be a financial aid officer employed by a postsecondary education institution operating in Florida. Administrative costs for support of the board and the Florida Fund for Minority Teachers may not exceed five percent of funds allocated for the scholarship program.

The board must:

- Hold meetings;
- Select a chairperson;
- Make rules for its own government;
- Appoint an executive director to serve at its pleasure;
- Maintain a record of its proceedings;
- Delegate to the chairperson the responsibility for signing final orders; and

⁵ Florida Department of Education, Office of Student Financial Assistance, *2013-14 Minority Teacher Education Scholarship Program/Florida Fund for Minority Teachers, Inc. Are You Eligible: FFMT.pdf* available at: <http://www.floridastudentfinancialaid.org/SSFAD/home/ProgramsOffered.htm>

⁶ s. 1009.605(1), F.S.

⁷ Chapter 2012-118, Laws of Florida - Fiscal Year 2012-2013 General Appropriations Act, Specific Appropriation 58

⁸ Florida Department of Education, Office of Student Financial Assistance, *Florida Fund for Minority Teachers 2012- 2013, End of Year Report* available at https://www.floridastudentfinancialaidsg.org/pdf/EOY_Reports.asp?year=2012

⁹ Email verification with staff from the Florida Department of Education, Office of Student Financial Assistance, March 28, 2014

- Carry out a training program as required for the scholarship program. No more than five percent of funds appropriated and up to \$100,000 from other available funds for scholarship program may be expended annually for administration, including administration of the required training program.

Effect of Proposed Changes

The bill removes the requirement that administrative costs for the support of the board and the Florida Fund for Minority Teachers not exceed the five percent of appropriated funds for the scholarship program. The bill provides that the administrative costs may not exceed \$100,000.

The bill also provides that an annual expenditure of up to \$100,000 from appropriated and other available funds may be used for a training program as required for the scholarship program.

B. SECTION DIRECTORY:

Section 1. Amends s. 1009.60, F.S., revising eligibility criteria for receipt of a minority teacher education scholarship.

Section 2. Amends s. 1009.605, F.S., revising funds for administration and the training program carried out by the board of directors of the Florida Fund for Minority Teacher, Inc.

Section 3. Provides an effective date of upon becoming a law.

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 require an additional appropriation; however, by removing current caps for administrative and training program expenditures, scholarship awards to students may be affected.

This bill provides \$200,000 in spending authority that the Florida Fund for Minority Teachers, Inc., may use for administrative and training program costs. Currently, the corporation is capped at five percent of

appropriations, which equals \$44,273, and up to \$100,000 from other available funds. An appropriation of \$885,468 is currently proposed in the House General Appropriations Act for Fiscal Year 2014-2015. By allowing \$200,000 to be used for administrative and training costs, \$685,468 would be available for scholarships. Assuming the same number of scholarship awards would be distributed as in 2012-2013, 278 students would receive an average award of \$2,466. In 2012-2013, the average scholarship award for the 278 students was \$2,914.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require municipalities or counties to expend funds or to take any action requiring the expenditure of funds, reduce the authority that municipalities or counties have to raise revenues in the aggregate, or reduce the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 25, 2014, the Higher Education & Workforce Subcommittee reported HB 1053 favorably as a committee substitute. There was one amendment to the bill that removed proposed changes to requirements for receiving a temporary teacher certificate.

This analysis is drafted to the committee substitute as passed by the Higher Education & Workforce Subcommittee.



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 Pigman offered the following:

Amendment (with title amendment)

Between lines 347 and 348, insert:

6 (d) If students from a program that has been terminated
 7 pursuant to this subsection transfer to an approved or an
 8 accredited program under the direction of the Commission for
 9 Independent Education, the board shall recalculate the passage
 10 rates of the programs receiving the transferring students,
 11 excluding the test scores of those students transferring more
 12 than 12 credits.

16 -----
 17 **T I T L E A M E N D M E N T**



Amendment No.1

18 Remove line 21 and insert:
19 for a remediation plan; providing for the recalculation of pass
20 rates when students have been transferred from a terminated
21 program; authorizing the board to
22

1 A bill to be entitled
2 An act relating to nursing education programs;
3 amending s. 464.003, F.S.; revising definitions;
4 conforming a cross-reference; amending s. 464.008,
5 F.S.; requiring graduates of approved prelicensure
6 nursing education programs who do not take the
7 licensure examination within a specified period after
8 graduation to complete a specified course; authorizing
9 the board to adopt rules; amending s. 464.013, F.S.;
10 exempting nurses who are certified by an accredited
11 program from continuing education requirements;
12 amending s. 464.019, F.S.; specifying the location of
13 clinical training; revising the limitation on the
14 percentage of clinical training that may consist of
15 clinical simulation; revising calculation of the
16 required graduate passage rate for approved programs;
17 requiring an approved program to require graduates who
18 do not take the licensure examination within a
19 specified period after graduation to complete a
20 specified course; providing additional requirements
21 for a remediation plan; authorizing the board to
22 extend probationary status for a program that has
23 demonstrated adequate progress toward its graduate
24 passage rate goal; deleting obsolete requirements;
25 authorizing the Board of Nursing to adopt certain
26 rules relating to documenting the accreditation of

27 nursing education programs; revising the terms of an
 28 implementation study; requiring nursing education
 29 programs that prepare students for the practice of
 30 professional nursing to be accredited; providing an
 31 exception; amending s. 456.014, F.S.; conforming a
 32 cross-reference; providing an effective date.

33

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

35

36 Section 1. Subsections (10), (19), and (23) of section
 37 464.003, Florida Statutes, are amended to read:

38 464.003 Definitions.—As used in this part, the term:

39 (10) "Clinical training" means direct nursing care
 40 experiences with patients or clients, or clinical simulation of
 41 such experiences, which offer the student the opportunity to
 42 integrate, apply, and refine specific skills and abilities based
 43 on theoretical concepts and scientific principles.

44 (19) "Practice of practical nursing" means the performance
 45 of selected acts, including the administration of treatments and
 46 medications, in the care of the ill, injured, or infirm; ~~and~~ the
 47 promotion of wellness, maintenance of health, and prevention of
 48 illness of others under the direction of a registered nurse, a
 49 licensed physician, a licensed osteopathic physician, a licensed
 50 podiatric physician, or a licensed dentist; and the teaching of
 51 general principles of health and wellness to the public and to
 52 students other than nursing students. A practical nurse is

53 responsible and accountable for making decisions that are based
 54 upon the individual's educational preparation and experience in
 55 nursing.

56 (23) "Required passage rate" means the graduate passage
 57 rate required for an approved program pursuant to s.
 58 464.019(5)(a) ~~464.019(6)(a)1~~.

59 Section 2. Subsection (4) is added to section 464.008,
 60 Florida Statutes, to read:

61 464.008 Licensure by examination.—

62 (4) If an applicant who graduates from an approved program
 63 does not take the licensure examination within 6 months after
 64 graduation, he or she must enroll in and successfully complete a
 65 board-approved licensure examination preparatory course. The
 66 applicant is responsible for all costs associated with the
 67 course and may not use state or federal financial aid for such
 68 costs. The board shall by rule establish guidelines for
 69 licensure examination preparatory courses.

70 Section 3. Subsection (3) of section 464.013, Florida
 71 Statutes, is amended to read:

72 464.013 Renewal of license or certificate.—

73 (3) The board shall by rule prescribe up to 30 hours of
 74 continuing education ~~not to exceed 30 hours~~ biennially as a
 75 condition for renewal of a license or certificate. A nurse who
 76 is certified by a health care specialty program accredited by
 77 the National Commission for Certifying Agencies or the
 78 Accreditation Board for Specialty Nursing Certification is

79 exempt from continuing education requirements. The criteria for
 80 programs shall be approved by the board.

81 Section 4. Section 464.019, Florida Statutes, is amended
 82 to read:

83 464.019 Approval of nursing education programs.—

84 (1) PROGRAM APPLICATION ~~APPLICATIONS~~.—An educational
 85 institution that wishes to conduct a program in this state for
 86 the prelicensure education of professional or practical nurses
 87 must submit to the department a program application and review
 88 fee of \$1,000 for each prelicensure nursing education program to
 89 be offered at the institution's main campus, branch campus, or
 90 other instructional site. The ~~Each~~ program application must
 91 include the legal name of the educational institution, the legal
 92 name of the nursing education program, and, if such institution
 93 ~~program~~ is accredited by ~~an accrediting agency other than an~~
 94 ~~accrediting agency described in s. 464.003(1)~~, the name of the
 95 accrediting agency. The application must also document that:

96 (a)1. For a professional nursing education program, the
 97 program director and at least 50 percent of the program's
 98 faculty members are registered nurses who have a master's or
 99 higher degree in nursing or a bachelor's degree in nursing and a
 100 master's or higher degree in a field related to nursing.

101 2. For a practical nursing education program, the program
 102 director and at least 50 percent of the program's faculty
 103 members are registered nurses who have a bachelor's or higher
 104 degree in nursing.

105
 106 The educational degree requirements of this paragraph may be
 107 documented by an official transcript or by a written statement
 108 from the educational institution verifying that the institution
 109 conferred the degree.

110 (b) The program's nursing major curriculum consists of at
 111 least:

112 1. Fifty percent clinical training in the United States,
 113 the District of Columbia, or a possession or territory of the
 114 United States for a practical nursing education program, an
 115 associate degree professional nursing education program, or a
 116 professional diploma nursing education program.

117 2. Forty percent clinical training in the United States,
 118 the District of Columbia, or a possession or territory of the
 119 United States for a bachelor's degree professional nursing
 120 education program.

121 (c) No more than 50 ~~25~~ percent of the program's clinical
 122 training consists of clinical simulation.

123 (d) The program has signed agreements with each agency,
 124 facility, and organization included in the curriculum plan as
 125 clinical training sites and community-based clinical experience
 126 sites.

127 (e) The program has written policies for faculty which
 128 include provisions for direct or indirect supervision by program
 129 faculty or clinical preceptors for students in clinical training
 130 consistent with the following standards:

131 1. The number of program faculty members equals at least
 132 one faculty member directly supervising every 12 students unless
 133 the written agreement between the program and the agency,
 134 facility, or organization providing clinical training sites
 135 allows more students, not to exceed 18 students, to be directly
 136 supervised by one program faculty member.

137 2. For a hospital setting, indirect supervision may occur
 138 only if there is direct supervision by an assigned clinical
 139 preceptor, a supervising program faculty member is available by
 140 telephone, and such arrangement is approved by the clinical
 141 facility.

142 3. For community-based clinical experiences that involve
 143 student participation in invasive or complex nursing activities,
 144 students must be directly supervised by a program faculty member
 145 or clinical preceptor and such arrangement must be approved by
 146 the community-based clinical facility.

147 4. For community-based clinical experiences not subject to
 148 subparagraph 3., indirect supervision may occur only when a
 149 supervising program faculty member is available to the student
 150 by telephone.

151
 152 A program's policies established under this paragraph must
 153 require that a clinical preceptor who is,~~if~~ supervising
 154 students in a professional nursing education program,~~to~~ be a
 155 registered nurse or, if supervising students in a practical
 156 nursing education program, ~~to~~ be a registered nurse or licensed

157 practical nurse.

158 (f) The professional or practical nursing curriculum plan
 159 documents clinical experience and theoretical instruction in
 160 medical, surgical, obstetric, pediatric, and geriatric nursing.
 161 A professional nursing curriculum plan shall also document
 162 clinical experience and theoretical instruction in psychiatric
 163 nursing. Each curriculum plan must document clinical training
 164 experience in appropriate settings that include, but are not
 165 limited to, acute care, long-term care, and community settings.

166 (g) The professional or practical nursing education
 167 program provides theoretical instruction and clinical
 168 application in personal, family, and community health concepts;
 169 nutrition; human growth and development throughout the life
 170 span; body structure and function; interpersonal relationship
 171 skills; mental health concepts; pharmacology and administration
 172 of medications; and legal aspects of practice. A professional
 173 nursing education program must ~~shall~~ also provide theoretical
 174 instruction and clinical application in interpersonal
 175 relationships and leadership skills; professional role and
 176 function; and health teaching and counseling skills.

177 (2) PROGRAM APPROVAL.—

178 (a) Upon receipt of a program application and review fee,
 179 the department shall examine the application to determine if
 180 ~~whether~~ it is complete. If the ~~a program~~ application is not
 181 complete, the department shall notify the educational
 182 institution in writing of any errors or omissions within 30 days

183 after the department's receipt of the application. A program
 184 application is deemed complete upon the department's receipt of:

185 1. The initial application, if the department does not
 186 notify the educational institution of any errors or omissions
 187 within the 30-day period; or

188 2. A revised application that corrects each error and
 189 omission of which the department notifies the educational
 190 institution within the 30-day period.

191 (b) Within 90 days after the department's receipt of a
 192 complete program application, the board shall:

193 1. Approve the application if it documents compliance with
 194 subsection (1) ~~paragraphs (1)(a)-(g)~~; or

195 2. Provide the educational institution with a notice of
 196 intent to deny the application if it does not document
 197 compliance with subsection (1) ~~paragraphs (1)(a)-(g)~~. The notice
 198 must specify ~~set forth~~ written reasons for the board's denial of
 199 the application. The board may not deny a program application
 200 because of an educational institution's failure to correct an
 201 ~~any~~ error or omission that ~~of which~~ the department failed to
 202 provide notice of to ~~does not notify~~ the institution within the
 203 30-day notice period under paragraph (a). The educational
 204 institution may request a hearing on the notice of intent to
 205 deny the program application pursuant to chapter 120.

206 (c) A program application is deemed approved if the board
 207 does not act within the 90-day review period provided under
 208 paragraph (b).

209 (d) Upon the board's approval of a program application,
 210 the program becomes an approved program.

211 ~~(3) STATUS OF CERTAIN PROGRAMS. A professional or~~
 212 ~~practical nursing education program becomes an approved program~~
 213 ~~if, as of June 30, 2009, the program:~~

214 ~~(a) Has full or provisional approval from the board or,~~
 215 ~~except as provided in paragraph (b), is on probationary status.~~

216 ~~(b) Is on probationary status because the program did not~~
 217 ~~meet the board's requirement for graduate passage rates. Such~~
 218 ~~program shall remain on probationary status until it achieves a~~
 219 ~~graduate passage rate for calendar year 2009 or 2010 that equals~~
 220 ~~or exceeds the required passage rate for the respective calendar~~
 221 ~~year and must disclose its probationary status in writing to the~~
 222 ~~program's students and applicants. If the program does not~~
 223 ~~achieve the required passage rate, the board shall terminate the~~
 224 ~~program pursuant to chapter 120.~~

225 (3)(4) ANNUAL REPORT.—By November 1 of each year, each
 226 approved program shall submit to the board an annual report
 227 comprised of an affidavit certifying continued compliance with
 228 subsection (1) paragraphs (1)(a)-(g), a summary description of
 229 the program's compliance with subsection (1) paragraphs (1)(a)-
 230 (g), and documentation for the previous academic year that, to
 231 the extent applicable, describes sets forth:

232 (a) The number of student applications received, qualified
 233 applicants, applicants accepted, accepted applicants who enroll
 234 in the program, students enrolled in the program, and program

235 graduates.

236 (b) The program's retention rates for students tracked
237 from program entry to graduation.

238 (c) The program's accreditation status, including
239 identification of the accrediting agency ~~if such agency is not~~
240 ~~an accrediting agency described in s. 464.003(1)~~.

241 ~~(4) (5)~~ INTERNET WEBSITE. ~~By October 1, 2010,~~ The board
242 shall publish the following information on its Internet website:

243 (a) A list of each accredited program conducted in the
244 state and the program's graduate passage rates for the most
245 recent 2 calendar years, which the department shall determine
246 through the following sources:

247 1. For a program's accreditation status, the specialized
248 accrediting agencies that are nationally recognized by the
249 United States Secretary of Education to accredit nursing
250 education programs.

251 2. For a program's graduate passage rates, the contract
252 testing service of the National Council of State Boards of
253 Nursing.

254 (b) The following data for each approved program, which
255 includes ~~shall include~~, to the extent applicable:

256 1. All documentation provided by the program in its
257 program application if submitted on or after July 1, 2009.

258 2. The summary description of the program's compliance
259 submitted under subsection (3) ~~(4)~~.

260 3. The program's accreditation status, including

261 identification of the accrediting agency ~~if such agency is not~~
 262 ~~an accrediting agency described in s. 464.003(1).~~

263 4. The program's probationary status.

264 5. The program's graduate passage rates for the most
 265 recent 2 calendar years.

266 6. Each program's retention rates for students tracked
 267 from program entry to graduation.

268 (c) The average passage rates for United States educated
 269 first-time test takers on the National Council of State Boards
 270 of Nursing Licensing Examination for the most recent 2 calendar
 271 years, as calculated by the contract testing service of the
 272 National Council of State Boards of Nursing. The average passage
 273 rates shall be published separately for each type of comparable
 274 degree program listed in subparagraph (5)(a)1. ~~sub-subparagraphs~~
 275 ~~(6)(a)1.a.-d.~~

276
 277 The information required to be published under this subsection
 278 shall be made available in a manner that allows interactive
 279 searches and comparisons of individual programs selected by the
 280 website user. The board shall update the Internet website at
 281 least quarterly with the available information.

282 (5)(6) ACCOUNTABILITY.—

283 (a)1. An approved program must achieve a graduate passage
 284 rate for first-time test takers who take the licensure
 285 examination within 6 months after graduation from the program
 286 that is not more lower than 10 percentage points lower less than

287 the average passage rate during the same calendar year for
 288 graduates of comparable degree programs who are United States
 289 educated, first-time test takers on the National Council of
 290 State Boards of Nursing Licensing Examination ~~during a calendar~~
 291 ~~year~~, as calculated by the contract testing service of the
 292 National Council of State Boards of Nursing. An approved program
 293 shall require a graduate from the program who does not take the
 294 licensure examination within 6 months after graduation to enroll
 295 in and successfully complete a licensure examination preparatory
 296 course pursuant to s. 464.008. For purposes of this
 297 subparagraph, an approved program is comparable to all degree
 298 programs of the same program type from among the following
 299 program types:

- 300 a. Professional nursing education programs that terminate
- 301 in a bachelor's degree.
- 302 b. Professional nursing education programs that terminate
- 303 in an associate degree.
- 304 c. Professional nursing education programs that terminate
- 305 in a diploma.
- 306 d. Practical nursing education programs.

307 2. Beginning with graduate passage rates for calendar year
 308 2010, if an approved program's graduate passage rates do not
 309 equal or exceed the required passage rates for 2 consecutive
 310 calendar years, the board shall place the program on
 311 probationary status pursuant to chapter 120 and the program
 312 director shall ~~must~~ appear before the board to present a plan

313 for remediation, which shall include specific benchmarks to
 314 identify progress toward a graduate passage rate goal. The
 315 program must ~~shall~~ remain on probationary status until it
 316 achieves a graduate passage rate that equals or exceeds the
 317 required passage rate for any 1 calendar year. The board shall
 318 deny a program application for a new prelicensure nursing
 319 education program submitted by an educational institution if the
 320 institution has an existing program that is already on
 321 probationary status.

322 3. Upon the program's achievement of a graduate passage
 323 rate that equals or exceeds the required passage rate, the
 324 board, at its next regularly scheduled meeting following release
 325 of the program's graduate passage rate by the National Council
 326 of State Boards of Nursing, shall remove the program's
 327 probationary status. ~~However,~~ If the program, during the 2
 328 calendar years following its placement on probationary status,
 329 does not achieve the required passage rate for any 1 calendar
 330 year, the board shall terminate the program pursuant to chapter
 331 120. However, the board may extend the program's probationary
 332 status for 1 additional year if the program demonstrates
 333 adequate progress toward the graduate passage rate goal by
 334 meeting a majority of the benchmarks established in the
 335 remediation plan.

336 (b) If an approved program fails to submit the annual
 337 report required in subsection (3) ~~(4)~~, the board shall notify
 338 the program director and president or chief executive officer of

339 the educational institution in writing within 15 days after the
 340 due date of the annual report. The program director shall ~~must~~
 341 appear before the board at the board's next regularly scheduled
 342 meeting to explain the reason for the delay. The board shall
 343 terminate the program pursuant to chapter 120 if it does not
 344 submit the annual report within 6 months after the due date.

345 (c) An approved program on probationary status shall
 346 disclose its probationary status in writing to the program's
 347 students and applicants.

348 ~~(6)(7)~~ DISCLOSURE OF GRADUATE PASSAGE RATE DATA.—

349 (a) For each graduate of the program ~~an approved program's~~
 350 ~~or accredited program's graduates~~ included in the calculation of
 351 the program's graduate passage rate, the department shall
 352 disclose to the program director, upon his or her written
 353 request, the name, examination date, and determination of
 354 whether each graduate passed or failed the National Council of
 355 ~~for~~ State Boards of Nursing Licensing Examination, if to the
 356 ~~extent that~~ such information is provided to the department by
 357 the contract testing service of the National Council of ~~for~~
 358 State Boards of Nursing. The written request must specify the
 359 calendar years for which the information is requested.

360 (b) A program director to whom confidential information
 361 exempt from public disclosure pursuant to s. 456.014 is
 362 disclosed under this subsection must maintain the
 363 confidentiality of the information and is subject to the same
 364 penalties provided in s. 456.082 for department employees who

365 | unlawfully disclose confidential information.

366 | ~~(7)(8)~~ PROGRAM CLOSURE.—

367 | (a) An educational institution conducting an approved
 368 | program or accredited program in this state, at least 30 days
 369 | before voluntarily closing the program, shall notify the board
 370 | in writing of the institution's reason for closing the program,
 371 | the intended closure date, the institution's plan to provide for
 372 | or assist in the completion of training by the program's
 373 | students, and the arrangements for storage of the program's
 374 | permanent records.

375 | (b) An educational institution conducting a nursing
 376 | education program that is terminated under subsection (5) ~~(6)~~ or
 377 | closed under subparagraph (9)(b)3. ~~(10)(b)3.~~:

378 | 1. May not accept or enroll new students.

379 | 2. Shall ~~Must~~ submit to the board within 30 days after the
 380 | program is terminated or closed a written description of how the
 381 | institution will assist in completing the ~~completion of~~ training
 382 | of ~~by~~ the program's students and the institution's arrangements
 383 | for storage of the program's permanent records.

384 | (c) If an educational institution does not comply with
 385 | paragraph (a) or paragraph (b), the board shall provide a
 386 | written notice explaining the institution's noncompliance to the
 387 | following persons and entities:

388 | 1. The president or chief executive officer of the
 389 | educational institution.

390 | 2. The Board of Governors, if the program is conducted by

391 a state university.

392 3. The district school board, if the program is conducted
393 by an educational institution operated by a school district.

394 4. The Commission for Independent Education, if the
395 program is conducted by an educational institution licensed
396 under chapter 1005.

397 5. The State Board of Education, if the program is
398 conducted by an educational institution in the Florida College
399 System or by an educational institution that is not subject to
400 subparagraphs 2.-4.

401 ~~(8)(9)~~ RULEMAKING.—The board does not have ~~any~~ rulemaking
402 authority to administer this section, except that the board
403 shall adopt rules ~~a rule~~ that prescribe ~~prescribes~~ the format
404 for submitting program applications under subsection (1) and
405 annual reports under subsection (3), and to administer the
406 documentation of the accreditation of nursing education programs
407 under subsection (11) ~~(4)~~. The board may not impose any
408 condition or requirement on an educational institution
409 submitting a program application, an approved program, or an
410 accredited program, except as expressly provided in this
411 section. ~~The board shall repeal all rules, or portions thereof,~~
412 ~~in existence on July 1, 2009, that are inconsistent with this~~
413 ~~subsection.~~

414 ~~(9)(10)~~ APPLICABILITY TO ACCREDITED PROGRAMS.—

415 (a) Subsections (1)-(3) ~~(1)-(4)~~, paragraph (4)(b) ~~(5)(b)~~,
416 and subsection (5) ~~(6)~~ do not apply to an accredited program. ~~An~~

417 ~~accredited program on probationary status before July 1, 2010,~~
 418 ~~ceases to be subject to the probationary status.~~

419 (b) If an accredited program ceases to be accredited, the
 420 educational institution conducting the program:

421 1. Within 10 business days after the program ceases to be
 422 accredited, must provide written notice of the date that the
 423 program ceased to be accredited to the board, the program's
 424 students and applicants, and each entity providing clinical
 425 training sites or community-based clinical experience sites for
 426 the program. The educational institution must continue to
 427 provide the written notice to new students, applicants, and
 428 entities providing clinical training sites or community-based
 429 clinical experience sites for the program until the program
 430 becomes an approved program or is closed under subparagraph 3.

431 2. Within 30 days after the program ceases to be
 432 accredited, must submit an affidavit to the board, signed by the
 433 educational institution's president or chief executive officer
 434 which, ~~that~~ certifies the institution's compliance with
 435 subparagraph 1. The board shall notify the persons and
 436 applicable entities listed in paragraph (7)(c) subparagraph
 437 ~~(8)(c)1. and the applicable entities listed in subparagraphs~~
 438 ~~(8)(c)2.-5.~~ if an educational institution does not submit the
 439 affidavit required by this subparagraph.

440 3. May apply to become an approved program under this
 441 section. If the educational institution:

442 a. Within 30 days after the program ceases to be

443 accredited, submits a program application and review fee to the
 444 department under subsection (1) and the affidavit required under
 445 subparagraph 2., the program shall be deemed an approved program
 446 from the date that the program ceased to be accredited until the
 447 date that the board approves or denies the program application.
 448 The program application must be denied by the board pursuant to
 449 chapter 120 if it does not contain the affidavit. If the board
 450 denies the program application under subsection (2) or if
 451 ~~because~~ the program application does not contain the affidavit,
 452 the program shall be closed and the educational institution
 453 conducting the program must comply with paragraph (7) (b) ~~(8) (b)~~.

454 b. Does not apply to become an approved program pursuant
 455 to sub-subparagraph a., the program shall be deemed an approved
 456 program from the date ~~that~~ the program ceased to be accredited
 457 until the 31st day after that date. On the 31st day after the
 458 program ceased to be accredited, the program shall be closed and
 459 the educational institution conducting the program must comply
 460 with paragraph (7) (b) ~~(8) (b)~~.

461 (10) (11) IMPLEMENTATION STUDY.—The Florida Center for
 462 Nursing and the education policy area of the Office of Program
 463 Policy Analysis and Government Accountability shall study the ~~5-~~
 464 ~~year~~ administration of this section and submit reports to the
 465 Governor, the President of the Senate, and the Speaker of the
 466 House of Representatives annually by January 30, ~~2011, and~~
 467 ~~annually thereafter~~ through January 30, 2020 ~~2015~~. The annual
 468 reports shall address the previous academic year; provide set

469 ~~forth~~ data on the measures specified in paragraphs (a) and (b),
 470 as such data becomes available; and include an evaluation of
 471 such data for purposes of determining whether this section is
 472 increasing the availability of nursing education programs and
 473 the production of quality nurses. The department and each
 474 approved program or accredited program shall comply with
 475 requests for data from the Florida Center for Nursing and the
 476 education policy area of the Office of Program Policy Analysis
 477 and Government Accountability.

478 (a) The education policy area of the Office of Program
 479 Policy Analysis and Government Accountability shall evaluate
 480 program-specific data for each approved program and accredited
 481 program conducted in the state, including, but not limited to:

482 1. The number of programs and student slots available.

483 2. The number of student applications submitted, the
 484 number of qualified applicants, and the number of students
 485 accepted.

486 3. The number of program graduates.

487 4. Program retention rates of students tracked from
 488 program entry to graduation.

489 5. Graduate passage rates on the National Council of State
 490 Boards of Nursing Licensing Examination.

491 6. The number of graduates who become employed as
 492 practical or professional nurses in the state.

493 (b) The Florida Center for Nursing shall evaluate the
 494 board's implementation of the:

495 1. Program application approval process, including, but
 496 not limited to, the number of program applications submitted
 497 under subsection (1); the number of program applications
 498 approved and denied by the board under subsection (2); the
 499 number of denials of program applications reviewed under chapter
 500 120; and a description of the outcomes of those reviews.

501 2. Accountability processes, including, but not limited
 502 to, the number of programs on probationary status, the number of
 503 approved programs for which the program director is required to
 504 appear before the board under subsection (5) ~~(6)~~, the number of
 505 approved programs terminated by the board, the number of
 506 terminations reviewed under chapter 120, and a description of
 507 the outcomes of those reviews.

508 (c) For any state fiscal year in which the Florida Center
 509 for Nursing does not receive legislative appropriations, the
 510 education policy area of the Office of Program Policy Analysis
 511 and Government Accountability shall perform the duties assigned
 512 by this subsection to the Florida Center for Nursing.

513 (11) ACCREDITATION REQUIRED.-

514 (a) A nursing education program that prepares students for
 515 the practice of professional nursing, that was approved under
 516 this section before July 1, 2014, and that enrolled students
 517 before July 1, 2014, must become an accredited program by July
 518 1, 2019.

519 (b) A nursing education program that prepares students for
 520 the practice of professional nursing and that was approved under

521 this section before July 1, 2014, but did not enroll students
 522 before that date, must become an accredited program within 5
 523 years after the date of enrolling the program's first students.

524 (c) A nursing education program that prepares students for
 525 the practice of professional nursing and that is approved under
 526 this section after June 30, 2014, must become an accredited
 527 program within 5 years after the date of enrolling the program's
 528 first students.

529 (d) This subsection does not apply to a nursing education
 530 program provided by an institution that is exempt from licensure
 531 by the Commission for Independent Education under s.
 532 1005.06(1)(e).

533 Section 5. Subsection (1) of section 456.014, Florida
 534 Statutes, is amended to read:

535 456.014 Public inspection of information required from
 536 applicants; exceptions; examination hearing.—

537 (1) All information required by the department of any
 538 applicant shall be a public record and shall be open to public
 539 inspection pursuant to s. 119.07, except financial information,
 540 medical information, school transcripts, examination questions,
 541 answers, papers, grades, and grading keys, which are
 542 confidential and exempt from s. 119.07(1) and shall not be
 543 discussed with or made accessible to anyone except the program
 544 director of an approved program or accredited program as
 545 provided in s. 464.019(6) ~~464.019(7)~~, members of the board, the
 546 department, and staff thereof, who have a bona fide need to know

547 such information. Any information supplied to the department by
548 any other agency which is exempt from the provisions of chapter
549 119 or is confidential shall remain exempt or confidential
550 pursuant to applicable law while in the custody of the
551 department or the agency.

552 Section 6. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1059 Nursing Education Programs
SPONSOR(S): Education Appropriations Subcommittee, Select Committee on Health Care Workforce Innovation; Pigman
TIED BILLS: IDEN./SIM. BILLS: SB 1036

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Health Care Workforce Innovation	16 Y, 0 N, As CS	Dunn	Calamas
2) Education Appropriations Subcommittee	13 Y, 0 N, As CS	Garner	Heflin
3) Education Committee		Thomas	Mizereck

SUMMARY ANALYSIS

In 2009, the Legislature determined that the state had a growing nursing workforce shortage and that there was an insufficient number of nursing programs in the state due to strict program requirements established by the Board of Nursing. That year, the Legislature reformed regulation of nursing programs by removing the Board of Nursing's discretion and rulemaking authority related to approving such programs. Instead, the Legislature codified the requirements for becoming an approved program. The law also included an accountability mechanism that required unaccredited programs to be placed on probation for having two consecutive years of national exam passage rates 10 percentage points or more below the national average.

The bill restricts the accountability measure of exam passage rates to only first-time test takers who take the exam within six months of graduation and requires students who wait to take the exam to successfully complete a licensure examination preparatory course. The bill also requires the director of a program being placed on probation to include benchmarks in the statutorily required remediation plan presented to the Board of Nursing. It allows the Board to grant an extension of probationary status for one year if the program achieves a majority of the benchmarks and demonstrates progress toward the success rate.

To hold nursing programs more accountable, this bill amends the Florida Nurse Practice Act to require nursing education programs that prepare students to be registered nurses (RNs) to be accredited by a nationally recognized nursing accrediting agency. The bill requires RN nursing education programs to obtain program accreditation by July 19, 2019 or within 5 years after the date of enrollment of the program's first students.

The bill authorizes the Board of Nursing to adopt rules relating to documenting the accreditation of nursing education programs. The bill requires the education policy area of OPPAGA to continue submitting annual implementation reports through January 30, 2020.

The bill revises the definition of "clinical training" to include clinical simulation and increases the authorized amount of clinical simulation training from 25 percent to 50 percent. The bill requires the clinical training portion of a nursing major curriculum to occur in the United States, the District of Columbia, or a possession or territory of the United States. The bill revises the definition of "practical nursing" to include teaching of general principles of health and wellness to the public and to students other than nursing students. The bill exempts nurses with specialty health care certification from continuing education required at biennial license renewal.

The bill has an insignificant negative fiscal impact on eight public college programs that have not yet applied for program accreditation and will be required to do so. The bill has no fiscal impact on local governments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Nursing Licensure

The Nurse Practice Act, chapter 464, F.S., governs the licensure and regulation of nurses in Florida. The Department of Health (DOH) is the licensing agency for nurses, and the Board of Nursing (BON) is the regulatory authority. The BON is comprised of 13 members appointed by the Governor and confirmed by the Senate.¹

Applicants may apply to the DOH to be licensed as a registered nurse (RN) or a licensed practical nurse (LPN). RNs are licensed to practice "professional nursing;" whereas, LPNs are licensed to practice "practical nursing."² After graduating from a BON approved nursing program or equivalent, applicants must submit an application, pay a fee, submit information for a criminal background check, and pass a licensure exam.³ For the exam requirement, the DOH uses the National Council Licensure Examination (NCLEX), developed by the National Council of State Boards of Nursing.

License renewal is required biennially.⁴ Each renewal period, an RN must document completion of one hour of continuing education for each calendar month of the licensure cycle.⁵ As part of the total hours required, all licensees must complete a two-hour course on the prevention of medical errors.⁶ Beginning with the biennium ending in 2015, each licensee shall complete a two hour course on the laws and rules that govern the practice of nursing in Florida.⁷

Nurse Specialty Certification

Specialty certification is a process by which a nongovernmental agency validates, based upon predetermined standards, an individual nurse's qualifications for practice in a defined functional or clinical area of nursing.⁸ Certifications are intended to raise nursing standards and are earned through an assessment process.⁹

Periodic recertification is required in order to maintain a specialty certification. Recertification typically requires proof of a designated number of clinic hours in the specialty practice, testing, professional competency (continuing education), or some combination of the three.¹⁰

¹ Section 464.004, F.S. Board membership consists of seven registered nurses, three licensed practical nurses, and three lay persons without any connection to a health care facility. *Id.*

² Section 464.003, F.S. "Practice of professional nursing" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences. *Id.* "Practice of practical nursing" means the performance of selected acts and being responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing. *Id.*

³ Section 464.008, F.S. The state also has a licensure by endorsement provision for nurses currently licensed and practicing in another state. Section 464.009, F.S.

⁴ Section 464.013, F.S.

⁵ Fla. Admin. Code Ann. r. 64B9-5.002 (2014).

⁶ Fla. Admin. Code Ann. r. 64B9-5.011.

⁷ Fla. Admin. Code Ann. r. 64B9-5.013.

⁸ American Association of Critical-Care Nurses, *What is Nurse Certification?*, available at <http://www.aacn.org/wd/certifications/content/consumer-whatiscert.pcms?menu=certification> (last visited Mar. 12, 2014).

⁹ *Id.*

¹⁰ See, e.g., American Nurses Credentialing Center, *2014 Certification Renewal Requirements*, available at <http://www.nursecredentialing.org/RenewalRequirements.aspx> (last visited Mar. 12, 2014).

The National Commission for Certifying Agencies accredits sixteen nursing certification programs, for example the American Nurses Credentialing Center.¹¹ The individual certification programs offer specialty certification in a wide range of areas, such as acute care, ambulatory care, and clinical care.¹²

In Florida, RNs are not required to obtain specialty certification.¹³ Nurses may voluntarily seek certification, or certification may be required by an employer.

Nursing Education Programs

Nursing programs in Florida are offered by: public school district workforce education programs, Florida colleges, state universities, private institutions licensed by the Commission for Independent Education, private institutions that are members of the Independent Colleges and Universities of Florida (ICUF), and Pensacola Christian College, which is statutorily authorized by s. 1005.06(1)(e), F.S.¹⁴

A nursing education program is considered an accredited program if the program is accredited by a specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education to accredit nursing education programs.¹⁵ A program that is approved by the BON that is not accredited is considered an approved program.¹⁶ Chapter 464, F.S., recognizes and distinguishes between approved programs and accredited programs.

Approved Programs

An educational institution may apply to the DOH to become an approved nursing program. The DOH reviews the applications for completeness. An application to become an approved program must document compliance with the following program standards: faculty qualifications, clinical training requirements, faculty-to-student ratios, signed agreements with clinical training sites in the curriculum plan, and curriculum and instruction requirements.¹⁷

Applications deemed complete are forwarded to the BON for approval. Within 90 days of receipt of the application from the DOH, the BON must approve the application or notify the applicant of the intent to deny the application. If noticed of the intent to deny, the applicant may request a hearing under chapter 120, F.S.¹⁸

An approved program's curriculum must consist of at least 50 percent clinical training for an associate's degree RN program or at least 40 percent clinical training for a bachelor's degree RN program.¹⁹ No more than 25 percent of an approved program's clinical training may consist of clinical simulation.²⁰

¹¹ Institute for Credentialing Excellence, *NCCA-Accredited Certification Programs*, available at <http://www.credentialingexcellence.org/p/cm/ld/fid=121> (last visited Mar. 12, 2014).

¹² *Id.*

¹³ Advanced Registered Nurse Practitioners are a special category of registered nurses. The Nurse Practice Act requires specialty certification in order to practice as an Advanced Registered Nurse Practitioner. See s. 464.012, F.S.

¹⁴ This section of law exempts schools from the Commission for Independent Education's licensure requirements if the institution: had been so exempted prior to 2001; is incorporated in this state; the institution's credits or degrees are accepted for credit by at least three colleges that are fully accredited by an agency recognized by the U.S. Department of Education; the institution was exempt under that category prior to July 1, 1982; and the institution does not enroll any students who receive state or federal financial aid. Section 1005.06(1)(e), F.S. Only two institutions in Florida, Pensacola Christian College and Landmark Baptist College, are subject to this exemption. Landmark Baptist College does not offer a nursing program.

¹⁵ Section 464.003(1), F.S.

¹⁶ *Id.*

¹⁷ Section 464.019(1), F.S.

¹⁸ Section 464.019(2), F.S.

¹⁹ Section 464.019(1)(b), F.S.

²⁰ Section 464.019(1)(c), F.S.

Approved programs must submit an annual report by November 1 of each year to the BON. The report must document enrollment, student retention rates, and accreditation status. The BON must publish on its website an approved program's graduate NCLEX passage rate, student retention rates, probationary status, accreditation status, and application documentation.

Approved programs are subject to an accountability provision. Approved programs that have two consecutive years of national exam passage rates 10 percentage points or more below the national average are placed on probation by the BON. If a program on probation does not achieve the required passage rate for any one calendar year during the two calendar years following its placement on probation, the BON must terminate the program.²¹

Accredited Programs

Because accredited programs have to meet stringent criteria to maintain program accreditation, the following statutory requirements for approved programs are not applicable to accredited programs:²²

- Documenting with the DOH compliance with faculty qualifications, clinical training requirements, faculty-to-student ratios, signed agreements with clinical training sites in the curriculum plan, and curriculum and instruction requirements;
- Clinical training minimums;
- Clinical simulation limitations;
- Annual reports to the BON;
- Publication of the accredited program's application documentation and student retention rates on the BON website; and
- Probation for NCLEX passage rates 10 percentage points below the national average.

Accredited program's accreditation status and graduate NCLEX passage rates must be published on the BON website.

Clinical Simulation

Clinical simulation is the practice of recreating a clinical scenario in an artificial setting. Simulation training allows deliberate practice in a controlled environment and allows students to practice a procedure prior to performance on a live patient. Advances in technology have created the opportunity for clinical simulation to be used as a substitute for actual clinical experience. The ability to substitute clinical simulation for clinical training is useful for nursing programs dealing with a limited number of clinical sites or clinical sites that have inadequate learning opportunities.²³ Advantages of clinical simulation include:²⁴

- No direct risk to patients;
- The opportunity for repetitive practice;
- Team training;
- Standardized curriculums;
- Reflective learning by facilitated debriefing of scenarios and video feedback; and
- The potential to decrease the number and effect of errors through crisis resource management training.

²¹ Section 464.019(6), F.S.

²² Section 464.019(10), F.S.

²³ Frank D. Hicks et al., *The Effect of High-Fidelity Simulation on Nursing Students' Knowledge and Performance: A Pilot Study*, 1, (2009), available at https://www.ncsbn.org/09_SimulationStudy_Vol40_web_with_cover.pdf (last visited Mar. 12, 2014).

²⁴ *Id.* at 1-2.

A disadvantage to clinical simulation is difficulty in replicating reality. Equipment is often unable to imitate actual physiological signs or symptoms. An artificial environment with mannequins and standardized patients has the potential to eliminate emotional stress that would be present in a real situation. Trainee perception of the simulation may cause students to react differently due to the lack of consequences on patient safety.²⁵

The body of literature on the effectiveness of clinical simulation is growing. A recent review of studies published between 1999 and January 2009, found that medium and/or high fidelity simulation using mannequins is an effective teaching and learning method when best practice guidelines are used.²⁶

Competition for clinical training spots in Florida has increased significantly.²⁷ A recent Miami Herald article reported that some nursing programs have begun paying for access to hospitals for clinical training slots for students.²⁸ On-site clinical training is limited by the number of available sites and the hours the sites are available, which makes training through clinical simulation a valuable alternative.

Nursing Education Program Reform

Prior to 2009, the BON had additional statutory authority over nursing program approval, including the ability to adopt rules related to educational objectives, faculty qualifications, curriculum guidelines, administrative procedures, and clinical training.²⁹

However, in 2009, the Florida Legislature recognized that the state had a nursing shortage and that the shortage was projected to grow significantly. In 2007, demand for RNs exceeded supply by 10,850 RNs.³⁰ The Florida Center for Nursing predicted a statewide RN shortage of 52,209 nurses by 2020.³¹ The Legislature identified a shortage of available seats in nursing programs for qualified applicants. For academic year 2007-2008, over 12,500 qualified applicants in Florida were turned away because schools were at capacity, and 68 percent of qualified RN applicants were turned away.³²

To address the issue of program seat capacity, the 2009 Legislature codified the requirements for becoming an approved nursing program, removing the discretion and rulemaking authority from the BON.³³ The new law removed BON oversight of faculty requirements, student to faculty ratios, clinical training and clinical simulation requirements, and curriculum and instruction requirements. The law added transparency provisions and a measure to hold programs accountable via NCLEX passage rates.

The new law increased transparency by requiring nursing programs to submit an annual report to the BON, which the BON was required to use to publish program data to its website. The BON was

²⁵ *Id.* at 2-3.

²⁶ Robyn P. Cant & Simon J. Cooper, *Simulation-based Learning in Nurse Education: Systematic Review*, 66 J. ADVANCED NURSING 3, 3 (2009). See Denise Ellis et al., *Hospital, Simulation Center, and Teamwork Training for Eclampsia Management: A Randomized Controlled Trial*, 111 OBSTETRICS AND GYNECOLOGY 723, 723 (2008), for recent study of 132 students finding revealing no differences in clinical versus simulated training. *But cf.* Frank D. Hicks et al., *supra* note 21 (finding inconclusive results, with clinical students and simulation students having different strengths and weaknesses).

²⁷ Michael Vasquez, *Trend of Pay-to-play Medical Training Worries Critics*, March 8, 2014, available at <http://www.miamiherald.com/2014/03/08/3983064/trend-of-pay-to-play-medical-training.html> (last visited Mar. 12, 2014).

²⁸ *Id.*

²⁹ Florida House of Representatives, Government Accountability Act Council, 2009 Legislative Bill Analysis at 5, CS/CS/HB 1209, April 2, 2009, on file with committee staff.

³⁰ Florida Center for Nursing, *Forecasting Supply, Demand, and Shortage of RNs and LPNs in Florida, 2007-2020*, 6 (July 2008), available at http://www.flcenterfornursing.org/DigitalLibrary.aspx?Command=Core_Download&EntryId=193 (last viewed March 13, 2014)

³¹ *Id.* at 6.

³² Florida Center for Nursing, *2008 Nursing Education Program Annual Report and Workforce Survey*, 16 (January 2009), available at http://www.flcenterfornursing.org/DigitalLibrary.aspx?Command=Core_Download&EntryId=8 (last viewed March 13, 2014).

³³ Ch. 2009-168, Laws of Fla.

required to publish new programs' applications; program accreditation status, including the accrediting agency; program probationary status; each program's NCLEX passage rate; program's student retention rates; and the national average passage rate for the NCLEX.

The legislation also included an accountability mechanism. Programs without programmatic accreditation that have two consecutive years of national exam passage rates 10 percentage points or more below the national average are placed on probation by the BON.³⁴ If a program on probation does not achieve the required passage rate for any one calendar year during the two calendar years following its placement on probation, the BON must terminate the program.³⁵

The Legislature charged the Office of Program Policy Analysis and Government Accountability (OPPAGA) with conducting a five-year implementation study of the effects of the 2009 changes.³⁶ OPPAGA issued a report in 2014, which found that the changes to the nursing program approval process led to rapid increases in the number of approved programs and available seats for students. Since 2009, 231 new programs have been approved, and over 29,500 seats have been added.³⁷ From academic years 2008-2009 to 2012-2013, the number of graduating students increased by 30 percent.³⁸ However, most of the programs approved after 2009 had poor passage rates on the NCLEX. Of the programs approved since 2009, 73 percent had exam passage rates 10 percent below the national average passing rate.³⁹

Nursing Education Program Accreditation

Accreditation is a voluntary process by which a non-governmental entity reviews and recognizes educational institutions or programs that meet or exceed standards for educational quality.⁴⁰ Accreditation is designed to distinguish schools adhering to a set of educational standards.⁴¹ Nursing programs in Florida fall into one of the following accreditation categories:

- Programmatic accreditation;
- Broader institutional accreditation;
- Both programmatic accreditation and institutional accreditation; and
- Neither the program nor the institution is accredited.

The process for obtaining accreditation generally requires the following: an application, fees, a self-evaluation report, a peer review site visit, and a detailed analysis of materials and reviewer findings. Once accreditation is obtained, programs are subject to ongoing review, periodic site visits, and continuing accreditation fees.⁴²

The United States Secretary of Education recognizes two accrediting agencies for nursing program accreditation, the Accreditation Commission for Education in Nursing (ACEN) and the Commission on Collegiate Nursing Education (CCNE).⁴³ Obtaining initial accreditation is an involved process. CCNE

³⁴ Accredited programs are exempt from the accountability provision. Section 464.019(10), F.S.

³⁵ Section 464.019(6), F.S.

³⁶ Office of Program Policy and Government Accountability, Florida Legislature, *Florida's Nursing Education Programs Continued to Expand in 2013, While Licensure Exams Passage Rates of New Programs Declined*, Report No. 14-03 at 1, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1403rpt.pdf> (last visited Mar. 12, 2014).

³⁷ *Id.* at 3-4. Only 112 of the newly approved programs had graduates take the 2013 NCLEX. *Id.* at 7.

³⁸ *Id.* at 6.

³⁹ *Id.* at 7.

⁴⁰ Accreditation Commission for Education in Nursing, *Accreditation Manual*, 1, (July 31, 2013), available at <http://www.acenursing.net/manuals/GeneralInformation.pdf> (last visited Mar. 12, 2014).

⁴¹ AdvancedEd, *What Is Accreditation?*, available at <http://www.advanc-ed.org/what-accreditation> (last visited Mar. 12, 2014).

⁴² Accreditation Commission for Education in Nursing, *Accreditation Manual*, *supra* note 38 at 13.

⁴³ United States Department of Education, *Specialized Accrediting Agencies*, https://www2.ed.gov/admins/finaid/accred/accreditation_pg7.html (last visited Mar. 12, 2014).

requires nursing programs to have students enrolled at least one year before applying.⁴⁴ Both ACEN and CCNE require programs to complete the accreditation process within two years.⁴⁵ CCNE requires that the institution be accredited by an institutional accrediting agency recognized by the U.S. Secretary of Education.⁴⁶

CCNE charges the following fees:⁴⁷

- \$3,500 new applicant fee per program;
- \$1,750 evaluation fee per evaluation team member (typically, 3 - 5 members); and
- \$2,468 annual fee to maintain accreditation.

ACEN charges the following fees:

- \$2,500 candidacy fee;
- \$1,000 review fee for initial or continuing accreditation (per program); and
- \$835 site visit fee per evaluator per day.

Institutional accreditation applies to the entire institution and is not program specific. For example, the Southern Association of Colleges and Schools Council on Accreditation and School Improvement accredits almost seventy institutions that provide nursing programs, including all of the schools in the Florida university system.⁴⁸ At present, all schools that have nursing program accreditation also have institutional accreditation. However, not all schools with institutional accreditation have nursing program accreditation. Fifty-six nursing programs with only institutional accreditation had students take the 2013 NCLEX.⁴⁹

There currently is no requirement to be accredited in order to become an approved nursing program. In 2013, eleven schools with neither nursing program accreditation nor institutional accreditation had students take the 2013 NCLEX.⁵⁰

2013 RN Education Programs National Exam Results by Accreditation Type

The charts below show by accreditation type the number of RN nursing programs that exceeded the NCLEX national average passage rate for first time test takers in 2013. The charts also illustrate the number of programs that were within or below 10 percent of the national passage rate.⁵¹

⁴⁴ Commission on Collegiate Nursing Education, *Procedures for Accreditation of Baccalaureate and Graduate Degree Nursing Programs* at 7 (April 28, 2012), available at <http://www.aacn.nche.edu/ccne-accreditation/procedures.pdf> (last visited Mar. 12, 2014).

⁴⁵ *Id.* at 6. Accreditation Commission for Education in Nursing, *Accreditation Manual*, *supra* note 38 at 13.

⁴⁶ Commission on Collegiate Nursing Education, *Baccalaureate & Graduate Nursing Programs*, available at <http://www.aacn.nche.edu/ccne-accreditation/new-applicant-process/baccalaureate-graduate> (last visited Mar. 20, 2014).

⁴⁷ Commission on Collegiate Nursing Education, *CCNE Fee Structure Nursing Education Programs*, available at <http://www.aacn.nche.edu/ccne-accreditation/FEESTR.pdf> (last visited Mar. 12, 2014).

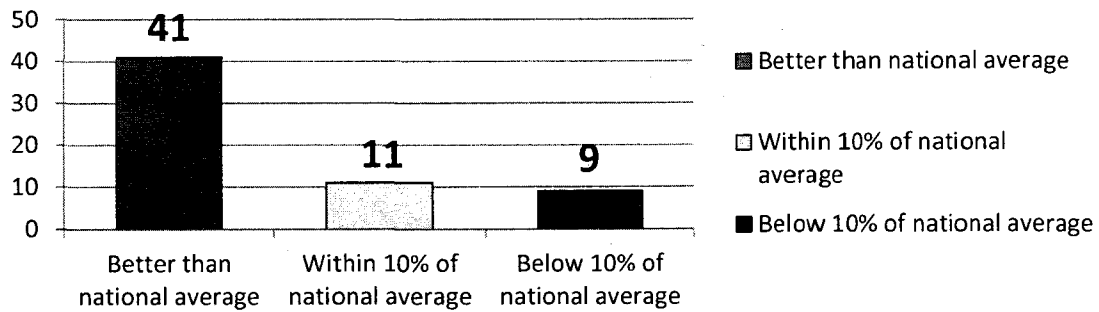
⁴⁸ Data retrieved from Florida Department of Health, *Compare Florida Prelicensure Nursing Education Programs*, available at <http://ww2.doh.state.fl.us/MQANEP/PC/SearchCriteria.aspx> (last visited Mar. 12, 2014).

⁴⁹ *Id.*

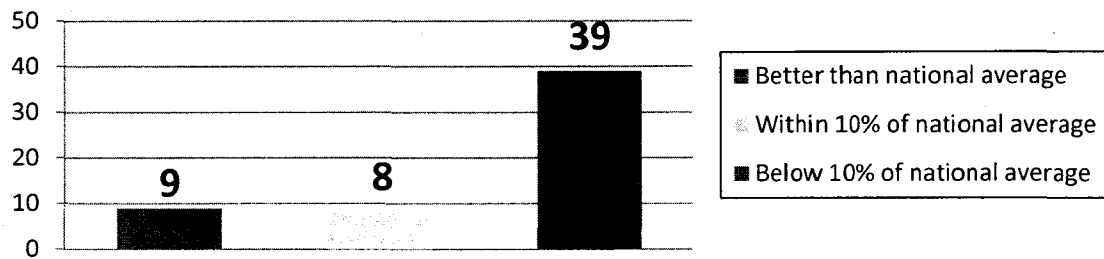
⁵⁰ *Id.*

⁵¹ Charts created from data available from the DOH and the 2013 nursing education OPPAGA report. See Florida Department of Health, *Compare Florida Prelicensure Nursing Education Programs*, *supra* note 46; Office of Program Policy and Government Accountability, Florida Legislature, *Florida's Nursing Education Programs Continued to Expand in 2013, While Licensure Exams Passage Rates of New Programs Declined*, *supra* note 34. Charts only include schools with more than one test taker.

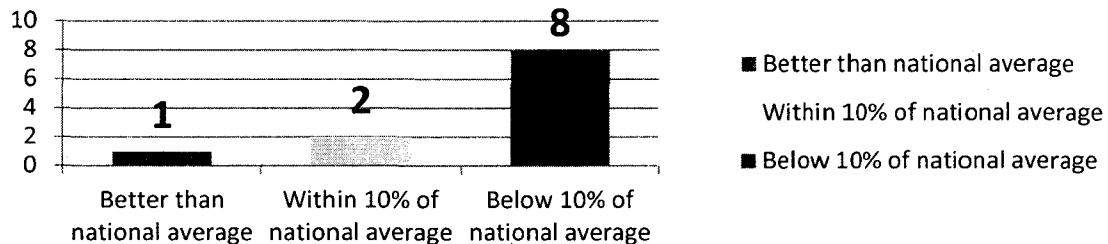
2013 RN National Exam Results, Number of RN Programs Institution and Program Accredited



2013 RN National Exam Results, Number of RN Programs Institution Only Accredited



2013 RN National Exam Results, Number of RN Programs Institution and Program Unaccredited



Effect of Proposed Changes

The bill amends s. 464.019, F.S., to require all nursing education programs that prepare students for the practice of professional nursing to be accredited by a specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education, with the exception of a nursing education program statutorily authorized by s. 1005.06(1)(e), F.S.⁵² The bill requires RN nursing education programs to obtain program accreditation by July 19, 2019 or within 5 years after the date of enrollment of the program's first students. The following requirements for approved programs are not applicable to accredited programs:

⁵² Only Pensacola Christian College and Landmark Baptist College qualify for this exception. Pensacola Christian College has a professional nursing education program, but Landmark Baptist College does not offer a nursing program.

- Documenting with the DOH compliance with faculty qualifications, clinical training requirements, faculty-to-student ratios, signed agreements with clinical training sites in the curriculum plan, and curriculum and instruction requirements;
- Clinical training minimums;
- Clinical simulation limitations;
- Annual reports to the BON;
- Publication of the accredited program's application documentation and student retention rates on the BON website; and
- Probation for NCLEX passage rates 10 percentage points below the national average.

The bill requires accredited program's accreditation status and graduate NCLEX passage rates to be published on the BON website.

The bill restricts the accountability measure of exam passage rates to only first-time test takers who take the exam within six months of graduation and requires students who wait more than six months to take the exam to successfully complete a licensure examination preparatory course. The bill also requires the director of a program being placed on probation to include benchmarks in the statutorily required remediation plan presented to the Board of Nursing. It allows the Board to grant an extension of probationary status for one year if the program achieves a majority of the benchmarks and demonstrates progress toward the success rate.

The bill revises the definition of "clinical training" to include clinical simulation and increases the authorized amount of clinical simulation training from 25 percent to 50 percent. The bill requires the clinical training portion of a nursing major curriculum to occur in the United States, the District of Columbia, or a possession or territory of the United States. The bill revises the definition of "practical nursing" to include teaching of general principles of health and wellness to the public and to students other than nursing students.

The bill amends s. 464.013, F.S., to exempt nurses with specialty health care certification from a program accredited by the National Commission for Certifying Agencies or the Accreditation Board for Specialty Nursing Certification from continuing education required at biennial license renewal.

The bill provides the Board of Nursing the authority to adopt rules relating to documenting the accreditation of nursing education programs. The bill requires the education policy area of OPPAGA to continue submitting annual implementation reports through January 30, 2020.

The bill repeals obsolete language in s. 464.019, F.S., related to the status of certain programs during the transition to the new program approval process effective July 1, 2009.

The bill amends s. 456.014 F.S., to conform a cross-reference.

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

B. SECTION DIRECTORY:

Section 1. Amends s. 464.003, F.S., relating to nursing definitions.

Section 2. Amends s. 464.013, F.S., relating to renewal of license or certificate.

Section 3. Amends s. 464.019, F.S., relating to approval of nursing education programs.

Section 4. Amends s. 456.014, F.S., relating to public inspection of information required from applicants; exceptions; examination hearing.

Section 5. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The DOH anticipates non-recurring costs for rule-making and workload to revise the nursing application, which can be absorbed by existing resources.⁵³

Public colleges that do not currently have nursing program accreditation and are not currently seeking accreditation will incur the additional cost of becoming accredited and ongoing accreditation maintenance costs. ACEN charges an application fee of \$2,500, an initial accreditation or continuing accreditation review fee of \$1,000, and a site visit fee of \$835 per site visit. CCNE charges an application fee of \$3,500, an annual maintenance fee of \$2,468, and an evaluation fee of \$1,750 per evaluation team member (typically, 3 - 5 members). There are currently five Bachelor of Science in nursing programs and three Associate of Science in nursing programs offered at public colleges that have not yet applied for program accreditation.⁵⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private colleges and universities that do not currently have nursing program accreditation will incur the cost of becoming accredited and ongoing accreditation maintenance costs. There are currently 19 bachelor of science RN nursing programs and 120 associate degree RN nursing programs at private institutions that do not have nursing program accreditation.⁵⁵

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.

⁵³ Florida Department of Health, 2014 Agency Legislative Bill Analysis, HB 1059, March 10, 2014, on file with committee staff.

⁵⁴ Data retrieved from Florida College System staff, Commission on Collegiate Nursing Education website, and Accreditation Commission for Education in Nursing website accessed Mar. 31, 2014.

⁵⁵ Data retrieved from Florida Department of Health, *Compare Florida Prelicensure Nursing Education Programs*, *supra* note 46.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the BON sufficient authority to adopt rules relating to documenting the accreditation of nursing education programs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 19, 2014, the Select Committee on Health Care Workforce Innovation adopted an amendment to HB 1059 and reported the bill favorably as a committee substitute. The amendment:

- Adds the Accreditation Board for Specialty Nursing Certification to the named entities for nursing specialty certification accreditation for the purpose of the continuing education exemption in the bill;
- Requires the clinical training portion of a nursing major curriculum to occur in the United States, the District of Columbia, or a possession or territory of the United States;
- Increases from 25 percent to 50 percent the amount of clinical training that may be provided through clinical simulation; and
- Requires the education policy area of OPPAGA to continue submitting annual implementation reports through January 30, 2020.

On April 1, 2014, the Education Appropriations Subcommittee adopted an amendment to HB 1059 and reported the bill favorably as a committee substitute. The amendment restricts the accountability measure of exam passage rates to only first-time test takers who take the exam within six months of graduation and requires students who wait more than six months to take the exam to successfully complete a licensure examination preparatory course. It also allows the Board of Nursing to grant a one-year extension for a program that is set for termination due to low licensure passage rates.

This analysis is drafted to the committee substitute.

CS/HB 1121

2014

1 A bill to be entitled

2 An act relating to hazardous walking conditions;
3 amending s. 1006.23, F.S.; revising criteria that
4 determine a hazardous walking condition for public
5 school students; revising procedures for inspection
6 and identification of hazardous walking conditions;
7 authorizing a district school superintendent to
8 initiate a formal request for correction of a
9 hazardous walking condition; authorizing a district
10 school board to initiate an administrative proceeding
11 under certain circumstances and providing requirements
12 therefor; requiring a district school board to provide
13 transportation to students who would be subjected to
14 hazardous walking conditions; requiring state or local
15 governmental entities with jurisdiction over a road
16 with a hazardous walking condition to correct the
17 condition within a reasonable period of time;
18 providing requirements for a governmental entity
19 relating to its capital improvements program;
20 providing requirements relating to a civil action for
21 damages; providing an effective date.

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

24
25 Section 1. Section 1006.23, Florida Statutes, is reordered
26 and amended to read:

Page 1 of 7

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1121-01-c1

CS/HB 1121

2014

27 1006.23 Hazardous walking conditions.—

28 (1) DEFINITION.—As used in this section, "student" means
 29 any public elementary school student whose grade level does not
 30 exceed grade 6.

31 ~~(2)(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~
 32 ~~CONDITIONS.—~~

33 (a) Walkways parallel to the road.—

34 1. It shall be considered a hazardous walking condition
 35 with respect to any road along which students must walk in order
 36 to walk to and from school if there is not an area at least 4
 37 feet wide adjacent to the road, not including drainage ditches,
 38 sluiceways, swales, or channels, having a surface upon which
 39 students may walk without being required to walk on the road
 40 surface. In addition, whenever the road along which students
 41 must walk is uncurbed and has a posted speed limit of 50 ~~55~~
 42 miles per hour or greater, the area as described above for
 43 students to walk upon shall be set off the road by no less than
 44 3 feet from the edge of the road.

45 2. The provisions of subparagraph 1. do not apply when the
 46 road along which students must walk:

47 ~~a. Is in a residential area which has little or no~~
 48 ~~transient traffic;~~

49 ~~a.b.~~ Is a road on which the volume of traffic is less than
 50 180 vehicles per hour, per direction, during the time students
 51 walk to and from school; or

52 ~~b.e.~~ Is located in a residential area and has a posted

53 speed limit of 30 miles per hour or less.

54 (b) Walkways perpendicular to the road.—It shall be
 55 considered a hazardous walking condition with respect to any
 56 road across which students must walk in order to walk to and
 57 from school if:

58 1. ~~If~~ The traffic volume on the road exceeds the rate of
 59 360 vehicles per hour, per direction (including all lanes),
 60 during the time students walk to and from school and if the
 61 crossing site is uncontrolled. For purposes of this subsection,
 62 an "uncontrolled crossing site" is an intersection or other
 63 designated crossing site where no crossing guard, traffic
 64 enforcement officer, or stop sign or other traffic control
 65 signal is present during the times students walk to and from
 66 school.

67 2. ~~If~~ The total traffic volume on the road exceeds 4,000
 68 vehicles per hour through an intersection or other crossing site
 69 controlled by a stop sign or other traffic control signal,
 70 unless crossing guards or other traffic enforcement officers are
 71 also present during the times students walk to and from school.

72
 73 Traffic volume shall be determined by the most current traffic
 74 engineering study conducted by a state or local governmental
 75 agency.

76 (c) Crossings over the road.—It shall be considered a
 77 hazardous walking condition with respect to any road at any
 78 uncontrolled crossing site if:

79 1. The road has a posted speed limit of 50 miles per hour
 80 or greater; or

81 2. The road has six lanes or more, not including turn
 82 lanes, regardless of the speed limit.

83 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

84 (a) When a request for review is made by ~~to~~ the district
 85 school superintendent with respect to a road over which a state
 86 or local governmental entity has jurisdiction ~~or the district~~
 87 ~~school superintendent's designee~~ concerning a condition
 88 perceived to be hazardous to students in that district who live
 89 within the 2-mile limit and who walk to school, such condition
 90 shall be inspected jointly by a representative of the school
 91 district, ~~and~~ a representative of the state or local
 92 governmental entity with ~~that has~~ jurisdiction over the
 93 perceived hazardous location, and a representative of the
 94 municipal police department for a municipal road, a
 95 representative of the sheriff's office for a county road, or a
 96 representative of the Department of Transportation for a state
 97 road. If the jurisdiction is within an area for which there is a
 98 metropolitan planning organization, a representative of that
 99 organization shall also be included. The governmental
 100 representatives shall determine whether the condition
 101 constitutes a hazardous walking condition as provided in
 102 subsection (2). If the governmental representatives concur that
 103 a condition constitutes a hazardous walking condition as
 104 provided in subsection (2), they shall report that determination

105 | in writing to the district school superintendent who shall
 106 | initiate a formal request for correction as provided in
 107 | subsection (4).

108 | (b) If the governmental representatives are unable to
 109 | reach a consensus, the reasons for lack of consensus shall be
 110 | reported to the district school superintendent who shall provide
 111 | a report and recommendation to the district school board. The
 112 | district school board may initiate an administrative proceeding
 113 | under chapter 120 seeking a determination as to whether the
 114 | condition constitutes a hazardous walking condition as provided
 115 | in subsection (2) after providing at least 30 days' notice in
 116 | writing to the local governmental entities having jurisdiction
 117 | over the road of its intent to do so unless, within 30 days
 118 | after such notice is provided, the local governmental entities
 119 | concur in writing that the condition is a hazardous walking
 120 | condition as provided in subsection (2) and provide the position
 121 | statement pursuant to subsection (4). If an administrative
 122 | proceeding is initiated under this paragraph, the district
 123 | school board has the burden of proving such condition by the
 124 | greater weight of evidence. If the district school board
 125 | prevails, the district school superintendent shall report the
 126 | outcome to the Department of Education and initiate a formal
 127 | request for correction of the hazardous walking condition as
 128 | provided in subsection (4). ~~The district school superintendent~~
 129 | ~~or his or her designee and the state or local governmental~~
 130 | ~~entity or its representative shall then make a final~~

131 ~~determination that is mutually agreed upon regarding whether the~~
 132 ~~hazardous condition meets the state criteria pursuant to this~~
 133 ~~section. The district school superintendent or his or her~~
 134 ~~designee shall report this final determination to the~~
 135 ~~Department.~~

136 (4)(2) TRANSPORTATION; CORRECTION OF HAZARDS.-

137 (a) A district school board ~~It is intended that district~~
 138 ~~school boards~~ and other governmental entities shall work
 139 cooperatively to identify and correct conditions that are
 140 hazardous along student walking routes to school, and a district
 141 school board shall ~~that district school boards~~ provide
 142 transportation to students who would be subjected to such
 143 conditions. Additionally, ~~It is further intended that~~ state or
 144 local governmental entities with having jurisdiction over a road
 145 along which a hazardous walking condition is determined to exist
 146 shall correct the condition ~~such hazardous conditions~~ within a
 147 reasonable period of time.

148 (b) Upon a determination pursuant to subsection (3) ~~this~~
 149 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~
 150 ~~to students,~~ the district school superintendent ~~board~~ shall
 151 request a position statement with respect to correction of such
 152 condition ~~determination~~ from the state or local governmental
 153 entity with having jurisdiction over the road. Within 90 days
 154 after receiving such request, the state or local governmental
 155 entity shall inform the district school superintendent ~~regarding~~
 156 whether the entity will include correction of the hazardous

157 walking condition in its next annual 5-year capital improvements
 158 program ~~hazard will be corrected~~ and, if so, when correction of
 159 the condition will be completed. If the hazardous walking
 160 condition will not be included in the state or local
 161 governmental entity's next annual 5-year capital improvements
 162 program, the factors justifying such conclusion must be stated
 163 in writing to the district school superintendent and the
 164 Department of Education ~~regarding a projected completion date.~~

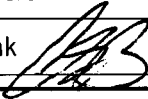

165 (c) State funds shall be allocated for the transportation
 166 of students subjected to a hazardous walking condition. However,
 167 ~~such hazards, provided that~~ such funding shall cease upon
 168 correction of the hazardous walking condition ~~hazard~~ or upon the
 169 projected completion date, whichever occurs first.

170 (5) CIVIL ACTION.—In a civil action for damages brought
 171 against a governmental entity under s. 768.28, the designation
 172 of a hazardous walking condition under this section is not
 173 admissible in evidence.

174 Section 2. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1121 Hazardous Walking Conditions
SPONSOR(S): K-12 Subcommittee; Metz
TIED BILLS: IDEN./SIM. BILLS: SB 1382

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	11 Y, 1 N, As CS	Brink	Ahearn
2) Education Appropriations Subcommittee	13 Y, 0 N	Seifert	Heflin
3) Education Committee		Brink 	Mizereck 

SUMMARY ANALYSIS

A hazardous walking condition is a condition on a road students must walk along or cross in order to walk to school and that is determined to be hazardous to students who live within a two-mile radius of the school. Currently, there is no provision in law that requires a state or local governmental entity with jurisdiction over a road with an identified hazardous walking condition to correct the condition.

The bill requires district school boards and state and local governmental entities to work cooperatively to identify and correct hazardous walking conditions. In addition, a state or local government with jurisdiction over a road containing a hazardous walking condition must state whether the correction of the condition will be included in its next five-year capital improvement program within 90 days of receiving a district school superintendent's request for a position statement. If the correction will not be included, the bill requires the governmental entity to provide written justification for the omission.

The bill requires certain law enforcement agency representatives to participate in the inspection of a perceived hazardous walking condition depending on whether the road is under the jurisdiction of the state, a county, or a municipality. The bill also creates a new hazardous walking condition category for "crossings over the road."

The bill allows a district school board to initiate an administrative hearing to determine whether a hazardous walking condition exists. In addition, the bill provides that the determination that a hazardous walking condition exists may not be used as evidence in a civil action for damages against a governmental entity.

The bill has no fiscal impact on state or local governments. See Fiscal Comments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Current law provides for the identification of hazardous walking conditions along roads students must walk in order to walk to school.¹ These provisions apply when conditions are perceived to be hazardous to students who live within a two-mile radius of a school and who walk to the school.²

Criteria established in state law are used to determine whether a walking condition is hazardous. A walkway that is parallel to a road is hazardous if:

- There is no area at least four feet wide adjacent to the road that has a surface upon which students may walk without being required to walk on the road surface; or
- The road is uncurbed, has a posted speed limit of 55 miles per hour, and the adjacent four-foot walkway, if any, is not set off the road by at least three feet from the road's edge.³

However, even if these criteria are met, a hazardous walking condition does not exist if the road is in a residential area that has little or no transient traffic; the volume of traffic on the road is less than 180 vehicles per hour, per direction, during the time students walk to and from school; or the road is located in a residential area and has a posted speed limit of 30 miles per hour or less.⁴

A walkway that is perpendicular to the road is a hazardous walking condition with respect to any road across which students must walk if:

- The traffic volume on the road exceeds 360 vehicles per hour, per direction, during the time students walk to and from school and if the crossing site is uncontrolled;⁵ or
- The total traffic volume on the road exceeds 4,000 vehicles per hour through an intersection or other crossing site controlled by a stop sign or other traffic control signal during the times students walk to and from school.⁶

When a district school superintendent or the superintendent's designee receives a request for review of a condition perceived to be hazardous to students who live within the two-mile limit and who walk to school, the condition must be inspected by a representative of the school district and a representative of the state or local governmental entity with jurisdiction over the perceived hazardous location.⁷ The superintendent or designee and the state or local governmental entity or its representative must make a mutually agreed upon final determination as to whether the condition meets the criteria for being hazardous. This determination must be reported to the Department of Education (DOE).⁸

¹ Section 1006.23, F.S. "Student" is defined to mean any public elementary school student whose grade level does not exceed grade 6. Section 1006.23(1), F.S.

² Section 1006.23(3), F.S.

³ Section 1006.23(4)(a)1., F.S.

⁴ Section 1006.23(4)(a)2., F.S.

⁵ An "uncontrolled crossing site" is an intersection or other designated crossing site where no crossing guard, traffic enforcement officer, or stop sign or other traffic control signal is present during the times students walk to and from school. Section 1006.23(4)(b)1., F.S.

⁶ Section 1006.23(4)(b), F.S. Traffic volume is determined by the most current traffic engineering survey conducted by a state or local governmental agency. *Id.*

⁷ Section 1006.23(3), F.S.

⁸ *Id.*

Once a walking condition is determined to be hazardous, the district school board must request a determination from the state or local governmental entity with jurisdiction over the road regarding whether the hazard will be corrected and, if so, the projected completion date.⁹ State funds must be allocated for the transportation of students who are subjected to a hazardous walking condition. The funding must cease upon correction of the hazard or upon the projected completion date, whichever occurs first.¹⁰

The current law's stated intent is that state and local governmental entities with jurisdiction over a hazardous walking condition correct the condition within a reasonable period of time. However, current law does not require the state or local governmental entity with jurisdiction over the road to correct a hazardous walking condition.

Effect of Proposed Changes

Whereas current law provides intent language that school boards and state and local governmental entities work to identify and correct hazardous walking conditions within a reasonable period of time, the bill requires correction of hazardous walking conditions within a reasonable period of time. Neither the current law nor the bill define a reasonable period of time. In addition, the bill requires the district school board to provide transportation to students who would be subjected to hazardous walking conditions.

The bill requires the district school superintendent, as opposed to the district school board, to request a position statement from the state or local governmental entity with jurisdiction over the road as to whether the hazardous condition will be corrected and, if so, the anticipated completion date for the correction. The applicable governmental entity, within 90 days of receiving the request from the superintendent, must inform the superintendent whether the hazardous condition will be included in its next annual five-year capital improvements program¹¹ and, if so, when the correction will be completed. If the hazardous walking condition will not be included in the applicable governmental entity's next annual five-year capital improvements program, the entity must state in writing to the superintendent and the DOE the factors justifying the exclusion.

For purposes of inspecting perceived hazardous walking conditions, the bill requires a representative from the municipal police department for a municipal road, a representative from the sheriff's department for a county road, or a representative from the Department of Transportation for a state road, in addition to the school district and applicable governmental entity representatives, to participate in the inspection. If the jurisdiction falls within an area for which there is a metropolitan planning organization, a representative of that organization must also participate in the inspection.

If the representatives determine that the condition meets the criteria for a hazardous walking condition, they must report the determination in writing to the district school superintendent. If the representatives do not reach a consensus, the bill requires them to report the reasons why to the district school superintendent, who must then provide a report and recommendation to the district school board.

The bill authorizes district school boards to initiate a proceeding under the Administrative Procedures Act¹² to determine whether a condition constitutes a hazardous walking condition. The bill requires at least 30 days' written notice of the administrative proceeding be given to the local governmental entities with jurisdiction over the road. During this period, the local governmental agencies may avoid the administrative procedure by concurring in writing that a hazardous walking condition exists and by

⁹ Section 1006.23(2)(b), F.S.

¹⁰ *Id.*

¹¹ Each local government must maintain a comprehensive plan to guide future development and growth. *See* section 163.3167, F.S. Each comprehensive plan must include a capital improvements element, covering five years, designed to consider the need for and the location of public facilities in order to encourage the efficient use of such facilities. *See* section 163.3177, F.S. The five-year capital improvements element must be reviewed by the local government on an annual basis. Section 163.3177(3)(b), F.S.

¹² Chapter 120, F.S.

providing a position statement to the district school superintendent. The bill places the burden of proof, by a preponderance of evidence, on the district school board for purposes of the administrative proceeding. If the district school board prevails, the district school superintendent must report the outcome to the DOE and formally request correction of the hazardous walking condition.

With respect to walkways parallel to the road, the bill provides that if the four-foot walking area adjacent to the road consists of a drainage ditch, sluiceway, swale, or channel, a hazardous walking condition exists. The bill also lowers the posted speed limit that makes for a hazardous walking condition from 55 miles per hour to 50 miles per hour or greater. Furthermore, the bill eliminates the exception from hazardous walking condition criteria for parallel walkways in residential areas with little or no transient traffic.

The bill creates a new hazardous walking condition category for "crossings over the road," in which a hazardous walking condition exists at any road and uncontrolled crossing site if the posted speed limit is 50 miles per hour or greater or the road has six lanes of traffic, regardless of the speed limit.

The bill provides that the determination that a hazardous walking condition exists may not be used as evidence in a civil action for damages against a governmental entity under s. 768.28, F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 1006.23, F.S., revising criteria that determine a hazardous walking condition for public school students; revising procedures for inspection and identification of hazardous walking conditions; authorizing an administrative proceeding in certain instances; authorizing a district school superintendent to initiate a formal request for correction of a hazardous walking condition under certain circumstances; requiring a district school board to provide transportation to students who would be subjected to hazardous walking conditions; requiring state or local governmental entities with jurisdiction over a road with a hazardous walking condition to correct the condition within a specified period of time; providing requirements for a governmental entity relating to its capital improvements program; revising provisions relating to funding for the transportation of students subjected to a hazardous walking condition; providing requirements relating to a civil action for damages.

Section 2. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Current law provides intent language that school boards and state and local governmental entities work to identify and correct hazardous walking conditions within a reasonable period of time. The bill eliminates the intent language and instead requires correction of hazardous walking conditions within a reasonable period of time. However, because the bill does not set any time frame by which a hazardous walking condition must be corrected nor penalize a state or local governmental entity for failing to correct the condition, it is unlikely that there is an associated fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 25, 2014, the K-12 Subcommittee reported the PCS for HB 1121 favorably. The original bill required a state or local governmental entity with jurisdiction over a road with a hazardous walking condition to correct the condition within three years, or no later than five years under certain circumstances, after a condition is determined to be hazardous. In addition, the bill required the local governmental entity with jurisdiction over the road to reimburse the school district for the operation cost of transportation of students subjected to the hazardous walking condition.

To avoid potential fiscal impacts, the PCS, instead, requires state and local governmental entities to correct a hazardous walking condition within a reasonable time. In addition, the PCS eliminates the provision requiring a local governmental entity to reimburse the school district.