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# **Education Committee**

**Thursday, February 4, 2016**

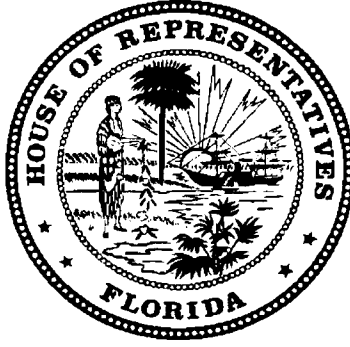
**1:00 p.m. – 3:00 p.m.**

**102 HOB**

**Meeting Packet**

**Steve Crisafulli  
Speaker**

**H. Marlene O'Toole  
Chair**



## AGENDA

Education Committee  
Thursday, February 4, 2016  
1:00 p.m. – 3:00 p.m.

102 HOB

- I. Call to Order and Roll Call – Chair O’Toole
- II. Welcome - Chair O’Toole
- III. Consideration of the following bill(s):
  - CS/CS/HB 287 Principal Autonomy Pilot Program Initiative by Education Appropriations Subcommittee, K-12 Subcommittee, Diaz, M., Sprowls
  - CS/CS/HB 719 Education Personnel by Education Appropriations Subcommittee, K-12 Subcommittee, Spano
  - CS/HB 835 Education by Education Appropriations Subcommittee, Eisnaugle
  - HB 837 John M. McKay Scholarships for Students with Disabilities Program by Bileca, Cortes, B.
  - CS/HB 1003 Employment After Retirement of School District Personnel by K-12 Subcommittee, Sullivan
  - HB 1171 Interstate Compact on Educational Opportunity for Military Children by Perry
- IV. 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WITHDRAWN	___	(Y/N)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:

**Amendment**

Remove line 53 and insert:

- 3  
4  
5  
6 1. Identify three schools that received at

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 287 Principal Autonomy Pilot Program Initiative  
**SPONSOR(S):** K-12 Subcommittee; Education Appropriations Subcommittee; Diaz, Jr. and Sprowls  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 434

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	12 Y, 0 N, As CS	Cherry	Fudge
2) Education Appropriations Subcommittee	13 Y, 0 N, As CS	Dobson	Heflin
3) Education Committee		Cherry TC	Mizereck VM

### SUMMARY ANALYSIS

The bill establishes the Principal Autonomy Pilot Program Initiative (PAPPI) within the Department of Education to provide the principals of participating schools in participating school districts with increased autonomy and authority regarding allocation of resources and staffing. Participation is voluntary, but limited to the school districts of Broward, Duval, Jefferson, Madison, Palm Beach, Pinellas and Seminole Counties. School boards selected for participation in PAPPI are exempt from the K-20 Education Code and State Board of Education rules, with exceptions. Among other exemptions, the class size compliance calculation for participating schools is the school-level average, rather than the individual classroom level.

School districts seeking to participate in PAPPI must submit a principal autonomy proposal to the State Board of Education for approval. Among other things, the proposal must identify three middle or high schools that received at least two school grades of "D" or "F" during the previous three school years, describe the areas in which increased autonomy will be granted, and state measurable goals regarding student achievement and operational efficiency. The state board may select up to seven school districts for participation in PAPPI. The initial term of the program is three years.

The bill grants the principals of participating schools greater authority regarding staffing decisions, allocation of financial resources, and budgeting. Among other things, the principal of a participating school is granted greater authority to hire qualified instructional personnel or refuse placement or transfer of such personnel. Before participation in the program may begin, such principals must complete professional development designed to enable them to implement increased autonomy. Participating school districts must guarantee participating schools at least 90 percent of the funds generated in the Florida Education Finance Program (FEFP) by that school. The current minimum guarantee is 80 percent of such funds.

Participating school districts must annually report measures taken to implement the program and results achieved to the state board. The state board may revoke a district school board's authorization to participate if the school board fails to meet program requirements. The Commissioner of Education must submit a full evaluation of the program's effectiveness to the President of the Senate and the Speaker of the House of Representatives upon expiration of the initial three year term.

For an analysis of the bill's fiscal impact, see FISCAL COMMENTS, *infra*.

The bill provides an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Research indicates that school leadership is “second only to classroom instruction among all school-related factors that contribute to what students learn at school.”<sup>1</sup> Research also indicates that effective school leadership plays a critical role in the recruitment and retention of quality teachers.<sup>2</sup> According to researchers, “principals can be more effective when there is a district-wide culture of joint responsibility for achieving shared student outcome goals.” This includes giving principals more autonomy to implement instructional reforms, budget and allocate resources, and hire a quality instructional team tailored to the individual needs of his or her school.<sup>3</sup>

##### **School Principals**

“School administrators” include school principals, school directors, career center directors, and assistant principals.<sup>4</sup> Among other things, school principals are responsible for:

- Fully supporting the authority of classroom teachers and school bus drivers regarding student discipline and conduct.
- Providing instructional leadership in the development, revision, and implementation of a school improvement plan.
- Accurate and timely compliance with statutory reporting requirements.
- The management and care of instructional materials.
- Facilitating parental involvement in their child’s education and providing information to parents regarding their child’s educational progress and available educational choices.<sup>5</sup>

When filling instructional positions<sup>6</sup> at the school level, the district school superintendent must consider nominations received from school principals of the respective schools in the school district. The superintendent then must make recommendations to the district school board regarding each position to be filled and the persons to fill such positions. The school board has discretion to approve or reject any of the superintendent’s recommendations. Before transferring a classroom teacher from one school to another, the superintendent must consult with the principal of the receiving school and allow the principal to review the teacher’s records, student performance results,<sup>7</sup> and interview the teacher. If a principal believes students would not benefit from the placement, he or she may request an alternative placement subject to the approval by the superintendent.<sup>8</sup> However, the superintendent must accept

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<sup>1</sup> Kenneth Leithwood, et. al., *How Leadership Influences Student Learning*, Ontario Institute for Studies in Education, at 5 (2004), available at <http://www.wallacefoundation.org/knowledge-center/school-leadership/key-research/Documents/How-Leadership-Influences-Student-Learning.pdf>.

<sup>2</sup> The Wallace Foundation, *Leading From Every Seat, Empowering Principals to Cultivate Teacher Leadership for School Improvement*, at 4 (2015), available at <http://www.newleaders.org/wp-content/uploads/LeadingFromEverySeat.pdf>.

<sup>3</sup> Ikemato, Gina, et. al., *Great Principals At Scale: Creating District Conditions That Enable All Principals to Be Effective*, The Bush Institute, at 9-11 (June, 2014), available at [http://www.newleaders.org/wp-content/uploads/GPAS\\_FullReport\\_Final.pdf](http://www.newleaders.org/wp-content/uploads/GPAS_FullReport_Final.pdf).

<sup>4</sup> See s. 1012.01(3), F.S. Administrative personnel are K-12 personnel who perform management activities such as developing and executing broad policies for the school district. Administrative personnel include district-based instructional and non-instructional administrators, as well as school administrators who perform administrative duties at the school-level. *Id.*

<sup>5</sup> Section 1001.54, F.S.

<sup>6</sup> Instructional personnel include classroom teachers; staff who provide student personnel services, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel. Section 1012.01(2), F.S.

<sup>7</sup> As measured by the instructional personnel’s performance evaluation. Section 1012.28(6), F.S.

<sup>8</sup> Section 1012.27(1)(b), F.S.

the principal's decision to refuse placement or transfer of instructional personnel if the instructional personnel has a performance evaluation rating of needs improvement or unsatisfactory.<sup>9</sup>

## The Florida Principal Leadership Standards

The Florida Principal Leadership Standards (FPLS) are Florida's core expectations for effective school administrators, including school principals. The FPLS are research-based; represent necessary knowledge, skills, and abilities for effective school leadership; and are the basis for school administrator performance evaluations, professional development systems, preparation programs, and certification requirements. The FPLS emphasize ability to improve student learning results; development and retention of quality classroom teachers; and school management practices that promote student learning, effective allocation of resources, and efficient operations.<sup>10</sup>

## Performance Evaluation

Florida law requires each district school superintendent to establish procedures to evaluate the job performance of district instructional, administrative, and supervisory personnel.<sup>11</sup> Instructional personnel and school administrators must be evaluated annually, with exceptions.<sup>12</sup> School district performance evaluation systems must differentiate among four levels of performance:

- Highly effective;
- Effective;
- Needs improvement, or for instructional personnel in their first three years of employment who need improvement, developing; and
- Unsatisfactory.<sup>13</sup>

The criteria used to measure school administrator performance are student performance, instructional leadership, and professional and job responsibilities.<sup>14</sup> At least one-third of a school administrator's evaluation must be based upon student performance, with certain exceptions.<sup>15</sup> Student performance must be measured by statewide assessments<sup>16</sup> and, by the 2014-2015 school year for subjects and grade levels not tested by statewide assessments, local assessments.<sup>17</sup> Evaluation of instructional leadership must include performance measures related to the effectiveness of classroom teachers in the school, the administrator's appropriate use of evaluation criteria and procedures, recruitment and retention of effective and highly effective classroom teachers, improvement in the percentage of instructional personnel evaluated at the highly effective or effective level, and other leadership practices that result in student learning growth.<sup>18</sup>

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<sup>9</sup> Section 1012.28(6), F.S.

<sup>10</sup> Section 1012.34 F.S. and Rule 6A-5.080(1)-(2), F.A.C.

<sup>11</sup> Section 1012.34(1)(a), F.S. The term "supervisory personnel" is not defined. *See* s. 1012.01(3), F.S.

<sup>12</sup> *See* s. 1012.34(3)(a), F.S. Newly hired classroom teachers must be evaluated at least twice in their first year of teaching in the school district "Newly hired classroom teachers" include first-time teachers new to the profession as well as veteran teachers new to the school district. *Id.*

<sup>13</sup> Section 1012.34(2)(e), F.S.

<sup>14</sup> Section 1012.34(3)(a)1., 3., and 4., F.S.

<sup>15</sup> Section 1012.34(3)(a)1., F.S. If less than three years of data are available, the years for which data are available must be used. The proportion of growth or achievement data may be determined by instructional assignment. Section 1012.34(3)(a)1.b., F.S.

<sup>16</sup> The statewide assessment program for public schools includes statewide, standardized assessments for ELA (grades 3-10) and mathematics (grades 3-8); end-of-course (EOC) assessments for Algebra I, Algebra II, geometry, Biology I, civics, and U.S. History; and FCAT 2.0 science (grades 5 and 8). Section 1008.22(3)(a)(b), F.S. EOC assessments count 30 percent of a student's final course grade. *See* ss. 1003.4156(1) and 1003.4282(3), F.S.

<sup>17</sup> Sections 1012.34(3)(a)1. and 1008.22(6), F.S.

<sup>18</sup> Section 1012.34(3)(a)3., F.S.

## Professional Development

Professional development for school administrators is provided through school district professional development systems including the William Cecil Golden Professional Development Program for School Leaders. This program is established in collaboration with state and national professional leadership organizations and it is designed to respond to Florida's needs for quality school leadership and support the efforts of school leaders in improving instruction and student achievement and developing and retaining quality teachers.<sup>19</sup> Professional development provided through the program must be based upon the FPLS and other school leadership standards.<sup>20</sup>

A school turnaround program is a professional development program for school-level leaders.<sup>21</sup> One such program, known as the University of Virginia School Turnaround Program, was established in collaboration with the University of Virginia Darden School of Business and the Curry School of Education.<sup>22</sup> The three year program is designed to respond to the needs of underperforming schools by helping education leaders identify individual key issues and develop individual strategies to turn around a school. The program's managers accomplish these tasks by, among other things, hosting workshops to develop turnaround plans, by helping participating schools identify qualified school leaders to oversee school turnaround and by conducting on-site visits to help participating schools accomplish turnaround goals.<sup>23</sup> The program's managers and participating schools also collaborate to develop plans designed to help teachers and students reach performance goals.<sup>24</sup>

## Effect of Proposed Changes

The bill establishes the Principal Autonomy Pilot Program Initiative (PAPPI) within the Department of Education (DOE) to provide the principal of a participating school with increased autonomy and authority regarding allocation of resources and staffing to improve student achievement and school management. School district participation in PAPPI is voluntary, and only open to school districts in Broward, Duval, Jefferson, Madison, Palm Beach, Pinellas and Seminole Counties. School districts seeking to participate in PAPPI must submit a principal autonomy proposal to the State Board of Education for approval. A proposal must:

- Identify three middle or high schools that received at least two school grades of "D" or "F" during the previous three school years.
- Identify three principals who have earned a highly effective rating on the prior year's performance evaluations, one of whom shall be assigned to each of the participating schools.
- Describe the current financial and administrative management of each participating school;
- Identify the areas in which each school principal will have increased fiscal and administrative autonomy, including greater autonomy regarding the hiring of instructional personnel.
- Identify the areas in which each participating school will continue to follow district school board fiscal and administrative policies.
- Explain the methods used to identify the educational strengths and needs of the participating school's students and identify how student achievement can be improved.
- Establish performance goals for student achievement.
- Explain how increased principal autonomy will help participating schools improve student achievement and school management.
- Provide each participating school's mission and a description of its student population.

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<sup>19</sup> See ss. 1012.98(4) and 1012.986, F.S.

<sup>20</sup> Section 1012.986(1)-(2), F.S.

<sup>21</sup> University of Virginia, *Darden/Curry Partnership for Leadership in Education*, <http://www.darden.virginia.edu/darden-curry-ple/about/> (last visited November 3, 2015).

<sup>22</sup> *Id.*

<sup>23</sup> University of Virginia, *Darden Partnership for Leadership in Education*, available at <http://web3.darden.virginia.edu/ple/>

<sup>24</sup> *Id.*



Based upon these criteria, the state board must approve or deny a school district's proposal. The bill authorizes the state board to enter into a performance contract with up to seven district school boards for participation in PAPPI. The term of the program is three years, at which time the performance of all participating schools in the school district must be evaluated. The state board may revoke a district's participation in the program during the term of the program and may renew participation upon expiration of the initial term. The bill specifies deadlines for submission and approval of principal autonomy proposals and requires the state board to adopt rules for administering PAPPI, including criteria for approving proposals.

The bill exempts participating school districts from the K-20 Education Code and state board rules implementing such provisions, except provisions relating to:

- The election and compensation of district school board members, the election or appointment and compensation of district school superintendents, public meetings and public records requirements, financial disclosure, and conflicts of interest.
- The student assessment program, school grading system, and other school improvement and accountability requirements.
- Students with disabilities.
- Civil rights.
- Student health, safety, and welfare.
- The uniform opening date for public schools.
- Maximum class size, except that compliance for a participating school is calculated at the school-level average, rather than at the individual classroom level.<sup>25</sup>
- Personnel compensation and salary schedules.
- Workforce reductions for annual contracts for instructional personnel, excluding at-will employees.
- Annual contracts for instructional personnel hired on or after July 1, 2011, excluding at-will employees.
- Personnel performance evaluations.
- Educational facilities, excluding provisions governing covered walkways for relocatables and use of relocatable facilities exceeding 20 years of age.
- Administration and implementation of PAPPI by participating school districts.

Each participating school district must require the principal of each participating school, a three-member leadership team from each participating school, and district personnel working with each participating school to enroll and complete a nationally recognized turnaround program. Each participating school district shall receive \$100,000 from the department for participation in program.

In addition, each participating principal shall receive \$10,000 annually, which can be used as a salary supplement, a fund for the principal's school to be used at the principal's discretion, or both, as determined by the district. For example, a participating principal could receive \$5,000 as a salary supplement and \$5,000 to use at the school as he or she chooses. The criteria for a principal to qualify for the salary supplement are as follows:

- The participating principal must be rated highly effective;
- The participating principal must be transferred to a school that earned a grade of "F" or three consecutive grades of "D" and provided additional authority and responsibilities; and

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<sup>25</sup> The Florida Constitution provides that class sizes may not exceed 18 students for prekindergarten through 3<sup>rd</sup> grade; 22 students for 4<sup>th</sup> through 8<sup>th</sup> grades; and 25 students for 9<sup>th</sup> through 12<sup>th</sup> grades. Section 1(a), Art. IX of the State Constitution and s. 1003.03(1), F.S. The law provides for calculation of class size compliance at the school-level average for public schools of choice, including charter schools. Sections 1002.31(5) and 1002.33(16)(b)3., F.S.

- The participating principal must have implemented a turnaround option at a school as the school's principal. The turnaround option must have resulted in the school improving by at least one letter grade while he or she was serving as the school's principal.

Participating school districts must submit an annual report to the state board regarding program implementation. The state board may revoke a school district's authorization to participate in the pilot program if the school district fails to meet program requirements. Upon completion of the program's first three-year term, the Commissioner of Education must submit a full evaluation of the program's effectiveness to the President of the Senate and the Speaker of the House of Representatives by December 1 of that year. This evaluation will allow the Legislature to assess the program's performance and decide whether to continue or repeal the program.

The bill revises existing law governing the personnel duties of school principals and school budgeting and calculation of expenditures to facilitate implementation of PAPP. Currently, a district school superintendent must consider, but is not bound by, personnel nominations made by school principals. Furthermore, a school principal may only refuse placement of instructional personnel rated needs improvement or unsatisfactory on annual performance evaluations. The bill authorizes the principal of a participating school to:

- Select qualified instructional personnel for placement at the school; and
- Refuse placement or transfer of instructional personnel by the district school superintendent, in any case.

The bill also provides participating principals greater authority to deploy financial resources and control over his or her school's operational budget. Currently, each district school board must allocate to schools within the district an average of 90 percent of the funds generated by all schools and guarantee that each school receives at least 80 percent of the funds generated by that school based upon the Florida Education Finance Program (FEFP), including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy. The bill specifies that schools participating in PAPP must be guaranteed to receive at least 90 percent of the funds generated in the FEFP by that school.

## B. SECTION DIRECTORY:

**Section 1.** Creates s. 1011.6202, F.S., relating to the Principal Autonomy Pilot Program Initiative.

**Section 2.** Amends s. 1011.69, F.S., relating to the Equity in School-Level Funding Act.

**Section 3.** Amends s. 1012.28, F.S., relating to public school personnel; duties of school principals.

**Section 4.** Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

See FISCAL COMMENTS, *infra*.

**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 provides \$700,000 in nonrecurring general revenue for costs associated with seven school districts participating in a nationally recognized school turnaround program. The bill also provides \$210,000 in recurring general revenue to fund salary supplements, discretionary funding or both for 3 principals in each of the 7 participating school districts. The bill increases state expenditures by a total of \$910,000 in the 2016-2017 state fiscal year.

Participation in PAPPI is optional. Several of the requirements for participating in PAPPI will impact budgeting and allocation of resources by participating school districts. Schools participating in PAPPI must be guaranteed to receive at least 90 percent of the funds generated in the FEFP by that school. The current minimum guarantee is 80 percent of such funds. The bill also provides principals of those schools greater authority to deploy financial resources and control over the school's operational budget.

The bill requires the principals of participating schools to complete additional professional development, but provides for inclusion of expenses incurred by participating school districts in DOE's calculation of a participating school district's operating expenditures.

Participating school districts may achieve cost savings resulting from the statutory and rule exemptions granted to them by the bill.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill requires the State Board of Education to adopt rules for administering the Principal Autonomy Pilot Program Initiative, including criteria for approval of school district principal autonomy proposals.

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

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On November 3, 2016, the K-12 Subcommittee reported the bill favorably as amended. The amendment provides school districts with the option of using the \$10,000 appropriation from the Legislature as a salary supplement for principals, a discretionary fund for the principal to use at his or her school, or both, as determined by the district. The criteria for a principal to qualify for the salary supplement are as follows:

- The participating principal must be rated highly effective;
- The participating principal must be transferred to a school that earned a grade of "F" or three consecutive grades of "D" and provided additional authority and responsibilities; and
- The participating principal must have implemented a turnaround option at a school as the school's principal. The turnaround option must have resulted in the school improving by at least one letter grade while he or she was serving as the school's principal.

On January 28, 2016, the Education Appropriations Committee considered a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Specifies that participation in PAPPI is limited to the district school boards of Broward, Duval, Jefferson, Madison, Palm Beach, Pinellas and Seminole Counties;
- Increases the maximum number of participating district school boards from 3 to 7;
- Clarifies that the \$10,000 distribution for salary supplements or discretionary funding be made annually to each participating district;
- Removes references to the University of Virginia School Turnaround Program; requires participating principals and staff to attend a nationally recognized school turnaround program;
- Appropriates \$700,000 in nonrecurring funds and \$210,000 in recurring funds from the General Revenue Fund to the Department of Education to implement the requirements of this bill.

This bill analysis is drafted to the committee substitute as amended by the Education Appropriations Subcommittee.



27 Section 1. Section 1011.6202, Florida Statutes, is created  
 28 to read:

29 1011.6202 Principal Autonomy Pilot Program Initiative.—The  
 30 Principal Autonomy Pilot Program Initiative is created within  
 31 the Department of Education. The purpose of the pilot program is  
 32 to provide the highly effective principal of a participating  
 33 school with increased autonomy and authority to operate his or  
 34 her school in a way that produces significant improvements in  
 35 student achievement and school management while complying with  
 36 constitutional requirements. The State Board of Education may,  
 37 upon approval of a principal autonomy proposal, enter into a  
 38 performance contract with up to seven district school boards for  
 39 participation in the pilot program.

40 (1) PARTICIPATING SCHOOL DISTRICTS.—The district school  
 41 boards in Broward, Duval, Jefferson, Madison, Palm Beach,  
 42 Pinellas, and Seminole Counties may submit to the state board  
 43 for approval a principal autonomy proposal that exchanges  
 44 statutory and rule exemptions for an agreement to meet  
 45 performance goals established in the proposal. If approved by  
 46 the state board, each of these school districts shall be  
 47 eligible to participate in the pilot program for 3 years. At the  
 48 end of the 3 years, the performance of all participating schools  
 49 in the school district shall be evaluated.

50 (2) PRINCIPAL AUTONOMY PROPOSAL.—

51 (a) To participate in the pilot program, a school district  
 52 must:

53 1. Identify three middle or high schools that received at  
 54 least two school grades of "D" or "F" pursuant to s. 1008.34  
 55 during the previous 3 school years.

56 2. Identify three principals who have earned a highly  
 57 effective rating on the prior year's performance evaluation  
 58 pursuant to s. 1012.34, one of whom shall be assigned to each of  
 59 the participating schools.

60 3. Describe the current financial and administrative  
 61 management of each participating school; identify the areas in  
 62 which each school principal will have increased fiscal and  
 63 administrative autonomy, including the authority and  
 64 responsibilities provided in s. 1012.28(8); and identify the  
 65 areas in which each participating school will continue to follow  
 66 district school board fiscal and administrative policies.

67 4. Explain the methods used to identify the educational  
 68 strengths and needs of the participating school's students and  
 69 identify how student achievement can be improved.

70 5. Establish performance goals for student achievement, as  
 71 defined in s. 1008.34(1), and explain how the increased autonomy  
 72 of principals will help participating schools improve student  
 73 achievement and school management.

74 6. Provide each participating school's mission and a  
 75 description of its student population.

76 (b) The state board shall establish criteria, which must  
 77 include the criteria listed in paragraph (a), for the approval  
 78 of a principal autonomy proposal.

79           (c) A district school board must submit its principal  
80 autonomy proposal to the state board for approval by December 1  
81 in order to begin participation in the subsequent school year.  
82 By February 28 of the school year in which the proposal is  
83 submitted, the state board shall notify the district school  
84 board in writing whether the proposal is approved.

85           (3) EXEMPTION FROM LAWS.—

86           (a) With the exception of those laws listed in paragraph  
87 (b), a participating school is exempt from the provisions of  
88 chapters 1000-1013 and rules of the state board that implement  
89 those exempt provisions.

90           (b) A participating school shall comply with the  
91 provisions of chapters 1000-1013, and rules of the state board  
92 that implement those provisions, pertaining to the following:

93           1. Those laws relating to the election and compensation of  
94 district school board members, the election or appointment and  
95 compensation of district school superintendents, public meetings  
96 and public records requirements, financial disclosure, and  
97 conflicts of interest.

98           2. Those laws relating to the student assessment program  
99 and school grading system, including chapter 1008.

100           3. Those laws relating to the provision of services to  
101 students with disabilities.

102           4. Those laws relating to civil rights, including s.  
103 1000.05, relating to discrimination.

104           5. Those laws relating to student health, safety, and



105 welfare.

106 6. Section 1001.42(4)(f), relating to the uniform opening  
 107 date for public schools.

108 7. Section 1003.03, governing maximum class size, except  
 109 that the calculation for compliance pursuant to s. 1003.03 is  
 110 the average at the school level for a participating school.

111 8. Sections 1012.22(1)(c) and 1012.27(2), relating to  
 112 compensation and salary schedules.

113 9. Section 1012.33(5), relating to workforce reductions  
 114 for annual contracts for instructional personnel. This  
 115 subparagraph does not apply to at-will employees.

116 10. Section 1012.335, relating to annual contracts for  
 117 instructional personnel hired on or after July 1, 2011. This  
 118 subparagraph does not apply to at-will employees.

119 11. Section 1012.34, relating to personnel evaluation  
 120 procedures and criteria.

121 12. Those laws pertaining to educational facilities,  
 122 including chapter 1013, except that s. 1013.20, relating to  
 123 covered walkways for relocatables, and s. 1013.21, relating to  
 124 the use of relocatable facilities exceeding 20 years of age, are  
 125 eligible for exemption.

126 13. Those laws pertaining to participating school  
 127 districts, including this section and ss. 1011.69(2) and  
 128 1012.28(8).

129 (4) PROFESSIONAL DEVELOPMENT.— Each participating school  
 130 district shall require that the principal of each participating

131 school, a three-member leadership team from each participating  
 132 school, and district personnel working with each participating  
 133 school complete a nationally recognized school turnaround  
 134 program which focuses on improving leadership, instructional  
 135 infrastructure, talent management, and differentiated support  
 136 and accountability. The required personnel must enroll in the  
 137 nationally recognized school turnaround program upon acceptance  
 138 into the pilot program. Each participating school district shall  
 139 receive \$100,000 from the department for participation in the  
 140 nationally recognized school turnaround program.

141 (5) TERM OF PARTICIPATION.—The state board shall authorize  
 142 a school district to participate in the pilot program for a  
 143 period of 3 years commencing with approval of the principal  
 144 autonomy proposal. Authorization to participate in the pilot  
 145 program may be renewed upon action of the state board. The state  
 146 board may revoke authorization to participate in the pilot  
 147 program if the school district fails to meet the requirements of  
 148 this section during the 3-year period.

149 (6) REPORTING.—Each participating school district shall  
 150 submit an annual report to the state board. The state board  
 151 shall annually report on the implementation of the Principal  
 152 Autonomy Pilot Program Initiative. Upon completion of the pilot  
 153 program's first 3-year term, the Commissioner of Education shall  
 154 submit to the President of the Senate and the Speaker of the  
 155 House of Representatives by December 1 a full evaluation of the  
 156 effectiveness of the pilot program.

157           (7) FUNDING.—The Legislature shall provide an  
 158 appropriation to the department for the costs of the pilot  
 159 program, including administrative costs and enrollment costs for  
 160 the nationally recognized school turnaround program, and an  
 161 additional amount of \$10,000 for each participating principal in  
 162 each participating district as an annual salary supplement, a  
 163 fund for the principal's school to be used at the principal's  
 164 discretion, or both, as determined by the district. To be  
 165 eligible for a salary supplement under this subsection, a  
 166 participating principal must:

167           (a) Be rated "highly effective" as determined by the  
 168 principal's performance evaluation under s. 1012.34;

169           (b) Be transferred to a school that earned a grade of "F"  
 170 or three consecutive grades of "D" pursuant to s. 1008.34 and  
 171 provided additional authority and responsibilities pursuant to  
 172 s. 1012.28(8); and

173           (c) Have implemented a turnaround option under s.  
 174 1008.33(4) at a school as the school's principal. The turnaround  
 175 option must have resulted in the school improving by at least  
 176 one letter grade while he or she was serving as the school's  
 177 principal.

178           (8) RULEMAKING.—The State Board of Education shall adopt  
 179 rules to administer this section.

180           Section 2. Subsection (2) of section 1011.69, Florida  
 181 Statutes, is amended to read:

182           1011.69 Equity in School-Level Funding Act.—

183 (2) Beginning in the 2003-2004 fiscal year, district  
 184 school boards shall allocate to schools within the district an  
 185 average of 90 percent of the funds generated by all schools and  
 186 guarantee that each school receives at least 80 percent, except  
 187 schools participating in the Principal Autonomy Pilot Program  
 188 Initiative under s. 1011.6202 are guaranteed to receive at least  
 189 90 percent, of the funds generated by that school based upon the  
 190 Florida Education Finance Program as provided in s. 1011.62 and  
 191 the General Appropriations Act, including gross state and local  
 192 funds, discretionary lottery funds, and funds from the school  
 193 district's current operating discretionary millage levy. Total  
 194 funding for each school shall be recalculated during the year to  
 195 reflect the revised calculations under the Florida Education  
 196 Finance Program by the state and the actual weighted full-time  
 197 equivalent students reported by the school during the full-time  
 198 equivalent student survey periods designated by the Commissioner  
 199 of Education. If the district school board is providing programs  
 200 or services to students funded by federal funds, any eligible  
 201 students enrolled in the schools in the district shall be  
 202 provided federal funds.

203 Section 3. Subsection (8) is added to section 1012.28,  
 204 Florida Statutes, to read:

205 1012.28 Public school personnel; duties of school  
 206 principals.—

207 (8) The principal of a school participating in the  
 208 Principal Autonomy Pilot Program Initiative under s. 1011.6202

209 has the following additional authority and responsibilities:

210 (a) In addition to the authority provided in subsection  
 211 (6), the authority to select qualified instructional personnel  
 212 for placement or to refuse to accept the placement or transfer  
 213 of instructional personnel by the district school  
 214 superintendent. Placement of instructional personnel at a  
 215 participating school in a participating school district does not  
 216 affect the employee's status as a school district employee.

217 (b) The authority to deploy financial resources to school  
 218 programs at the principal's discretion to help improve student  
 219 achievement, as defined in s. 1008.34(1), and meet performance  
 220 goals identified in the principal autonomy proposal submitted  
 221 pursuant to s. 1011.6202.

222 (c) To annually provide to the district school  
 223 superintendent and the district school board a budget for the  
 224 operation of the participating school that identifies how funds  
 225 provided pursuant to s. 1011.69(2) are allocated. The school  
 226 district shall include the budget in the annual report provided  
 227 to the State Board of Education pursuant to s. 1011.6202(6).



228 Section 4. For the 2016-2017 fiscal year, the sums of  
 229 \$700,000 in nonrecurring funds and \$210,000 in recurring funds  
 230 are appropriated from the General Revenue Fund to the Department  
 231 of Education to implement the provisions of this act.

232 Section 5. This act shall take effect July 1, 2016.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 719 Education Personnel  
**SPONSOR(S):** Education Appropriations Subcommittee, K-12 Subcommittee, Spano and others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 894

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

### SUMMARY ANALYSIS

The bill revises several provisions related to education personnel. With respect to educator discipline, the bill:

- Revises the membership of the Education Practices Commission to include membership opportunities for school administrators employed by virtual schools; former charter school governing board members; and former district school superintendents, assistant superintendents, or deputy superintendents.
- Requires all commission members to be Florida residents and authorizes the appointment of emeritus members.
- Authorizes the Commissioner of Education to issue a letter of guidance to a certified educator upon finding that probable cause to prosecute a complaint does not exist.
- Authorizes the Department of Children and Families to disclose child abandonment, abuse, or neglect records to Department of Education (DOE) employees who investigate or prosecute misconduct by certified educators.

In addition, the bill eliminates the July 1, 2016, expiration date for the educator liability insurance program, which provides liability coverage for all full-time public school instructional personnel. The bill also prohibits postsecondary educational institutions and school districts from requiring a student participating in a clinical field experience to purchase liability insurance as a condition of participation.

With respect to teacher recruitment, the bill authorizes, rather than requires, DOE to sponsor a centrally located job fair to help match educators with teaching opportunities in the state. The bill requires DOE to coordinate a best practice community to help school districts recruit and perform other human resources functions with up-to-date knowledge. The bill also deletes obsolete State Board of Education rulemaking authority regarding certain teacher assignment requirements.

The bill promotes effective school leadership by providing standards for approval of school leader preparation programs.

The bill has no fiscal impact. See FISCAL IMPACT ON STATE GOVERNMENT, *infra*.

The bill takes effect on July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Education Practices Commission**

###### Present Situation

The Education Practices Commission (EPC) is a panel that is responsible for adjudicating complaints of misconduct committed by certified educators. The EPC is authorized to suspend or revoke an educator's certificate and may impose other sanctions.<sup>1</sup> The EPC consists of 25 members, including:

- Eight teachers;
- Five administrators, at least one of whom must represent a private school;
- Seven lay citizens, five of whom must be parents of public school students with no family relation to a public school employee and two of whom must be former district school board members; and
- Five sworn law enforcement officials.

EPC members are appointed by the State Board of Education based upon nominations by the Commissioner of Education and subject to Senate confirmation. Teacher, school administrator, and lay members of the EPC must be Florida residents. Residency is not required of law enforcement members.<sup>2</sup>

The Department of Education (DOE) is required to investigate complaints of misconduct committed by certified educators to determine if probable cause exists to refer the matter for prosecution by the EPC.<sup>3</sup> DOE investigative staff must advise the Commissioner of Education regarding the findings of the investigation. DOE's legal department must review the investigation and advise the commissioner as to whether probable cause exists to prosecute the complaint. Unless the complaint involves a felony or crime of moral turpitude, the commissioner may enter into a deferred prosecution agreement with the certified educator in lieu of finding probable cause. The commissioner must dismiss a complaint if probable cause does not exist to commence prosecution.<sup>4</sup>

Florida law provides that records held by the Department of Children and Families (DCF) regarding reports of child abandonment, abuse, or neglect are confidential and exempt from public records disclosure requirements. The law authorizes disclosure of these records to a limited list of individuals, e.g., state or local government, law enforcement, or court officials who investigate or adjudicate alleged child abuse or provide supportive services to child abuse victims.<sup>5</sup> The law does not authorize disclosure of child abuse records to DOE employees who are responsible for investigating or prosecuting misconduct by certified educators.

###### Effect of Proposed Changes

The bill revises the membership of the EPC as follows:

- The number of teacher members is increased from eight to 10.
- The one school administrator slot currently reserved for a private school administrator may also be filled by a virtual school administrator.

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<sup>1</sup> Section 1012.795(1), F.S.

<sup>2</sup> Section 1012.79(1), F.S.

<sup>3</sup> Section 1012.796(1), F.S.

<sup>4</sup> Section 1012.796(3), F.S.

<sup>5</sup> Section 39.202(1)-(2), F.S.



- The number of parent members is reduced from five to four.
- The two membership slots currently reserved for former district school board members remain, but are no longer classified as “lay citizen” slots and may also be filled by a former charter school governing board member or former district school superintendent, assistant superintendent, or deputy superintendent.
- The number of sworn law enforcement officials is reduced from five to four.
- The Commissioner of Education, upon request or recommendation from the EPC, is authorized to appoint up to five emeritus members to serve one-year terms. Emeritus members may serve up to five one-year terms, are voting members for discipline hearings, and are nonvoting members for other matters. Such members are not subject to Senate confirmation.
- All members of the EPC must be Florida residents.

Additionally, the bill authorizes DCF to disclose child abandonment, abuse, or neglect records, including information in the DCF central abuse hotline,<sup>6</sup> to DOE employees who investigate or prosecute misconduct by certified educators.

Currently, the commissioner must dismiss a complaint if probable cause does not exist to commence prosecution. The bill also authorizes the commissioner to issue a letter of guidance to a certified educator if the complaint is dismissed because no probable cause is found.

## **Educator Liability Insurance Program**

### Present Situation

Legislation passed in 2015 requires DOE to administer a liability insurance program to protect public school educators from liability for claims arising from incidents occurring while performing job responsibilities.<sup>7</sup> The program must provide coverage amounting to \$2 million to all full-time instructional personnel.<sup>8</sup> Part-time instructional personnel, administrative personnel, and student teachers participating in clinical field experience through a state-approved teacher preparation program may opt to receive liability coverage, at cost.<sup>9</sup>

The law required DOE, by August 1, 2015, to notify eligible personnel of the pending procurement for liability coverage. In addition, the law required each school district, by September 1, 2015, to notify eligible personnel of the liability coverage using a postcard which included:

- The amount of the coverage;
- A general description of the nature of the coverage; and
- The contact information for coverage and claims questions.<sup>10</sup>

The law required each district school board to certify to DOE by September 15, 2015, that the district had provided the notification to the eligible personnel.<sup>11</sup>

DOE must consult with the Department of Financial Services to select the “most economically prudent and cost-effective means of implementing the program through self-insurance, a risk management program, or competitive procurement.”<sup>12</sup>

The law establishing the educator liability insurance program will expire on July 1, 2016.<sup>13</sup>

<sup>6</sup> Section 39.201, F.S.

<sup>7</sup> See s. 1012.75(3), F.S., as amended by s. 10, ch. 2015-222, L.O.F.

<sup>8</sup> Section 1012.75(3)(a), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 1012.75(3)(b), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 1012.75(3)(c), F.S.

## Effect of Proposed Changes

The bill saves the educator liability insurance program from repeal by eliminating the July 1, 2016, statutory expiration date. The bill requires DOE and each school district to provide annual notification of the insurance coverage to eligible personnel. District school boards must annually certify to DOE that the notification has been provided.

In addition, the bill requires a district school board providing clinical field experience to students in teacher preparation programs to notify the student electronically or in writing of the availability of educator liability insurance. Postsecondary educational institutions and district school boards are prohibited from requiring a student in a teacher preparation program to purchase liability insurance as a condition of participation in any clinical field experience or related activity on the premises of an elementary or secondary school.

## **School Leader Preparation Programs**

### Present Situation

School leaders include school administrators, school principals, school directors, career center directors, and assistant principals. School principals or school directors serve as the administrative head of a school and are responsible for coordinating and administering the instructional and noninstructional activities of the school. Assistant principals are staff members who assist the administrative head of the school regarding curricular and administrative matters.<sup>14</sup>

### *Florida Principal Leadership Standards*

The Florida Principal Leadership Standards (FPLS) are Florida's core expectations for effective school administrators. The FPLS are research-based; represent necessary knowledge, skills, and abilities for effective school leadership; and are the basis for school administrator preparation programs, certification competencies, certification examinations, performance evaluations, and professional development systems. The FPLS emphasize ability to improve student learning results; development and retention of quality classroom teachers; and school management practices.<sup>15</sup>

### *Performance Evaluation*

The job performance of school administrators must be evaluated annually.<sup>16</sup> The criteria used to measure school administrator performance are student performance, instructional leadership, and professional and job responsibilities.<sup>17</sup> At least one-third of a school administrator's evaluation must be based upon student performance.<sup>18</sup> Based upon these criteria, an administrator is assigned a performance rating of highly effective, effective, needs improvement, or unsatisfactory.<sup>19</sup>

### *Professional Development*

The William Cecil Golden Professional Development Program for School Leaders is a professional development program for school principals. The program was established in collaboration with state

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<sup>13</sup> Section 1012.75(3)(d), F.S.

<sup>14</sup> See s. 1012.01(3), F.S. Administrative personnel are K-12 personnel who perform management activities such as developing and executing broad policies for the school district. Administrative personnel include district-based instructional and non-instructional administrators, as well as school administrators who perform administrative duties at the school level. *Id.*

<sup>15</sup> Rule 6A-5.080(1)-(2), F.A.C.

<sup>16</sup> See s. 1012.34(3)(a), F.S.

<sup>17</sup> Section 1012.34(3)(a)1., 3., and 4., F.S.

<sup>18</sup> Section 1012.34(3)(a)1., F.S.

<sup>19</sup> Section 1012.34(2)(e), F.S.

and national professional leadership organizations. It is designed to respond to Florida's needs for quality school leadership and support the efforts of school leaders in improving instruction and student achievement and developing and retaining quality teachers. Professional development provided through the program must be based upon the FPLS and other school leadership standards.<sup>20</sup>

### *Certification*

The law requires school leaders to be certified and directs the State Board of Education to classify school services, designate certification subject areas, establish competencies for certification, and certification requirements for all school-based personnel.<sup>21</sup> The state board has established two classes of certification for school administrators – educational leadership and school principal. Certification in educational leadership qualifies one for any position falling under the classification “school administrator.”<sup>22</sup> In order to advance to certification as a school principal, one must first be certified in educational leadership.<sup>23</sup>

In Florida, aspiring school administrators must complete a school leader preparation program approved by DOE. State board rule authorizes DOE to approve two types of school leader preparation programs. Level I programs may be offered by school districts and postsecondary institutions and lead to initial certification in educational leadership for the purpose of preparing individuals to serve as school administrators. Level II programs may be offered by school districts, build upon Level I training, and lead to certification as a school principal.<sup>24</sup>

State board rule specifies criteria for initial and continued approval of Level I and Level II school leader preparation programs. Among other things, initial approval of Level I programs offered by Florida postsecondary institutions and school districts is based upon evidence that the institution or district:

- Incorporates into the program objectives that are responsive to state and school district needs for school leaders.
- Has established a comprehensive program that:
  - Leads to initial certification in educational leadership.
  - Is aligned with the FPLS and the William Cecil Golden Program for School Leaders.
  - Provides for field experiences in K-12 schools designed in collaboration with Florida public schools or school districts.
  - Endorses as program completers based upon mastery of the FPLS for initial certification and earn passing scores on the Florida Educational Leadership Examination (FELE).
- Employs faculty who are qualified to teach courses required in the program, and who document annual onsite participation or research in K-12 school settings.
- Has a means for collecting performance data on certification candidates and program completers.<sup>25</sup>

Generally speaking, a Level I program offered by a postsecondary institution leads to a master's or higher degree in educational leadership and prepares one for certification. Such institutions may offer a modified program for individuals who already hold a master's or higher degree. School district programs may only serve school district employees who already hold a master's or higher degree.<sup>26</sup>

Continued approval of a Level I program is based upon data regarding:

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<sup>20</sup> Section 1012.986(1)-(2), F.S.

<sup>21</sup> Section 1012.55(1)(a)-(b), F.S.

<sup>22</sup> Rule 6A-4.0081, F.A.C.

<sup>23</sup> Rule 6A-4.0083, F.A.C.

<sup>24</sup>

<sup>25</sup> Rule 6A-5.081(1)(b)-(c), F.A.C.

<sup>26</sup> Rule 6A-5.081(1)(b)1. and 7 and (c)1. and 3.a., F.A.C.

- Candidate admission and enrollment, program completion rates, passage rates on the FELE, and performance during field experiences.
- Program completers' and employers' satisfaction with the completer's preparedness to serve in a school-based leadership position.

Postsecondary institutions and school districts must annually submit to DOE a program evaluation plan containing this data. DOE reviews these plans annually during the approval cycle, which is five years. Under the rule, personnel evaluation results and student learning growth data of program completers are not factors currently considered in determining continued program approval.<sup>27</sup>

Among other things, initial approval of Level II programs offered by school districts is based upon evidence that the district:

- Admits only candidates who hold certification in educational leadership, are employed in a public school within the district in a leadership position.
- Delivers a competency-based developmental program that:
  - Bases instruction on the individual's needs using a customized learning plan that is derived from data gathered from self-assessment, selection, and appraisal instruments aligned to program competencies.
  - Is aligned to the FPLS and the William Cecil Golden School Professional Development Program for School Leaders.
  - Integrates on-going professional development and the district's personnel evaluation into program experiences.
- Has the means of collecting continued approval data.
- Has an endorsement of program completion by the superintendent for all program participants.<sup>28</sup>

Continued approval of Level II programs is based upon data regarding:

- Candidate admission and enrollment, inservice hours completed by participants, and program completion rates.
- Program completers' and employers' satisfaction with the completer's preparedness to serve in a school-based leadership position.
- The effectiveness of the professional development provided by program.
- Placement rates, rehire rates, retention rates, and performance of program completers, including student achievement and other indicators of success at their assigned school.

In the last year of the approval cycle, the school district must submit a summary of this data to DOE for review. DOE must review the data and provide written verification of continued approval to the school district.<sup>29</sup>

### Effect of Proposed Changes

The bill establishes in law provisions regulating school leader preparation programs. Specifically, the bill requires DOE to establish a process for the approval of school leader preparation programs for purposes specified in the bill. The bill requires the department to establish an initial and continued approval process for Level I and Level II programs through which participants can become certified. Under the bill, Level I programs may be offered by school districts and other postsecondary institutions and Level II programs may be offered by school districts.

The bill provides for five-year initial and continued approval terms for Level I and Level II programs and establishes approval criteria as follows:

<sup>27</sup> Rule 6A-5.081(1)(e), F.A.C.

<sup>28</sup> Rule 6A-5.081(2)(a), F.A.C.

<sup>29</sup> Rule 6A-5.081(2)(d), F.A.C.

## *Level I Programs*

To receive **Initial Approval**, a Level I program must:

- Provide competency-based training aligned to the FPLS.
- If the program is provided by a postsecondary institution, partner with at least one school district.
- Describe the qualifications that will be used to determine program admission standards, including a candidate's instructional expertise and leadership potential.
- Describe how the training provided through the program will be aligned to personnel evaluation criteria.

The Criteria for **Continued Approval** of a Level I program are:

- The percentage of personnel who complete the program and are placed in school leadership positions in public schools within the state.
- Results from the personnel evaluations for personnel who complete the program.
- The passage rate of personnel who complete the program on the FELE.
- The impact personnel who complete the program have on student learning as measured by the formulas developed by the commissioner (i.e., value-added model (VAM) data).
- Strategies for continuous improvement of the program.
- Strategies for involving personnel who complete the program, other school personnel, community agencies, business representatives, and other stakeholders in the program evaluation process.
- Additional data included at the discretion of the program.

The bill requires Level I programs to submit to DOE an institutional program evaluation plan that incorporates the criteria for continued approval.

## *Level II Programs*

To receive **Initial or Continued Approval**, a Level II program must:

- Demonstrate that personnel accepted into the Level II program have:
  - Obtained their certificate in educational leadership.
  - Earned a highly effective or effective rating on their performance evaluation.
  - Satisfactorily performed instructional leadership responsibilities as measured by the school district's evaluation system.
- Demonstrate that the Level II program:
  - Provides competency-based training aligned to the FPLS.
  - Provides training aligned to the personnel evaluation criteria and the William Cecil Golden Professional Development Program for School Leaders.
  - Provides individualized instruction using a customized learning plan for each person enrolled in the program that is based on data from self-assessment, selection, and appraisal instruments.
  - Conducts program evaluations and implements program improvements using input from program completers and employers and using the same data points as is required for the continued approval of Level I programs.
- Gather and monitor the same data as is required for the continued approval of Level I programs.

The bill also requires a Level I program to guarantee the quality of its completers. Completers who earn an evaluation lower than "effective" in the first two years after completing the program or receiving their certificate must be provided additional training by the program and receive an individualized plan that includes specific learning outcomes. The bill provides that Level I programs are not responsible for a completer's employment contract with his or her employer.

The bill requires the state board to adopt rules for the approval process.

## **Teacher Recruitment, Retention, and Assignment**

### Present Situation

The law requires DOE to sponsor a job fair each year to match in- and out-of-state educators and potential educators with teaching opportunities in Florida. The job fair must be held in a central part of the state and must be sponsored in cooperation with district personnel offices. DOE may collect a registration fee of no more than \$20 from participants and a booth fee of no more than \$250 per school district or other participating organization.<sup>30</sup>

Currently, there is no best practices community coordinated by DOE to help districts recruit educators and perform other human resources functions with updated knowledge.

Current law prohibits a school district from assigning to schools graded "D" or "F" a higher percentage than the school district average of temporarily certified teachers, teachers in need of improvement, and out-of-field teachers.<sup>31</sup> Although the State Board of Education has rulemaking authority related to these teacher assignment provisions, it has not adopted any rules pursuant to its authority because districts are already implementing the requirements.

### Effect of Proposed Changes

The bill allows, rather than requires, DOE to sponsor the centrally located job fair. In addition, the bill requires DOE to coordinate a best practice community to help school district personnel responsible for teacher recruitment and other human resources functions operate with the most up-to-date knowledge in these areas. The bill also deletes the state board's obsolete rulemaking authority related to teacher assignment.

## **B. SECTION DIRECTORY:**

Section 1. Amends s. 39.202, F.S.; authorizing certain employees or agents of the Department of Education to have access to certain reports and records.

Section 2. Amends s. 1012.05, F.S.; authorizing rather than requiring the Department of Education to sponsor a job fair meeting certain criteria; requiring the department to coordinate a best practice community.

Section 3. Amends s. 1012.2315, F.S.; repealing State Board of Education rulemaking authority related to teacher assignment.

Section 4. Amends s. 1012.39, F.S.; providing requirements regarding liability insurance for students performing clinical field experience.

Section 5. Creates s. 1012.562, F.S.; requiring the department to approve school leader preparation programs; providing for approval; providing program requirements; providing for rulemaking.

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<sup>30</sup> Section 1012.05(4), F.S. Fee revenue must be used to promote and operate the fair and may be used to purchase promotional items such as mementos, awards, and plaques.

<sup>31</sup> Section 1012.2315(2), F.S.

Section 6. Amends s. 1012.75, F.S.; requiring annual notification of liability insurance to specified personnel; abrogating the scheduled expiration of the educator liability insurance program.

Section 7. Amends s. 1012.79, F.S.; revising membership of the Education Practices Commission; authorizing the Commissioner of Education to appoint emeritus members to the commission.

Section 8. Amends s. 1012.796, F.S.; authorizing the commissioner to issue a letter of guidance in response to a complaint against a certified teacher or administrator.

Section 9. Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Funds may be saved if DOE elects not to hold the job fair in favor of other, more efficient recruitment activities.

Funding for the educator liability insurance program is subject to appropriation in the General Appropriations Act (GAA). For 2015-16, \$1.2 million was included in the GAA to fund the educator professional liability insurance program.

DOE estimates \$4,750 in annual travel expenses for emeritus members appointed to the EPC.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

None.

### D. FISCAL COMMENTS:

See FISCAL IMPACT ON STATE GOVERNMENT, *supra*.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill requires the State Board of Education to adopt rules relating to school leader preparation programs and deletes obsolete rulemaking authority related to teacher assignment.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 13, 2016, the K-12 Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The first amendment provides the Department of Education access to information reported to the Central Abuse Hotline when investigating allegations against certified educators. The second amendment eliminates obsolete State Board of Education rulemaking authority related to teacher assignment.

The bill analysis is drafted to the committee substitute as reported favorably by the K-12 Subcommittee.

On January 28, 2016, the Education Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The first amendment removes the exemption for the Educator Certification and Service Trust Fund from the 8 percent General Revenue service charge. The second amendment restores the \$2 million cap of coverage for the educator liability insurance program.

The bill analysis is drafted to the committee substitute as reported favorably by the Education Appropriations Subcommittee.





27 emeritus members to the commission; amending s.  
 28 1012.796, F.S.; authorizing the commissioner to issue  
 29 a letter of guidance in response to a complaint  
 30 against a certified teacher or administrator;  
 31 providing an effective date.

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

34  
 35 Section 1. Subsection (6) of section 39.201, Florida  
 36 Statutes, is amended to read:

37 39.201 Mandatory reports of child abuse, abandonment, or  
 38 neglect; mandatory reports of death; central abuse hotline.—

39 (6) Information in the central abuse hotline may not be  
 40 used for employment screening, except as provided in s.  
 41 39.202(2)(a) and (h). Information in the central abuse hotline  
 42 and the department's automated abuse information system may be  
 43 used by the department, its authorized agents or contract  
 44 providers, the Department of Health, or county agencies as part  
 45 of the licensure or registration process pursuant to ss.  
 46 402.301-402.319 and ss. 409.175-409.176. Pursuant to s.  
 47 39.202(2)(q), the information in the central abuse hotline may  
 48 also be used by the Department of Education for purposes of  
 49 educator certification discipline and review.

50 Section 2. Paragraphs (q), (r), and (s) of subsection (2)  
 51 of section 39.202, Florida Statutes, are redesignated as  
 52 paragraphs (r), (s), and (t), respectively, and a new paragraph

53 (q) is added to that subsection, to read:

54 39.202 Confidentiality of reports and records in cases of  
55 child abuse or neglect.-

56 (2) Except as provided in subsection (4), access to such  
57 records, excluding the name of the reporter which shall be  
58 released only as provided in subsection (5), shall be granted  
59 only to the following persons, officials, and agencies:

60 (q) An employee or agent of the Department of Education  
61 who is responsible for the investigation or prosecution of  
62 misconduct by a certified educator.

63 Section 3. Subsection (4) of section 1012.05, Florida  
64 Statutes, is amended to read:

65 1012.05 Teacher recruitment and retention.-

66 (4) The Department of Education, in cooperation with  
67 district personnel offices, may ~~shall~~ sponsor a job fair in a  
68 central part of the state to match in-state educators and  
69 potential educators and out-of-state educators and potential  
70 educators with teaching opportunities in this state. The  
71 Department of Education is authorized to collect a job fair  
72 registration fee not to exceed \$20 per person and a booth fee  
73 not to exceed \$250 per school district or other interested  
74 participating organization. The revenue from the fees shall be  
75 used to promote and operate the job fair. Funds may be used to  
76 purchase promotional items such as mementos, awards, and  
77 plaques. The Department of Education shall also coordinate a  
78 best practice community to ensure that school district personnel

79 responsible for teacher recruitment and other human resources  
 80 functions are operating with the most up-to-date knowledge.

81 Section 4. Paragraph (b) of subsection (2) of section  
 82 1012.2315, Florida Statutes, is amended to read:

83 1012.2315 Assignment of teachers.—

84 (2) ASSIGNMENT TO SCHOOLS GRADED "D" or "F".—

85 (b)1. Beginning July 1, 2014, a school district may assign  
 86 an individual newly hired as instructional personnel to a school  
 87 that has earned a grade of "F" in the previous year or any  
 88 combination of three consecutive grades of "D" or "F" in the  
 89 previous 3 years pursuant to s. 1008.34 if the individual:

90 a. Has received an effective rating or highly effective  
 91 rating in the immediate prior year's performance evaluation  
 92 pursuant s. 1012.34;

93 b. Has successfully completed or is enrolled in a teacher  
 94 preparation program pursuant to s. 1004.04, s. 1004.85, or s.  
 95 1012.56, or a teacher preparation program specified in State  
 96 Board of Education rule, is provided with high quality mentoring  
 97 during the first 2 years of employment, holds a certificate  
 98 issued pursuant to s. 1012.56, and holds a probationary contract  
 99 pursuant to s. 1012.335(2)(a); or

100 c. Holds a probationary contract pursuant to s.  
 101 1012.335(2)(a), holds a certificate issued pursuant to s.  
 102 1012.56, and has successful teaching experience, and if, in the  
 103 judgment of the school principal, students would benefit from  
 104 the placement of that individual.

105           2. As used in this paragraph, the term "mentoring"  
 106 includes the use of student achievement data combined with at  
 107 least monthly observations to improve the educator's  
 108 effectiveness in improving student outcomes. Mentoring may be  
 109 provided by a school district, a teacher preparation program  
 110 approved pursuant to s. 1004.04, s. 1004.85, or s. 1012.56, or a  
 111 teacher preparation program specified in State Board of  
 112 Education rule.

113           ~~3. The State Board of Education shall adopt rules under~~  
 114 ~~ss. 120.536(1) and 120.54 to implement this paragraph.~~

115  
 116 Each school district shall annually certify to the Commissioner  
 117 of Education that the requirements in this subsection have been  
 118 met. If the commissioner determines that a school district is  
 119 not in compliance with this subsection, the State Board of  
 120 Education shall be notified and shall take action pursuant to s.  
 121 1008.32 in the next regularly scheduled meeting to require  
 122 compliance.

123           Section 5. Subsection (3) of section 1012.39, Florida  
 124 Statutes, is amended to read:

125           1012.39 Employment of substitute teachers, teachers of  
 126 adult education, nondegreed teachers of career education, and  
 127 career specialists; students performing clinical field  
 128 experience.—

129           (3) A student who is enrolled in a state-approved teacher  
 130 preparation program in a postsecondary educational institution

131 that is approved by rules of the State Board of Education and  
 132 who is jointly assigned by the postsecondary educational  
 133 institution and a district school board to perform a clinical  
 134 field experience under the direction of a regularly employed and  
 135 certified educator shall, while serving such supervised clinical  
 136 field experience, be accorded the same protection of law as that  
 137 accorded to the certified educator except for the right to  
 138 bargain collectively as an employee of the district school  
 139 board. The district school board providing the clinical field  
 140 experience shall notify the student electronically or in writing  
 141 of the availability of educator liability insurance under s.  
 142 1012.75. A postsecondary educational institution or district  
 143 school board may not require a student enrolled in a state-  
 144 approved teacher preparation program to purchase liability  
 145 insurance as a condition of participation in any clinical field  
 146 experience or related activity on the premises of an elementary  
 147 or secondary school.

148 Section 6. Section 1012.562, Florida Statutes, is created  
 149 to read:

150 1012.562 Public accountability and state approval of school  
 151 leader preparation programs.—The Department of Education shall  
 152 establish a process for the approval of Level I and Level II  
 153 school leader preparation programs that will enable aspiring  
 154 school leaders to obtain their certificate in educational  
 155 leadership under s. 1012.56. School leader preparation programs  
 156 must be competency-based, aligned to the principal leadership

157 standards adopted by the state board, and open to individuals  
 158 employed by public schools, including charter schools and virtual  
 159 schools. Level I programs may be offered by school districts or  
 160 postsecondary institutions and lead to initial certification in  
 161 educational leadership for the purpose of preparing individuals  
 162 to serve as school administrators. Level II programs may be  
 163 offered by school districts, build upon Level I training, and  
 164 lead to renewal certification as a school principal.

165 (1) PURPOSE.—The purpose of school leader preparation  
 166 programs are to:

167 (a) Increase the supply of effective school leaders in the  
 168 public schools of this state.

169 (b) Produce school leaders who are prepared to lead the  
 170 state's diverse student population in meeting high standards for  
 171 academic achievement.

172 (c) Enable school leaders to facilitate the development and  
 173 retention of effective and highly effective classroom teachers.

174 (d) Produce leaders with the competencies and skills  
 175 necessary to achieve the state's education goals.

176 (e) Sustain the state system of school improvement and  
 177 education accountability.

178 (2) LEVEL I PROGRAMS.—

179 (a) Initial approval of a Level I program shall be for a  
 180 period of 5 years. A postsecondary institution or school  
 181 district may submit to the department in a format prescribed by  
 182 the department an application to establish a Level I school

183 leader preparation program. To be approved, a Level I program  
 184 must:

185 1. Provide competency-based training aligned to the  
 186 principal leadership standards adopted by the State Board of  
 187 Education.

188 2. If the program is provided by a postsecondary  
 189 institution, partner with at least one school district.

190 3. Describe the qualifications that will be used to  
 191 determine program admission standards, including a candidate's  
 192 instructional expertise and leadership potential.

193 4. Describe how the training provided through the program  
 194 will be aligned to the personnel evaluation criteria under s.  
 195 1012.34.

196 (b) Renewal of a Level I program's approval shall be for a  
 197 period of 5 years and shall be based upon evidence of the  
 198 program's continued ability to meet the requirements of  
 199 paragraph (a). A postsecondary institution or school district  
 200 must submit an institutional program evaluation plan in a format  
 201 prescribed by the department for a Level I program to be  
 202 considered for renewal. The plan must include:

203 1. The percentage of personnel who complete the program  
 204 and are placed in school leadership positions in public schools  
 205 within the state.

206 2. Results from the personnel evaluations required under  
 207 s. 1012.34 for personnel who complete the program.

208 3. The passage rate of personnel who complete the program



209 on the Florida Education Leadership Examination.

210 4. The impact personnel who complete the program have on  
 211 student learning as measured by the formulas developed by the  
 212 commissioner pursuant to s. 1012.34(7).

213 5. Strategies for continuous improvement of the program.

214 6. Strategies for involving personnel who complete the  
 215 program, other school personnel, community agencies, business  
 216 representatives, and other stakeholders in the program  
 217 evaluation process.

218 7. Additional data included at the discretion of the  
 219 postsecondary institution or school district.

220 (c) A Level I program must guarantee the high quality of  
 221 personnel who complete the program for the first 2 years after  
 222 program completion or the person's initial certification as a  
 223 school leader, whichever occurs first. If a person who completed  
 224 the program is evaluated at less than highly effective or  
 225 effective under s. 1012.34 and the person's employer requests  
 226 additional training, the Level I program must provide additional  
 227 training at no cost to the person or his or her employer. The  
 228 training must include the creation of an individualized plan  
 229 agreed to by the employer that includes specific learning  
 230 outcomes. The Level I program is not responsible for the  
 231 person's employment contract with his or her employer.

232 (3) LEVEL II PROGRAMS.—Initial approval and subsequent  
 233 renewal of a Level II program shall be for a period of 5 years.  
 234 A school district may submit to the department in a format

235 prescribed by the department an application to establish a Level  
 236 II school leader preparation program or for program renewal. To  
 237 be approved or renewed, a Level II program must:

238 (a) Demonstrate that personnel accepted into the Level II  
 239 program have:

240 1. Obtained their certificate in educational leadership  
 241 under s. 1012.56.

242 2. Earned a highly effective or effective designation under  
 243 s. 1012.34.

244 3. Satisfactorily performed instructional leadership  
 245 responsibilities as measured by the evaluation system in s.  
 246 1012.34.

247 (b) Demonstrate that the Level II program:

248 1. Provides competency-based training aligned to the  
 249 principal leadership standards adopted by the State Board of  
 250 Education.

251 2. Provides training aligned to the personnel evaluation  
 252 criteria under s. 1012.34 and professional development program  
 253 in s. 1012.986.

254 3. Provides individualized instruction using a customized  
 255 learning plan for each person enrolled in the program that is  
 256 based on data from self-assessment, selection, and appraisal  
 257 instruments.

258 4. Conducts program evaluations and implements program  
 259 improvements using input from personnel who completed the  
 260 program and employers and data gathered pursuant to paragraph

261 (2) (b) .

262 (c) Gather and monitor the data specified in paragraph

263 (2) (b) .

264 (4) RULES.—The State Board of Education shall adopt rules  
 265 to administer this section.

266 Section 7. Subsection (3) of section 1012.75, Florida  
 267 Statutes, is amended to read:

268 1012.75 Liability of teacher or principal; excessive  
 269 force.—

270 (3) The Department of Education shall administer an  
 271 educator liability insurance program, as provided in the General  
 272 Appropriations Act, to protect full-time instructional personnel  
 273 from liability for monetary damages and the costs of defending  
 274 actions resulting from claims made against the instructional  
 275 personnel arising out of occurrences in the course of activities  
 276 within the instructional personnel's professional capacity. For  
 277 purposes of this subsection, the terms "full-time," "part-time,"  
 278 and "administrative personnel" shall be defined by the  
 279 individual district school board. For purposes of this  
 280 subsection, the term "instructional personnel" has the same  
 281 meaning as provided in s. 1012.01(2).

282 (a) Liability coverage of at least \$2 million shall be  
 283 provided to all full-time instructional personnel. Liability  
 284 coverage may be provided to the following individuals who choose  
 285 to participate in the program, at cost: part-time instructional  
 286 personnel, administrative personnel, and students enrolled in a

287 state-approved teacher preparation program pursuant to s.  
 288 1012.39(3).

289 (b) By August 1 of each year, the department shall notify  
 290 the personnel specified in paragraph (a) of the pending  
 291 procurement for liability coverage. By September 1 of each year,  
 292 each district school board shall notify the personnel specified  
 293 in paragraph (a) of the liability coverage provided pursuant to  
 294 this subsection. The department shall develop the form of the  
 295 notice which shall be used by each district school board. The  
 296 notice must be on an 8 1/2-inch by 5 1/2-inch postcard and  
 297 include the amount of coverage, a general description of the  
 298 nature of the coverage, and the contact information for coverage  
 299 and claims questions. The notification shall be provided  
 300 separately from any other correspondence. Each district school  
 301 board shall certify to the department, by September 15 of each  
 302 year, that the notification required by this paragraph has been  
 303 provided.

304 (c) The department shall consult with the Department of  
 305 Financial Services to select the most economically prudent and  
 306 cost-effective means of implementing the program through self-  
 307 insurance, a risk management program, or competitive  
 308 procurement.

309 ~~(d) This subsection expires July 1, 2016.~~

310 Section 8. Subsection (1) of section 1012.79, Florida  
 311 Statutes, is amended to read:

312 1012.79 Education Practices Commission; organization.—

313           (1) The Education Practices Commission is composed  
 314 ~~consists~~ of the following 25 members: 10, ~~including 8~~ teachers;  
 315 5 administrators, at least one of whom represents ~~shall~~  
 316 ~~represent~~ a private or virtual school; 4 ~~7~~ lay citizens who are,  
 317 ~~5 of whom shall be~~ parents of public school students and who are  
 318 unrelated to public school employees; and 2 of whom shall be  
 319 former charter school governing board or district school board  
 320 members or former superintendents, assistant superintendents, or  
 321 deputy superintendents; and 4 ~~5~~ sworn law enforcement officials,  
 322 appointed by the State Board of Education from nominations by  
 323 the Commissioner of Education and subject to Senate  
 324 confirmation. Before ~~Prior to~~ making nominations, the  
 325 commissioner shall consult with teaching associations, parent  
 326 organizations, law enforcement agencies, and other involved  
 327 associations in the state. In making nominations, the  
 328 commissioner shall attempt to achieve equal geographical  
 329 representation, as closely as possible.

330           (a) A teacher member, in order to be qualified for  
 331 appointment:

- 332           1. Must be certified to teach in the state.
- 333           ~~2. Must be a resident of the state.~~
- 334           2.3. Must have practiced the profession in this state for  
 335 at least 5 years immediately preceding the appointment.

336           (b) A school administrator member, in order to be  
 337 qualified for appointment:

338 1. Must have an endorsement on the educator certificate in  
 339 the area of school administration or supervision.

340 ~~2. Must be a resident of the state.~~

341 ~~2.3.~~ Must have practiced the profession as an  
 342 administrator for at least 5 years immediately preceding the  
 343 appointment.

344 ~~(c) The lay members must be residents of the state.~~

345 (c) ~~(d)~~ The law enforcement official members must have  
 346 served in the profession for at least 5 years immediately  
 347 preceding appointment and have background expertise in child  
 348 safety.

349 (d) The Commissioner of Education, upon request or  
 350 recommendation from the commission, may also appoint up to 5  
 351 emeritus members from the commission's prior membership to serve  
 352 1-year terms. Notwithstanding any prior service on the  
 353 commission, an emeritus member may serve up to five 1-year  
 354 terms. An emeritus member serves as a voting member at a  
 355 discipline hearing and as a consulting but nonvoting member  
 356 during a business meeting.

357 (e) All members must be residents of the state.

358 Section 9. Subsection (3) of section 1012.796, Florida  
 359 Statutes, is amended to read:

360 1012.796 Complaints against teachers and administrators;  
 361 procedure; penalties.—

362 (3) The department staff shall advise the commissioner  
 363 concerning the findings of the investigation. The department

364 general counsel or members of that staff shall review the  
 365 investigation and advise the commissioner concerning probable  
 366 cause or lack thereof. The determination of probable cause shall  
 367 be made by the commissioner. The commissioner shall provide an  
 368 opportunity for a conference, if requested, prior to determining  
 369 probable cause. The commissioner may enter into deferred  
 370 prosecution agreements in lieu of finding probable cause if, in  
 371 his or her judgment, such agreements are in the best interests  
 372 of the department, the certificateholder, and the public. Such  
 373 deferred prosecution agreements shall become effective when  
 374 filed with the clerk of the Education Practices Commission.  
 375 However, a deferred prosecution agreement may ~~shall~~ not be  
 376 entered into if there is probable cause to believe that a felony  
 377 or an act of moral turpitude, as defined by rule of the State  
 378 Board of Education, has occurred. Upon finding no probable  
 379 cause, the commissioner shall dismiss the complaint and may  
 380 issue a letter of guidance to the certificateholder.


381 Section 10. This act shall take effect July 1, 2016.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 835 Education  
**SPONSOR(S):** Education Appropriations Subcommittee, Eisnaugle and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1522

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Education Appropriations Subcommittee	13 Y, 0 N, As CS	Seifert	Heflin
2) Education Committee		Dehmer	Mizereck 

### SUMMARY ANALYSIS

Home Education is a parent-directed educational option that satisfies the requirement for regular school attendance. Parents have the freedom to determine their child's educational path and the plan for reaching their goals. Students have the opportunity to explore and learn at their own pace, in any location or at any time. Home education program students are able to enter institutions of higher learning and are eligible to participate in the Florida Bright Futures Scholarship Program.

The bill:

- Clarifies that a home education program is not a school district;
- Authorizes school districts to provide exceptional student education-related services to a home education program student and report them for FEFP funding for services provided;
- Authorizes school districts to provide a home education program student access to career and technical courses and programs;
- Authorizes school districts to offer industry certifications, national assessments, and statewide, standardized assessments to a home education program student;
- Reimburses dual enrollment instructional materials expenses to a home education program student;
- Limits the documentation a school district can require from a home education student;
- Exempts dual enrollment students from paying postsecondary institution technology fees;
- Exempts a home education program student from the grade point average requirement for admission to a dual enrollment program if the student meets the minimum score on a common placement test;
- Explicitly exempts public school, private school, or home education program dual enrollment students from payment of registration, tuition, technology, and laboratory fees;
- Clarifies that private schools and a home education program student are not required to reimburse tuition for dual enrollment students;
- Requires postsecondary institutions to have a dual enrollment articulation agreement with home education program students and with private schools; and
- Specifies a home education program student is eligible for a Florida Gold Seal Vocational Scholars award.

The bill provides an appropriation of \$1 million of recurring general revenue for the 2016-2017 Fiscal Year to be disbursed by a nonprofit Scholarship Funding Organization to provide reimbursement of up to \$80 per course for dual enrollment instruction materials expenditures made by home education program students.

The bill is effective on July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Home Education Programs

Home Education is a parent-directed educational option that satisfies the requirement for regular school attendance. Florida Laws protecting home education became effective in 1985. Parents have the freedom to determine their child's educational path and the plan for reaching their goals. Students have the opportunity to explore and learn at their own pace, in any location or at any time. Home education program students are able to enter institutions of higher learning and are eligible to participate in the Florida Bright Futures Scholarship Program. More than 84,000 students in approximately 58,000 families are in Home Education Programs throughout Florida.<sup>1</sup>

Section 1002.01, Florida Statute, defines home education as the sequentially progressive instruction of a student directed by his or her parent or guardian, in order to satisfy the requirement for compulsory education as defined in Section 1002.20, Florida Statute. Current law does not prescribe a curriculum or course of study for home education programs.

The bill allows, but does not require, a school district to provide exceptional student education (ESE) services to a home education program student and to report those students as full-time equivalent (FTE) for funding in the Florida Education Finance Program (FEFP). The bill also allows, but does not require, a school district to provide access to career and technical courses and programs to a home education program student and to report those students as FTE for funding in the FEFP.

The bill requires school districts to notify home education program students in the district of the date, time, and availability of industry certifications, national assessments, and statewide standardized assessments. A home education program student must notify the school district of intent to take the available certificates or assessments.

The bill provides, subject to an appropriation, a reimbursement of up to \$80 per dual enrollment course instructional materials for a home school program student. The reimbursement must be verified by an eligible nonprofit scholarship funding organization. If the number of submissions for dual enrollment textbook reimbursement is greater than the appropriation, the available funds shall be prorated among the eligible requests.

##### Court Procedure and Penalties

Florida law defines "habitual truant" as a student who has 15 or more unexcused absences within 90 calendar days with or without the knowledge or consent of the student's parent or guardian, and who is subject to compulsory school attendance.<sup>2</sup>

The bill clarifies that court procedure and penalties for the enforcement of compulsory school attendance may not be instituted against a student's parent until the school and school district comply with the steps to promote and enforce regular school attendance as provided in Section 1003.26, Florida Statutes.

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<sup>1</sup> Department of Education at: <http://www.fl DOE.org/schools/school-choice/other-school-choice-options/home-edu/> (last visited Jan 23, 2016).

<sup>2</sup> Section 984.03(27)(a), F.S.

## Dual Enrollment Program

Dual enrollment allows high school students an opportunity to enroll in postsecondary courses and receive both high school and postsecondary credit.

Home education program students may enroll directly with the postsecondary institution pursuant to Section 1007.271(10)(a), Florida Statutes, or use the district's interinstitutional articulation agreement. If the home education program student enrolls through the district's interinstitutional articulation agreement as the basis for dual enrollment, the student is effectively enrolled in the district for the course(s) and the district may earn FTE and must provide instructional materials.

A home education program student not using the district's interinstitutional articulation agreement must provide proof of enrollment in the home education program and is responsible for his or her own instructional materials.

The Dual Enrollment Articulation Agreement between a school district and a postsecondary institution establishes guidelines for implementing the program for eligible students. Section 1007.271(21), Florida Statutes, mandates that a school district and the local public postsecondary institution enter into an agreement.

Home education program students must present evidence to the postsecondary institution that the home education program is in compliance with Section 1002.41, Florida Statutes. It is not a requirement that home education program students present a transcript at the time of entry to the dual enrollment program. Each postsecondary institution must enter into a Home Education Articulation Agreement with each student seeking enrollment in a dual enrollment course and the student's parent.

Currently, a dual enrollment student is exempt from payment of registration, tuition, and laboratory fees. The bill exempts technology fees for dual enrollment students as well.

The bill allows a home education program student to participate in a dual enrollment course without a high school grade point average (GPA) if the home school program student meets a minimum score on a college placement test. The home education program student is required to maintain a minimum GPA for continued enrollment.

The bill explicitly states that public school, private school, or home education program students eligible for dual enrollment are exempt from paying registration, tuition, technology, and laboratory fees.

The bill clarifies that private schools and a home education program student are not required to reimburse tuition for dual enrollment students. Public schools continue to be required to reimburse tuition for each dual enrollment student in the district.

The bill requires a dual enrollment articulation agreement between home education program students and the postsecondary institution.

The bill requires that a copy of a postsecondary institution's dual enrollment articulation agreement with a private school be submitted to the Department of Education. In addition, the dual enrollment articulation agreement with a private school must explicitly state that the costs associated with tuition and fees may not be passed along to the private school student or the private school.

## Florida Gold Seal Vocational Scholars Award

Students who are home-educated in Florida may apply for the Florida Bright Futures Scholarship Program. The Bright Futures home education requirements differ from public and private high school requirements. Student eligibility requirements are provided for home education program students participating in the Bright Futures Florida Academic and Florida Medallion Scholarship programs;

however, there is currently no specific authority for home education program students to be eligible for the Florida Gold Seal Vocational Scholarship.

The Florida Gold Seal Vocational Scholarship may be used for the following programs at institutions that offer these specific programs:

- Applied Technology Diploma Programs,
- Technical Degree Programs (Associate Degree and Applied Associate of Science Degree); and
- Career Certificate Programs.

Florida high school students who wish to qualify for the Florida Gold Seal Vocational Scholars award must meet the following initial eligibility requirements:

- Graduate from high school with a Standard Diploma (high school graduation requirements);
- Achieve the required weighted minimum 3.0 GPA in the non-elective high school courses;
- Take at least 3 full credits in a single Career and Technical Education program;
- Achieve the required minimum 3.5 unweighted GPA in the career education courses;
- Achieve the required minimum score on the ACT®, SAT®, or Florida Postsecondary Education Readiness Test (P.E.R.T.) exams; and
- Complete 30 service hours.

The bill makes a technical correction to clarify that the student must earn a minimum unweighted grade point average of 3.5 on a 4.0 scale for the secondary school career courses required to be eligible for the Florida Gold Seal Vocational Scholars award.

In lieu of earning a minimum cumulative weighted grade point average of 3.0, on all subjects required for a standard high school diploma, excluding elective courses, the bill clarifies that a student who has attended a home education program during grades 11 and 12 is eligible for a Florida Gold Seal Vocational Scholarship if the student meets the general eligibility requirements for the program.

## B. SECTION DIRECTORY:

Section 1: Amends s. 1002.41, F.S.; specifies that a home education program is not a school district program; authorizes a school district to provide exceptional student education-related services to certain home education program students; requires reporting and funding through the Florida Education Finance Program; authorizes a school district to provide home education program students with access to certain courses and programs offered by the school district; requires reporting and funding through the Florida Education Finance Program; requires home education program students be provided access to certain certifications and assessments offered by the school district; provides for a textbook reimbursement for home education program students; provides for funding and the disbursement of the reimbursement; requires a home education program student be verified by the postsecondary institution before award of the reimbursement; requires the reimbursement to be prorated under certain circumstances; and prohibits a school district from taking certain actions against a home education program student's parent unless such action is required for a school district program.

Section 2: Amends s. 1003.27, F.S.; requires a school and school district to comply with specified provisions before instituting criminal prosecution against certain parents relating to compulsory school attendance.

Section 3: Amends s. 1007.271, F.S.; exempts dual enrollment students from paying technology fees; prohibits dual enrollment course and program limitations for home education program students from exceeding limitations for other students; provides an exemption from the grade point average requirement for initial enrollment in a dual enrollment program for certain home education program students; provides that articulation agreements for private schools and home education program students may not contain specified payment provisions; requires each public postsecondary institution

to develop a comprehensive dual enrollment articulation agreement for home education program students; authorizes certain postsecondary institutions to enter into an articulation agreement with certain private schools; requires the articulation agreement be submitted to the Department of Education; and requires specified provisions be included in the agreement.

Section 4: Amends s. 1009.536, F.S.; clarifies student eligibility for the Florida Gold Seal Vocational Scholars award.

Section 5: Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See *Fiscal Comments*.

### 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 allows, but does not require, school districts to serve non-public school ESE students and report them for FTE funding. It is unknown how many home education program students are eligible or may use these services. The cost is indeterminate.

The bill allows, but does not require, school districts to provide access to career and technical courses and programs to non-public school students and report them for FTE funding. It is unknown how many home education program students are eligible or may use these services. The cost is indeterminate.

The bill requires school districts to notify and allow participation of industry certifications, national assessments, and statewide standardized assessments to non-public school students. It is unknown how many home education program students may choose to participate in the testing of certifications or assessments. The cost is indeterminate.

The bill provides a dual enrollment instructional materials reimbursement to home education program students of up to \$80 per dual enrollment course material to be administered by a nonprofit Scholarship Funding Organization. The bill provides an appropriation of \$1 million to the Department of Education to meet this requirement. If the appropriation is insufficient to meet the full cost of the program, the amount of each reimbursement shall be prorated.

The bill codifies and clarifies the home education program students' participation in the dual enrollment program. The changes codify current practice and there is no fiscal impact.

The changes made to the Florida Gold Seal Vocational Scholars award qualifications is expected to be positive, but indeterminate, due to the unknown actual number of eligible home education program students in Florida.

### **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 known.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 28, 2016, the Education Appropriations Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute allows home education program students access to public education programs. The bill provides a dual enrollment instructional materials reimbursement process for home education program students. The bill analysis is drafted to the committee substitute as passed by the Education Appropriations Subcommittee.

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A bill to be entitled  
 An act relating to education; amending s. 1002.41,  
 F.S.; specifying that a home education program is not  
 a school district program; authorizing a school  
 district to provide exceptional student education-  
 related services to certain home education program  
 students; requiring reporting and funding through the  
 Florida Education Finance Program; authorizing a  
 school district to provide home education program  
 students with access to certain courses and programs  
 offered by the school district; requiring reporting  
 and funding through the Florida Education Finance  
 Program; requiring home education program students be  
 provided access to certain certifications and  
 assessments offered by the school district; providing  
 for a textbook reimbursement for certain home  
 education program students; providing for funding and  
 the disbursement of the reimbursement; requiring that  
 a home education student's enrollment in a dual  
 enrollment course be verified by the postsecondary  
 institution before award of the reimbursement;  
 requiring the reimbursement to be prorated under  
 certain circumstances; prohibiting a school district  
 from taking certain actions against a home education  
 program student's parent unless such action is  
 required for a school district program; amending s.

27 1003.27, F.S.; requiring a school and school district  
 28 to comply with specified provisions before instituting  
 29 criminal prosecution against certain parents relating  
 30 to compulsory school attendance; amending s. 1007.271,  
 31 F.S.; exempting dual enrollment students from paying  
 32 technology fees; prohibiting dual enrollment course  
 33 and program limitations for home education students  
 34 from exceeding limitations for other students;  
 35 providing an exemption from the grade point average  
 36 requirement for initial enrollment in a dual  
 37 enrollment program for certain home education  
 38 students; providing that articulation agreements for  
 39 private schools and home education students may not  
 40 contain specified payment provisions; requiring each  
 41 public postsecondary institution to develop a  
 42 comprehensive dual enrollment articulation agreement  
 43 for home education students; authorizing certain  
 44 postsecondary institutions to enter into an  
 45 articulation agreement with certain private schools;  
 46 requiring that the articulation agreement be submitted  
 47 to the Department of Education; requiring that  
 48 specified provisions be included in the agreement;  
 49 amending s. 1009.536, F.S.; specifying student  
 50 eligibility for the Florida Gold Seal Vocational  
 51 Scholars award; providing an appropriation; providing  
 52 an effective date.



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

Section 1. Subsections (3) and (9) of section 1002.41, Florida Statutes, are amended, and subsections (10), (11), (12), (13), and (14) are added to that section, to read:

1002.41 Home education programs.—

(3) A home education program is not a school district program and shall be excluded from meeting the requirements of a school day.

(9) ~~Home education program students may receive~~ Testing and evaluation services at diagnostic and resource centers shall be available to home education program students, in accordance with the provisions of s. 1006.03.

(10) A school district may provide exceptional student education-related services, as defined in State Board of Education rule, to a home education program student with a disability who is eligible for the services and who enrolls in a public school solely for the purpose of receiving those related services. The school district providing the services shall report each student as a full-time equivalent student in the class and in a manner prescribed by the Department of Education, and funding shall be provided through the Florida Education Finance Program pursuant to s. 1011.62.

(11) A school district may provide access to career and technical courses and programs for a home education program

79 student who enrolls in a public school solely for the career and  
80 technical courses or programs. The school district providing the  
81 career and technical courses and programs shall report each  
82 student as a full-time equivalent student in the class and in a  
83 manner prescribed by the Department of Education, and funding  
84 shall be provided through the Florida Education Finance Program  
85 pursuant to s. 1011.62.

86 (12) Industry certifications, national assessments, and  
87 statewide, standardized assessments offered by the school  
88 district shall be available to home education program students.  
89 Each school district shall notify home education program  
90 students of the available certifications and assessments; the  
91 date, time, and locations for the administration of each  
92 certification and assessment; and the deadline for notifying the  
93 school district of the student's intent to participate and the  
94 student's preferred location.

95 (13) Subject to appropriation in the General  
96 Appropriations Act, home education program students enrolled in  
97 a dual enrollment course shall be provided an annual  
98 reimbursement of up to \$80 for instructional materials assigned  
99 for use within the course. The reimbursement shall be disbursed  
100 by an eligible nonprofit scholarship-funding organization, as  
101 defined in s. 1002.395, selected by the Department of Education.  
102 A student's enrollment in a dual enrollment course must be  
103 verified by the postsecondary institution before the  
104 reimbursement may be awarded. If the total amount of the

105 reimbursements for all students exceeds the total appropriation  
 106 in the General Appropriations Act, each student shall receive a  
 107 prorated amount based on the number of students requesting  
 108 reimbursement for dual enrollment instructional materials.

109 (14) A school district may not further regulate, exercise  
 110 control over, or require documentation from parents of home  
 111 education program students beyond the requirements of this  
 112 section unless the regulation, control, or documentation is  
 113 necessary for participation in a school district program.

114 Section 2. Subsection (2) of section 1003.27, Florida  
 115 Statutes, is amended to read:

116 1003.27 Court procedure and penalties.—The court procedure  
 117 and penalties for the enforcement of the provisions of this  
 118 part, relating to compulsory school attendance, shall be as  
 119 follows:

120 (2) NONENROLLMENT AND NONATTENDANCE CASES.—

121 (a) In each case of nonenrollment or of nonattendance upon  
 122 the part of a student who is required to attend some school,  
 123 when no valid reason for such nonenrollment or nonattendance is  
 124 found, the district school superintendent shall institute a  
 125 criminal prosecution against the student's parent. However,  
 126 criminal prosecution may not be instituted against the student's  
 127 parent until the school and school district have complied with  
 128 s. 1003.26.

129 (b) Each public school principal or the principal's  
 130 designee shall notify the district school board of each minor

131 student under its jurisdiction who accumulates 15 unexcused  
 132 absences in a period of 90 calendar days. ~~Each designee of the~~  
 133 ~~governing body of each private school, and each parent whose~~  
 134 ~~child is enrolled in a home education program, may provide the~~  
 135 ~~Department of Highway Safety and Motor Vehicles with the legal~~  
 136 ~~name, sex, date of birth, and social security number of each~~  
 137 ~~minor student under his or her jurisdiction who fails to satisfy~~  
 138 ~~relevant attendance requirements and who fails to otherwise~~  
 139 ~~satisfy the requirements of s. 322.091.~~ The district school  
 140 superintendent must provide the Department of Highway Safety and  
 141 Motor Vehicles the legal name, sex, date of birth, and social  
 142 security number of each minor student who has been reported  
 143 under this paragraph and who fails to otherwise satisfy the  
 144 requirements of s. 322.091. The Department of Highway Safety and  
 145 Motor Vehicles may not issue a driver license or learner's  
 146 driver license to, and shall suspend any previously issued  
 147 driver license or learner's driver license of, any such minor  
 148 student, pursuant to the provisions of s. 322.091.

149 (c) Each designee of the governing body of each private  
 150 school and each parent whose child is enrolled in a home  
 151 education program may provide the Department of Highway Safety  
 152 and Motor Vehicles with the legal name, sex, date of birth, and  
 153 social security number of each minor student under his or her  
 154 jurisdiction who fails to satisfy relevant attendance  
 155 requirements and who fails to otherwise satisfy the requirements  
 156 of s. 322.091. The Department of Highway Safety and Motor

157 Vehicles may not issue a driver license or learner's driver  
 158 license to, and shall suspend any previously issued driver  
 159 license or learner's driver license of, any such minor student,  
 160 pursuant to the provisions of s. 322.091.

161 Section 3. Subsections (22) through (24) are renumbered as  
 162 subsections (23) through (25), respectively, subsections (2),  
 163 (10), and (11), paragraph (b) of subsection (13), subsection  
 164 (16), paragraph (n) of subsection (21), and present subsection  
 165 (24) of section 1007.271, Florida Statutes, are amended, and a  
 166 new subsection (22) is added to that section, to read:

167 1007.271 Dual enrollment programs.—

168 (2) For the purpose of this section, an eligible secondary  
 169 student is a student who is enrolled in any of grades 6 through  
 170 12 in a Florida public school or in a Florida private school  
 171 that is in compliance with s. 1002.42(2) and provides a  
 172 secondary curriculum pursuant to s. 1003.4282. A student  
 173 ~~Students~~ who is ~~are~~ eligible for dual enrollment pursuant to  
 174 this section may enroll in dual enrollment courses conducted  
 175 during school hours, after school hours, and during the summer  
 176 term. However, if the student is projected to graduate from high  
 177 school before the scheduled completion date of a postsecondary  
 178 course, the student may not register for that course through  
 179 dual enrollment. The student may apply to the postsecondary  
 180 institution and pay the required registration, tuition, and fees  
 181 if the student meets the postsecondary institution's admissions  
 182 requirements under s. 1007.263. Instructional time for dual

183 enrollment may vary from 900 hours; however, the full-time  
 184 equivalent student membership value is ~~shall be~~ subject to the  
 185 ~~provisions in~~ s. 1011.61(4). A student enrolled as a dual  
 186 enrollment student is exempt from the payment of registration,  
 187 tuition, technology, and laboratory fees. Applied academics for  
 188 adult education instruction, developmental education, and other  
 189 forms of precollegiate instruction, as well as physical  
 190 education courses that focus on the physical execution of a  
 191 skill, rather than the intellectual attributes of the activity,  
 192 are ineligible for inclusion in the dual enrollment program.  
 193 Recreation and leisure studies courses shall be evaluated  
 194 individually in the same manner as physical education courses  
 195 for potential inclusion in the program.

196 (10) Early admission is a form of dual enrollment through  
 197 which an eligible secondary student enrolls ~~students enroll~~ in a  
 198 postsecondary institution on a full-time basis in courses that  
 199 are creditable toward the high school diploma and the associate  
 200 or baccalaureate degree. A student must enroll in a minimum of  
 201 12 college credit hours per semester or the equivalent to  
 202 participate in the early admission program; however, a student  
 203 may not be required to enroll in more than 15 college credit  
 204 hours per semester or the equivalent. A student ~~Students~~  
 205 enrolled pursuant to this subsection is ~~are~~ exempt from the  
 206 payment of registration, tuition, technology, and laboratory  
 207 fees.

208 (11) Career early admission is a form of career dual

209 enrollment through which an eligible secondary student enrolls  
 210 ~~students enroll~~ full time in a career center or a Florida  
 211 College System institution in postsecondary programs leading to  
 212 industry certifications, as listed in the CAPE Postsecondary  
 213 Industry Certification Funding List pursuant to s. 1008.44,  
 214 which are creditable toward the high school diploma and the  
 215 certificate or associate degree. Participation in the career  
 216 early admission program is limited to students who have  
 217 completed a minimum of 4 semesters of full-time secondary  
 218 enrollment, including studies undertaken in ~~the ninth~~ grade 9. A  
 219 student ~~Students~~ enrolled pursuant to this section ~~is~~ are exempt  
 220 from the payment of registration, tuition, technology, and  
 221 laboratory fees.

222 (13)

223 (b) Each postsecondary institution shall enter into a home  
 224 education articulation agreement with each home education  
 225 student seeking enrollment in a dual enrollment course and the  
 226 student's parent. The home education articulation agreement  
 227 shall include, at a minimum:

228 1. A delineation of courses and programs available to  
 229 dually enrolled home education students. Courses and programs  
 230 may be added, revised, or deleted at any time by the  
 231 postsecondary institution. Any course or program limitations may  
 232 not exceed the limitations for other dually enrolled students.

233 2. The initial and continued eligibility requirements for  
 234 home education student participation, not to exceed those

235 required of other dually enrolled students. A high school grade  
 236 point average may not be required for home education students  
 237 who meet the minimum score on a common placement test adopted by  
 238 the State Board of Education which indicates that the student is  
 239 ready for college-level coursework; however, home education  
 240 student eligibility requirements for continued enrollment in  
 241 college credit dual enrollment courses must include the  
 242 maintenance of the minimum postsecondary grade point average  
 243 established by the postsecondary institution.

244 3. The student's responsibilities for providing his or her  
 245 own instructional materials and transportation.

246 4. A copy of the statement on transfer guarantees  
 247 developed by the Department of Education under subsection (15).

248 (16) Public school, private school, or home education  
 249 program students who meet the eligibility requirements of this  
 250 section and who choose to participate in dual enrollment  
 251 programs are exempt from the payment of registration, tuition,  
 252 technology, and laboratory fees.

253 (21) Each district school superintendent and each public  
 254 postsecondary institution president shall develop a  
 255 comprehensive dual enrollment articulation agreement for the  
 256 respective school district and postsecondary institution. The  
 257 superintendent and president shall establish an articulation  
 258 committee for the purpose of developing the agreement. Each  
 259 state university president may designate a university  
 260 representative to participate in the development of a dual



261 enrollment articulation agreement. A dual enrollment  
 262 articulation agreement shall be completed and submitted annually  
 263 by the postsecondary institution to the Department of Education  
 264 on or before August 1. The agreement must include, but is not  
 265 limited to:

266 (n) A funding provision that delineates costs incurred by  
 267 each entity.

268 1. School districts shall pay public postsecondary  
 269 institutions the standard tuition rate per credit hour from  
 270 funds provided in the Florida Education Finance Program when  
 271 dual enrollment course instruction takes place on the  
 272 postsecondary institution's campus and the course is taken  
 273 during the fall or spring term. When dual enrollment is provided  
 274 on the high school site by postsecondary institution faculty,  
 275 the school district shall reimburse the costs associated with  
 276 the postsecondary institution's proportion of salary and  
 277 benefits to provide the instruction. When dual enrollment course  
 278 instruction is provided on the high school site by school  
 279 district faculty, the school district is not responsible for  
 280 payment to the postsecondary institution. A postsecondary  
 281 institution may enter into an agreement with the school district  
 282 to authorize teachers to teach dual enrollment courses at the  
 283 high school site or the postsecondary institution. A school  
 284 district may not deny a student access to dual enrollment unless  
 285 the student is ineligible to participate in the program subject  
 286 to provisions specifically outlined in this section.

287           2. Subject to annual appropriation in the General  
 288 Appropriations Act, a public postsecondary institution shall  
 289 receive an amount of funding equivalent to the standard tuition  
 290 rate per credit hour for each dual enrollment course taken by a  
 291 student during the summer term.

292           3. The payment provisions of this paragraph do not apply  
 293 to an articulation agreement with a private school or a home  
 294 education student.

295           (22) Each public postsecondary institution shall develop a  
 296 comprehensive dual enrollment articulation agreement for home  
 297 education students and the postsecondary institution.

298           (25)(24) A postsecondary institution eligible to  
 299 participate in the dual enrollment program pursuant to s.  
 300 1011.62(1)(i) may enter into a private school articulation  
 301 agreement with a private school that is in compliance with s.  
 302 1002.42(2) and provides a secondary curriculum pursuant to s.  
 303 1003.4282. The postsecondary institution shall complete and  
 304 submit the private school articulation agreement to the  
 305 Department of Education. The articulation agreement must include  
 306 a provision expressing that a private school or student may not  
 307 be required to pay costs associated with tuition and fees,  
 308 including technology, registration, and laboratory fees  
 309 ~~Postsecondary institutions may enter into dual enrollment~~  
 310 ~~articulation agreements with private secondary schools pursuant~~  
 311 ~~to subsection (2).~~

312           Section 4. Subsection (1) of section 1009.536, Florida

313 Statutes, is amended to read:

314 1009.536 Florida Gold Seal Vocational Scholars award.—The  
 315 Florida Gold Seal Vocational Scholars award is created within  
 316 the Florida Bright Futures Scholarship Program to recognize and  
 317 reward academic achievement and career preparation by high  
 318 school students who wish to continue their education.

319 (1) A student is eligible for a Florida Gold Seal  
 320 Vocational Scholars award if the student meets the general  
 321 eligibility requirements for the Florida Bright Futures  
 322 Scholarship Program and the student:

323 (a) Completes the secondary school portion of a sequential  
 324 program of studies that requires at least three secondary school  
 325 career credits and earns a minimum unweighted grade point  
 326 average of 3.5 on a 4.0 scale for secondary school career  
 327 courses comprising the career program. On-the-job training may  
 328 not be substituted for any of the three required career credits.

329 (b) Demonstrates readiness for postsecondary education by  
 330 earning a passing score on the Florida College Entry Level  
 331 Placement Test or its equivalent as identified by the Department  
 332 of Education.

333 (c) Earns a minimum cumulative weighted grade point  
 334 average of 3.0, as calculated pursuant to s. 1009.531, on all  
 335 subjects required for a standard high school diploma, excluding  
 336 elective courses, or has attended a home education program  
 337 pursuant to s. 1002.41 during grades 11 and 12.

338 ~~(d) Earns a minimum unweighted grade point average of 3.5~~

339 ~~on a 4.0 scale for secondary career courses comprising the~~  
 340 ~~career program.~~

341 (d)~~(e)~~ Beginning with high school students graduating in  
 342 the 2011-2012 academic year and thereafter, completes a program  
 343 of community service work approved by the district school board,  
 344 the administrators of a nonpublic school, or the Department of  
 345 Education for home education program students, which shall  
 346 include a minimum of 30 hours of service work, and identifies a  
 347 social problem that interests him or her, develops a plan for  
 348 his or her personal involvement in addressing the problem, and,  
 349 through papers or other presentations, evaluates and reflects  
 350 upon his or her experience.

351 Section 5. For the 2016-2017 fiscal year, the sum of \$1  
 352 million in recurring funds is appropriated from the General  
 353 Revenue Fund to the Department of Education for the purpose of  
 354 implementing s. 1002.41(13), Florida Statutes.

355 Section 6. This act shall take effect July 1, 2016.





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 Bileca offered the following:


**Amendment**

Remove lines 63-68 and insert:

6 However, a dependent child of a member of the United States  
 7 Armed Forces who transfers to a school in this state from out of  
 8 state or from a foreign country due to a parent's permanent  
 9 change of station orders, or a foster child, is exempt from this  
 10 paragraph but must meet all other eligibility requirements to  
 11 participate in the program.

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 837 John M. McKay Scholarships for Students with Disabilities Program  
**SPONSOR(S):** Bileca  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1088

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	11 Y, 0 N	Dehmer	Healy
2) Education Appropriations Subcommittee	13 Y, 0 N	Seifert	Heflin
3) Education Committee		Dehmer 00	Mizereck 

**SUMMARY ANALYSIS**

The John M. McKay Scholarship for Students with Disabilities Program (McKay Scholarship Program) provides scholarships for eligible students with disabilities to attend an eligible public or private school of their choice. Currently, a McKay Scholarship student must have direct contact with his or her private school teacher at the school's physical location in order to maintain eligibility. The bill authorizes a private school to establish a transition-to-work program for students participating in the McKay Scholarship Program which will allow students to earn credits while working off-site.

The bill exempts foster children from the prior school year attendance requirement for determining eligibility.

The bill clarifies that McKay Scholarship payments are not subject to the 1.0 FTE cap so that scholarship payments are not reduced when McKay recipients take virtual courses.

Recipients of the McKay Scholarship are reported for funding in the Florida Education Finance Program (FEFP). Funds are then transferred to a private school for payment of the student's scholarship.

The fiscal impact of the bill is \$226,511 to remove the proration to each student's scholarship. This impact will result in a redistribution of FEFP funds when the students receiving McKay scholarships are reported for funding. See *Fiscal Comments*.

The bill provides an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### John M. McKay Scholarship Eligibility

###### Present Situation

The McKay Scholarship Program provides scholarships for eligible students with disabilities to attend an eligible public or private school of their choice. Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; and other health impairments; an emotional or behavioral disability; a specific learning disability, including but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.<sup>1</sup>

A student with a disability may receive a McKay Scholarship to attend a public or private school if he or she has an Individual Education Plan (IEP) or a 504 plan<sup>2</sup> and:

- Received specialized instructional services under the Voluntary Prekindergarten Education Program<sup>3</sup> during the previous school year; or
- Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind.<sup>4</sup>

For purposes of scholarship eligibility, the term “prior school year in attendance” means the student was enrolled and reported by:

- A school district for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the FEFP;
- The Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12; or
- A school district for funding during the preceding October and February FEFP surveys and the student was at least 4 years old when enrolled and reported and eligible for services under the school attendance requirements for prekindergarten aged children with disabilities.<sup>5</sup>

A dependent child of a member of the United States Armed Forces who transfers to a Florida school from out of state or from a foreign country due to a parent's permanent change of station orders is exempt from the prior school year attendance requirements, but must meet all other eligibility requirements to participate in the McKay Scholarship Program, i.e., be diagnosed with an eligible disability and have an IEP or 504 plan.<sup>6</sup>

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<sup>1</sup> Section 1002.39(1), F.S.

<sup>2</sup> A student's 504 plan must be at least 6 months in duration in order for the student to be eligible for a scholarship. Rule 6A-6.0970(1)(b)3., F.S.

<sup>3</sup> In 2010, the Legislature established a specialized instructional services program for children with disabilities as an option under the Voluntary Prekindergarten Education (VPK) Program. Beginning with the 2012-13 academic year, a child who has a disability is eligible for specialized instructional services if the child is eligible for the VPK Program and has a current IEP developed by the district school board. Section 1002.66, F.S.; see also s. 1002.53, F.S.

<sup>4</sup> Section 1002.39(2)(a), F.S.

<sup>5</sup> Section 1002.39(2)(a)2., F.S. Although not required to attend a public school, children with disabilities who have attained the age of 3 years are eligible for admission to public special education programs and related services. Section 1003.21(1)(e), F.S.

<sup>6</sup> Section 1002.39(2)(a), F.S. (flush left provision at the end of the paragraph).



A student is not eligible for a McKay Scholarship:

- While he or she is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;
- While he or she is receiving a Florida tax credit scholarship under s. 1002.395;
- While he or she is receiving an educational scholarship pursuant to this chapter;
- While he or she is participating in a home education program as defined in s. 1002.01(1);
- While he or she is participating in a private tutoring program pursuant to s. 1002.43;
- While he or she is participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to no more than two courses per school year;
- While he or she is enrolled in the Florida School for the Deaf and the Blind;
- If he or she has been issued a temporary 504 accommodation plan under s. 504 of the Rehabilitation Act of 1973 which is valid for 6 months or less;<sup>7</sup> or
- While he or she is not having regular and direct contact with his or her private school teachers at the school's physical location.

Currently, state funding per student may not exceed 1.0 FTE, including traditional and virtual courses. If a student's course load exceeds 1.0 FTE, the funding for each course shall be reduced proportionately to equal 1.0 FTE.<sup>8</sup> Consequently, although McKay students are authorized to take up to two virtual courses, the scholarship amount is being reduced in order to comply with the 1.0 FTE requirement.

### **Effect of Proposed Changes**

The bill authorizes a private school to establish a transition-to-work program for private school students participating in the McKay Scholarship Program which will allow students to earn credits while working off-site. The transition-to-work program consists of academic instruction, work skills training and a volunteer or paid work experience. Students participating in the transition-to-work program must be between 17 and 22 years of age and cannot have a high school diploma or equivalent certificate.

To offer a transition-to-work program, a private school must:

- Develop a transition-to-work program plan that includes a description of the academic instruction and work skills training the students will receive.
- Submit a transition-to-work program plan to the Office of Independent Education and Parental Choice.
- Develop a personalized transition-to-work program plan for each student in the program, which must be signed by the student, the student's parent, and the school principal, and must be submitted to the Office of Independent Education and Parental Choice upon request.
- Provide a liability release form signed by the student, the student's parent, and the business offering the work experience.
- Assign a case manager to visit the student's job site on a weekly basis, observe the student, and, provide support.
- Provide to the student and parent a quarterly report documenting the student's progress and performance.
- Maintain accurate attendance and performance records for the student.

A student enrolled in a transition-to-work program must receive 15 hours of academic instruction and work skills training at a private school. The student must also participate in 10 hours of work at the

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<sup>7</sup> Section 1002.39(3), F.S.

<sup>8</sup> Section 1011.61(4)(a), F.S.

student's work experience program. Consequently, the student does not need to have regular and direct contact with the teacher at the private school's physical location.

To participate in a transition-to work-program, a business must maintain and provide accurate records of the student's performance and hours worked and comply with all state and federal child labor laws.

The bill clarifies that McKay Scholarship payments are not subject to the 1.0 FTE cap so that scholarship payments are not reduced when McKay recipients take virtual courses.

The bill exempts foster children from the prior school year attendance requirement for determining eligibility.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1002.39, F.S., relating to the John M. McKay Scholarships for Students with Disabilities.

**Section 2.** Amends s. 1011.61, F.S., relating to Definitions.

**Section 3.** Provides an effective date of July 1, 2016.

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

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

1. Revenues:

None.

2. Expenditures:

At the time of this analysis, approximately 43 McKay Scholarship FTE completed a course through the Florida Virtual School, at a cost of \$5,230 per FTE. This resulted in a reduction of \$226,511 in McKay Scholarships. Removing the requirement for the proration of McKay Scholarship FTE will result in \$226,511 in McKay Scholarship payments for students completing Florida Virtual School courses being paid out of the Florida Education Finance Program (FEFP).

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

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

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not Applicable.



A bill to be entitled

An act relating to the John M. McKay Scholarships for Students with Disabilities Program; amending s. 1002.39, F.S.; exempting a foster child from specified eligibility provisions; providing that a student enrolled in a transition-to-work program is eligible for a John M. McKay Scholarship; creating a transition-to-work program for specific students enrolled in the John M. McKay Scholarships for Students with Disabilities Program; providing program requirements; providing participation requirements for students, schools, and businesses; exempting a John M. McKay Scholarship award from a specified funding calculation; amending s. 1011.61, F.S.; exempting a John M. McKay Scholarship award from a specified funding calculation for purposes of the Florida Education Finance Program; providing an effective date.

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

Section 1. Subsections (10) through (13) of section 1002.39, Florida Statutes, are renumbered as subsections (11) through (14), respectively, paragraph (a) of subsection (2), paragraph (h) of subsection (3), paragraph (b) of subsection (8), and paragraph (a) of present subsection (10) are amended,

27 and a new subsection (10) is added to that section, to read:

28       1002.39 The John M. McKay Scholarships for Students with  
 29 Disabilities Program.—There is established a program that is  
 30 separate and distinct from the Opportunity Scholarship Program  
 31 and is named the John M. McKay Scholarships for Students with  
 32 Disabilities Program.

33       (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a  
 34 student with a disability may request and receive from the state  
 35 a John M. McKay Scholarship for the child to enroll in and  
 36 attend a private school in accordance with this section if:

37       (a) The student has:

38       1. Received specialized instructional services under the  
 39 Voluntary Prekindergarten Education Program pursuant to s.  
 40 1002.66 during the previous school year and the student has a  
 41 current individual educational plan developed by the local  
 42 school board in accordance with rules of the State Board of  
 43 Education for the John M. McKay Scholarships for Students with  
 44 Disabilities Program or a 504 accommodation plan has been issued  
 45 under s. 504 of the Rehabilitation Act of 1973; or

46       2. Spent the prior school year in attendance at a Florida  
 47 public school or the Florida School for the Deaf and the Blind.  
 48 For purposes of this subparagraph, prior school year in  
 49 attendance means that the student was enrolled and reported by:

50       a. A school district for funding during the preceding  
 51 October and February Florida Education Finance Program surveys  
 52 in kindergarten through grade 12, which includes time spent in a

53 Department of Juvenile Justice commitment program if funded  
 54 under the Florida Education Finance Program;

55 b. The Florida School for the Deaf and the Blind during  
 56 the preceding October and February student membership surveys in  
 57 kindergarten through grade 12; or

58 c. A school district for funding during the preceding  
 59 October and February Florida Education Finance Program surveys,  
 60 was at least 4 years of age when so enrolled and reported, and  
 61 was eligible for services under s. 1003.21(1)(e).  
 62

63 However, a foster child or a dependent child of a member of the  
 64 United States Armed Forces who transfers to a school in this  
 65 state from out of state or from a foreign country due to a  
 66 parent's permanent change of station orders is exempt from this  
 67 paragraph but must meet all other eligibility requirements to  
 68 participate in the program.

69 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is  
 70 not eligible for a John M. McKay Scholarship:

71 (h) While he or she is not having regular and direct  
 72 contact with his or her private school teachers at the school's  
 73 physical location unless he or she is enrolled in the private  
 74 school's transition-to-work program pursuant to subsection (10);  
 75 or

76 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be  
 77 eligible to participate in the John M. McKay Scholarships for  
 78 Students with Disabilities Program, a private school may be

79 | sectarian or nonsectarian and must:

80 |       (b) Provide to the department all documentation required  
 81 | for a student's participation, including the private school's  
 82 | and student's fee schedules, at least 30 days before any  
 83 | quarterly scholarship payment is made for the student pursuant  
 84 | to paragraph (11)(e) ~~(10)(e)~~. A student is not eligible to  
 85 | receive a quarterly scholarship payment if the private school  
 86 | fails to meet this deadline.

87 |

88 | The inability of a private school to meet the requirements of  
 89 | this subsection shall constitute a basis for the ineligibility  
 90 | of the private school to participate in the scholarship program  
 91 | as determined by the department.

92 |       (10) TRANSITION-TO-WORK PROGRAM.—A student participating  
 93 | in the John M. McKay Scholarships for Students with Disabilities  
 94 | Program who is at least 17 years, but not older than 22 years,  
 95 | of age and who has not received a high school diploma or  
 96 | certificate of completion is eligible for enrollment in his or  
 97 | her private school's transition-to-work program. A transition-  
 98 | to-work program shall consist of academic instruction, work  
 99 | skills training, and a volunteer or paid work experience.

100 |       (a) To offer a transition-to-work program, a participating  
 101 | private school must:

102 |           1. Develop a transition-to-work program plan, which must  
 103 | include a written description of the academic instruction and  
 104 | work skills training students will receive and the goals for



105 students in the program.

106 2. Submit the transition-to-work program plan to the  
 107 Office of Independent Education and Parental Choice.

108 3. Develop a personalized transition-to-work program plan  
 109 for each student enrolled in the program. The student's parent,  
 110 the student, and the school principal must sign the personalized  
 111 plan. The personalized plan must be submitted to the Office of  
 112 Independent Education and Parental Choice upon request by the  
 113 office.

114 4. Provide a release of liability form that must be signed  
 115 by the student's parent, the student, and a representative of  
 116 the business offering the volunteer or paid work experience.

117 5. Assign a case manager or job coach to visit the  
 118 student's job site on a weekly basis to observe the student and,  
 119 if necessary, provide support and guidance to the student.

120 6. Provide to the parent and student a quarterly report  
 121 that documents and explains the student's progress and  
 122 performance in the program.

123 7. Maintain accurate attendance and performance records  
 124 for the student.

125 (b) A student enrolled in a transition-to-work program  
 126 must, at a minimum:

127 1. Receive 15 instructional hours at the private school's  
 128 physical facility, which must include academic instruction and  
 129 work skills training.

130 2. Participate in 10 hours of work at the student's

131 volunteer or paid work experience.

132 (c) To participate in a transition-to-work program, a  
 133 business must:

134 1. Maintain an accurate record of the student's  
 135 performance and hours worked and provide the information to the  
 136 private school.

137 2. Comply with all state and federal child labor laws.

138 (11) (10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.-

139 (a)1. The maximum scholarship granted for an eligible  
 140 student with disabilities shall be equivalent to the base  
 141 student allocation in the Florida Education Finance Program  
 142 multiplied by the appropriate cost factor for the educational  
 143 program that would have been provided for the student in the  
 144 district school to which he or she was assigned, multiplied by  
 145 the district cost differential.

146 2. In addition, a share of the guaranteed allocation for  
 147 exceptional students shall be determined and added to the amount  
 148 in subparagraph 1. The calculation shall be based on the  
 149 methodology and the data used to calculate the guaranteed  
 150 allocation for exceptional students for each district in chapter  
 151 2000-166, Laws of Florida. Except as provided in subparagraphs  
 152 3. and 4., the calculation shall be based on the student's  
 153 grade, matrix level of services, and the difference between the  
 154 2000-2001 basic program and the appropriate level of services  
 155 cost factor, multiplied by the 2000-2001 base student allocation  
 156 and the 2000-2001 district cost differential for the sending

157 district. The calculated amount shall include the per-student  
 158 share of supplemental academic instruction funds, instructional  
 159 materials funds, technology funds, and other categorical funds  
 160 as provided in the General Appropriations Act.

161 3. The scholarship amount for a student who is eligible  
 162 under sub-subparagraph (2)(a)2.b. shall be calculated as  
 163 provided in subparagraphs 1. and 2. However, the calculation  
 164 shall be based on the school district in which the parent  
 165 resides at the time of the scholarship request.

166 4. Until the school district completes the matrix required  
 167 by paragraph (5)(b), the calculation shall be based on the  
 168 matrix that assigns the student to support Level I of service as  
 169 it existed prior to the 2000-2001 school year. When the school  
 170 district completes the matrix, the amount of the payment shall  
 171 be adjusted as needed.

172 5. The scholarship amount for a student eligible under s.  
 173 504 of the Rehabilitation Act of 1973 shall be based on the  
 174 program cost factor the student currently generates through the  
 175 Florida Education Finance Program.

176 6. The scholarship amount granted for an eligible student  
 177 with disabilities is not subject to the maximum value for  
 178 funding a student under s. 1011.61(4).

179 Section 2. Subsection (4) of section 1011.61, Florida  
 180 Statutes, is amended to read:

181 1011.61 Definitions.—Notwithstanding the provisions of s.  
 182 1000.21, the following terms are defined as follows for the

183 purposes of the Florida Education Finance Program:

184 (4) The maximum value for funding a student in  
 185 kindergarten through grade 12 or in a prekindergarten program  
 186 for exceptional children as provided in s. 1003.21(1)(e) shall  
 187 be the sum of the calculations in paragraphs (a), (b), and (c)  
 188 as calculated by the department.

189 (a) The sum of the student's full-time equivalent student  
 190 membership value for the school year or the equivalent derived  
 191 from paragraphs (1)(a) and (b), subparagraph (1)(c)1., sub-  
 192 subparagraphs (1)(c)2.b. and c., subparagraph (1)(c)3., and  
 193 subsection (2). If the sum is greater than 1.0, the full-time  
 194 equivalent student membership value for each program or course  
 195 shall be reduced by an equal proportion so that the student's  
 196 total full-time equivalent student membership value is equal to  
 197 1.0.

198 (b) If the result in paragraph (a) is less than 1.0 full-  
 199 time equivalent student and the student has full-time equivalent  
 200 student enrollment pursuant to sub-sub-subparagraph  
 201 (1)(c)1.b.(VIII), calculate an amount that is the lesser of the  
 202 value in sub-sub-subparagraph (1)(c)1.b.(VIII) or the value of  
 203 1.0 less the value in paragraph (a).

204 (c) The full-time equivalent student enrollment value in  
 205 sub-subparagraph (1)(c)2.a.

206  
 207 A scholarship award provided to a student enrolled in the John  
 208 M. McKay Scholarships for Students with Disabilities Program

HB 837

2016



209 | pursuant to s. 1002.39 is not subject to the maximum value for  
210 | funding a student under this subsection.

211 |       Section 3. This act shall take effect July 1, 2016.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1003 Employment After Retirement of School District Personnel  
**SPONSOR(S):** K-12 Subcommittee, Sullivan and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1356

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	12 Y, 0 N, As CS	Brink	Fudge
2) Education Committee		Brink 	Mizereck 

**SUMMARY ANALYSIS**

Current law allows Florida Retirement Service (FRS) members to interrupt retirement and be reemployed as instructional personnel in any public school. In 2011, the Legislature amended requirements related to instructional personnel performance evaluations and compensation and prohibited the award of professional service contracts after July 1, 2011.

The bill clarifies that retirees may be reemployed only on a probationary or annual contractual basis consistent with the requirements of the FRS and the Student Success Act.

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

The bill takes effect upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### Student Success Act

In 2011, the Legislature passed the Student Success Act (act), which amended, among other things, requirements related to instructional personnel performance evaluations, compensation, and the award of contracts.<sup>1</sup>

Prior to the July 1, 2011, effective date of the act, instructional personnel with as little as three years of service could be granted a professional service contract, which provided for automatic renewal of the contract unless the superintendent charged the employee with unsatisfactory performance.<sup>2</sup> After passage of the act and related legislation, school districts no longer had authority to award professional service contracts and tenure to any instructional personnel hired on or after July 1, 2011.<sup>3</sup> Only instructional personnel who held a current professional service contract could continue employment on a professional service contractual basis so long as they remained employed by the district.

The act created s. 1012.335, F.S., which provides that, as of July 1, 2011, instructional personnel under an annual contract and personnel hired thereafter may be employed only on a probationary or annual contractual basis. Initially upon hire, instructional personnel must complete a one-year probationary period, during which they may be dismissed without cause or may resign without a breach of contract. A school district may award an annual contract to instructional personnel only after successful completion of a probationary contract.<sup>4</sup> The section defines an annual contract as an employment contract for a period of no longer than one school year that a district school board may choose to award or not award without cause.<sup>5</sup>

###### Employment after Retirement

The Florida Retirement System (FRS) is governed by the Florida Retirement System Act.<sup>6</sup> The FRS, which is a multi-employer, contributory plan, provides retirement income benefits to active members, retired members and beneficiaries, and members of the Deferred Retirement Option Program (DROP). It is the primary retirement plan for employees of state and county government agencies and the state's 67 district school boards, 28 state colleges, and 12 universities. The FRS also serves as the retirement plan for participating employees of the cities and independent hospitals and special districts that have elected to join the system.<sup>7</sup>

Section 121.091, F.S., governs the payment of benefits under the FRS. It requires a member of the FRS to terminate employment to begin receiving benefits, or begin participation in DROP to defer and accrue those benefits until termination from DROP. Termination occurs when a member ceases all employment relationships with his or her FRS employer.<sup>8</sup> Termination is void if any FRS-participating employer reemploys a member a specified period of time.<sup>9</sup>

<sup>1</sup> Chapter 2011-1, L.O.F., *codified in pertinent part at* ss. 1012.33, 1012.335, and 1012.34, F.S.

<sup>2</sup> *See* s. 1012.33(3)(e), F.S. (2010).

<sup>3</sup> *See* s. 13, ch. 2011-1, L.O.F. *See also* s. 19, ch. 2011-37, L.O.F. (deleting language which granted school districts authority to award professional service contracts to any instructional personnel effective July 1, 2011).

<sup>4</sup> *See* s. 1012.335(2)(a) and (b), F.S.

<sup>5</sup> Section 1012.335(1)(a), F.S.

<sup>6</sup> Chapter 121, F.S.

<sup>7</sup> Florida Retirement System Participating Employers for Plan Year 2015-16, prepared by the Department of Management Services, Division of Retirement, Revised January 2016, at 8. A copy of the document can be found online at: [http://www.dms.myflorida.com/workforce\\_operations/retirement/publications](http://www.dms.myflorida.com/workforce_operations/retirement/publications) (last visited Jan. 22, 2016).

<sup>8</sup> Section 121.021(39)(a), F.S.

<sup>9</sup> *Id.*



An FRS retiree may be reemployed by an FRS employer provided certain requirements are met. A member who retired before July 1, 2010, may be reemployed by an FRS employer one calendar month after retiring or after the member's DROP termination date. If the retiree is reemployed during months two through 12 after retiring or terminating DROP, then the retiree may not receive her or his pension benefit until month 13. However, a retiree who retired before July 1, 2010, may be reemployed as instructional personnel on an annual contractual basis after one calendar month without having her or his retirement benefits disrupted.<sup>10</sup>

A member who retires on or after July 1, 2010, may not be reemployed by an FRS employer until month seven after retiring or after the member's DROP termination date. If the retiree is reemployed during months seven through 12 after retiring or terminating DROP, then the retiree may not receive her or his pension benefit until month 13.<sup>11</sup> The reemployment exception for retirees reemployed as instructional personnel no longer applies to members who retire on or after July 1, 2010.

Subsection 1012.33(8), F.S., provides that a retired member may interrupt retirement and be reemployed in any public school. Further, the subsection provides that "a member reemployed by the same district from which he or she retired may be employed on a probationary contractual basis as provided in subsection (1)." However, subsection (1) of s. 1012.33 contains probationary contract provisions relating only to supervisors and school principals, and is silent as to how employment contracts are awarded after the probationary period. It is unclear what type of contract must be provided to reemployed retirees who are initially provided a probationary contract.<sup>12</sup>

### **Effect of Proposed Changes**

The bill clarifies that retirees may be reemployed only on a probationary or annual contractual basis consistent with the requirements of the FRS and the Student Success Act. The bill also clarifies legislative intent concerning eligibility for professional service contracts and annual contracts based upon the Student Success Act.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 1012.33, F.S.; revising provisions relating to reemployment of retirees as instructional personnel on a contractual basis.

Section 2. 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:**

<sup>10</sup> Section 121.091(9)(b), F.S.

<sup>11</sup> Section 121.091(9)(c), F.S.

<sup>12</sup> The award of professional service contracts to reemployed FRS members has been the subject of litigation in at least one school district. *See Orange County School Board v. Rachman and Shuman*, 87 So.3d 48 (Fla. 5th DCA 2012) (upholding court order directing the district to award a professional service contract to a reemployed retiree who, after retiring and returning to employment with the district, satisfied all of the statutory requirements for the contract before July 1, 2011). The law has not authorized the award of a professional service contract to any reemployed retiree who did not meet the statutory requirements for the contract prior to July 1, 2011.

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 26, 2016, the K-12 Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute clarifies that school districts may rehire retired instructional personnel only on a probationary or annual contract as required by the Student Success Act. The committee substitute also clarifies legislative intent concerning eligibility for professional service contracts and annual contracts based upon the Student Success Act.

This analysis is drafted to reflect the committee substitute as passed by the K-12 Subcommittee.

1 A bill to be entitled

2 An act relating to employment after retirement of  
 3 school district personnel; amending s. 1012.33, F.S.;  
 4 revising provisions relating to the reemployment of  
 5 retirees as instructional personnel on a contractual  
 6 basis; providing an effective date.

7  
 8 WHEREAS, before July 1, 2011, only a member of a school  
 9 district's instructional personnel who had completed 3 years of  
 10 probationary service in the district within 5 successive years  
 11 and who had satisfied all other requirements as specified by law  
 12 was eligible for a professional service contract, and

13 WHEREAS, retirees rehired by a school district who did not  
 14 complete the probationary service and satisfy all other  
 15 statutory requirements for a professional services contract  
 16 before July 1, 2011, were not eligible for a professional  
 17 services contract, and

18 WHEREAS, effective July 1, 2011, school districts were not  
 19 authorized to award professional service contracts to any  
 20 instructional personnel due to the enactment of chapter 2011-1,  
 21 Laws of Florida, NOW, THEREFORE,

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

24  
 25 Section 1. Subsection (8) of section 1012.33, Florida  
 26 Statutes, is amended to read:

27           1012.33 Contracts with instructional staff, supervisors,  
28 and school principals.-

29           (8) Notwithstanding any other provision of law, a retired  
30 member may interrupt retirement and be reemployed in any public  
31 school. A member of the instructional staff ~~reemployed by the~~  
32 ~~same district from which he or she retired~~ may be reemployed  
33 only employed on a probationary or annual contractual basis as  
34 provided in s. 1012.335 ~~subsection (1)~~.

35           Section 2. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1171 Interstate Compact on Educational Opportunity for Military Children  
**SPONSOR(S):** Perry and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 7016

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Education Appropriations Subcommittee	13 Y, 0 N	Dobson	Heflin
2) Education Committee		Cherry TC	Mizereck JM

### SUMMARY ANALYSIS

In 2008, the Florida Legislature enacted the Interstate Compact on Educational Opportunity for Military Children. (Compact) The purpose of the Compact is to enable member states to uniformly address educational transition issues faced by military families. The Compact governs member states in several areas, including school placement, enrollment, records transfer and graduation for children of active-duty military families. All 50 states and the District of Columbia are Compact members.

The Compact establishes an Interstate Commission on Educational Opportunity for Military Children (Commission) to provide national-level oversight of the Compact. The Commission is comprised of one voting representative, or Compact Commissioner, from each member state. Among other things, the Commission may adopt and enforce compact rules which govern member states in the areas addressed by the Compact. Compact rules supersede conflicting member state laws to the extent necessary to accomplish the purposes of the compact.

Since enactment in 2008, Florida's Compact legislation has included a repeal provision which requires automatic repeal of the compact after a period of time, unless reauthorized by the Legislature. Because Compact membership entails an agreement to be bound by rules promulgated by a non-legislative entity, i.e., the Commission, the repeal provision allows the Legislature to periodically review Compact rules and determine whether it agrees with any new rules or rule amendments adopted during the period. The Legislature last reauthorized the Compact in 2013 and provided for repeal of the compact on April 11, 2016.

The bill reauthorizes Florida's compact legislation and adds a new automatic repeal provision, effective three years after the bill becomes law. The bill also specifies that compact dues are to be paid from existing resources within the Department of Education (DOE).

The bill does not appear to have a fiscal impact on local governments. (See Fiscal Comments).

The bill takes effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### **Background**

Children in active-duty military families face unique educational challenges. The average military child transfers to a different state or school district six to nine times during kindergarten through grade 12. When a parent is reassigned, military children may be impacted by:

- Record transfer issues;
- Varied course sequencing and academic placement policies;
- Varied graduation requirements;
- Exclusion from extracurricular activities;
- Redundant or missed entrance or exit testing;
- Varied kindergarten and first grade entrance ages; and
- The need to appoint temporary guardians while the child's parent is deployed.<sup>1</sup>

The Interstate Compact on Educational Opportunity for Military Children assists member states in uniformly addressing educational transition issues faced by active-duty military families. The compact governs member states in several areas, including school placement, enrollment, records transfer, participation in academic programs and extracurricular activities, and graduation. The compact was developed by the Council of State Governments, in cooperation with the U.S. Department of Defense.<sup>2</sup>

States join the compact by enacting it into law, which Florida did during the 2008 General Session.<sup>3</sup> Ten states must enact the compact before it can take effect and be binding on member states. This occurred on Delaware became the tenth state to adopt the compact on July 9, 2008.<sup>4</sup> Currently, all 50 states and the District of Columbia are Compact members.<sup>5</sup>

The compact establishes an Interstate Commission on Educational Opportunity for Military Children (Commission) to provide national-level oversight of the compact. The Commission may adopt and enforce rules and bylaws and perform various administrative functions necessary for day-to-day operation.<sup>6</sup> The Commission is comprised of one voting representative, or Compact Commissioner, from each member state. Each state is entitled to one vote on compact rule adoption or other business matters.<sup>7</sup> The Commission must meet at least once per year.<sup>8</sup>

###### **Compact Rule Adoption**

The Commission is authorized to promulgate compact rules which govern member states in areas addressed by the compact. Compact rules have the force and effect of statutory law in member

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<sup>1</sup> Council of State Governments, *Interstate Compact on Educational Opportunity for Military Children: Legislative Resource Kit*, available at <http://www.mic3.net/pages/commissioners/documents/2011LegislativeResourceKit-Final.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> Chapter 2008-225, L.O.F.; CS/HB 1203 (2008); ss. 1000.36, 1000.37, 1000.38, and 1000.39, F.S.

<sup>4</sup> Article XV, s. B. of the Compact, s. 1000.36, F.S.; 76 Del. Laws 327 (2008).

<sup>5</sup> Military Interstate Children's Compact Commission, *Member States Map* (2016), available at [http://mic3.net/pages/contact/documents/MIC3\\_50states.pdf](http://mic3.net/pages/contact/documents/MIC3_50states.pdf).

<sup>6</sup> Article X, of the Compact, s. 1000.36, F.S.

<sup>7</sup> Article IX, s. B. of the Compact, s. 1000.36, F.S.

<sup>8</sup> Article IX, s. D. of the Compact, s. 1000.36, F.S.

states and supersede conflicting member state laws to the extent of the conflict.<sup>9</sup> Compact rules must not exceed the scope of authority granted by Compact. A majority of member state legislatures may invalidate a compact rule by legislative action.<sup>10</sup>

Since enactment in 2008, Florida's Compact legislation has included a repeal provision which requires automatic repeal of the compact after a period of time, unless reauthorized by the Legislature.<sup>11</sup> The repeal provision addresses concerns regarding unconstitutional delegation of legislative authority under Article II, s. 3, of the Florida Constitution.<sup>12</sup> Because membership in the compact entails an agreement to be bound by rules promulgated by a non-legislative entity, i.e., the Commission, the repeal provision allows the Legislature to periodically review Compact rules and determine whether it agrees with any new rules or rule amendments adopted during the intervening period.

The Legislature last reauthorized the compact in 2013, and provided for repeal of the compact three years after enactment, on April 11, 2016.<sup>13</sup> The compact has not amended any of its rules since the last time the legislature reauthorized the Compact in 2013.

### **Effect of Proposed Changes**

The bill reauthorizes Florida's compact legislation and adds a new automatic repeal provision, effective July 1, 2019. The bill also creates s. 1000.361, F.S., which specifies that the annual dues assessment for the compact shall be paid within existing resources by the Department of Education.

#### **B. SECTION DIRECTORY:**

**Section 1.** Creates s. 1000.361, F.S., providing that Compact dues will be paid with existing resources from the Department of Education.

**Section 2.** Repeals ss. 1000.36, 1000.361, 1000.38, and 1000.39, F.S., the "Interstate Compact on Educational Opportunity for Military Children, on July 1, 2019, unless reviewed and reenacted by the Legislature.

**Section 3.** Repeals s. 2, ch. 2013-20, L.O.F., which provides for automatic repeal of the compact legislation.

**Section 4.** Provides that the bill takes effect on April 9, 2016, or, if enacted thereafter, applies retroactively from that date.

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

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

##### **1. Revenues:**

None.

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<sup>9</sup> Article X, s. B. and XVIII, s. B. of the Compact, s. 1000.36, F.S.

<sup>10</sup> Article XII of the Compact, s. 1000.36, F.S.

<sup>11</sup> See, e.g., s. 3, ch. 2010-52, L.O.F.

<sup>12</sup> Article II, s. 3 of the Florida Constitution provides for separation of powers among the executive, legislative, and judicial branches of state government. Courts construing this provision have held that the Legislature, when delegating the administration of legislative programs to executive agencies or other entities, must establish minimal standards and guidelines ascertainable by reference to the legislation creating the program. See *Avatar Development Corp. v. State*, 723 So.2d 199 (Fla. 1998).

<sup>13</sup> Sections 3 and 4, ch. 2010-152, L.O.F.



2. Expenditures:

See Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The compact requires the Commission to levy membership dues from each member state to finance Commission operations and staffing.<sup>14</sup> Membership dues are based upon \$1 per dependent child of active-duty military personnel residing in a member state. There is a minimum dues obligation of \$2,000 and a maximum of \$60,000.<sup>15</sup> In 2012-2013, the legislature included a recurring appropriation of \$42,813 within the GAA to pay Compact dues.<sup>16</sup> According to the DOD, the projected number of children of active-duty military personnel living in Florida in 2017 is 39,985.<sup>17</sup>

The Commission has authority to impose sanctions against member states that fail to pay annual membership dues, including suspending or terminating a state's membership or imposing reasonable damages or costs. The Commission, by majority vote, may sue a member state in federal court for failure to pay membership dues. Costs and attorney fees must be awarded to the prevailing party.<sup>18</sup>

### 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:

The Florida Supreme Court has held that prospectively adopting rules not yet promulgated by federal administrative bodies is an unconstitutional delegation of legislative authority.<sup>19</sup> However, there is no binding Florida case law that addresses this issue in the context of interstate compacts.<sup>20</sup>

<sup>14</sup> Article XIV of the Compact, s. 1000.36, F.S.

<sup>15</sup> Section 2.102, Interstate Commission Rules.

<sup>16</sup> Ch. 2015-232, Laws of Florida.

<sup>17</sup> Email from DOE dated 12/01/2015, on file with House Education Appropriations Committee Staff.

<sup>18</sup> Article XIII, s. D.-I. of the Compact, s. 1000.36, F.S.

<sup>19</sup> *Freimuth v. State*, 272 So.2d 473, 476 (Fla. 1972); *Fla. Indus. Commission v. State ex rel. Orange State Oil Co.*, 21 So.2d 599, 603 (Fla. 1945).

<sup>20</sup> A First District Court of Appeals opinion construing the provisions of the Interstate Compact on the Placement of Children mentions this issue in a footnote but the court did not rule on the merits. *Department of Children and Family Services v. L.G.*, 801 So.2d 1047, 1052 (Fla. 1st DCA 2001).

To address concerns regarding delegation of legislative authority, the bill provides for automatic repeal of Florida's compact legislation three years after the bill takes effect, unless reauthorized by the Legislature. The repeal provision allows the Legislature to determine whether it agrees with any new compact rules or rule amendments adopted during the three year period and consider reauthorization of the compact. Periodic Reauthorization accounts for any new compact rules and amendments adopted by the Commission since the last reauthorization, thereby avoiding a claim that the Legislature has agreed to be bound by compact rules not yet promulgated.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

A bill to be entitled

An act relating to the Interstate Compact on Educational Opportunity for Military Children; creating s. 1000.361, F.S.; providing for payment of annual dues for the compact; creating s. 1000.40, F.S.; providing for future repeal of ss. 1000.36, 1000.361, 1000.38, and 1000.39, F.S., relating to the compact; repealing s. 2 of chapter 2013-20, Laws of Florida; abrogating the future repeal of ss. 1000.36, 1000.38, and 1000.39, F.S., relating to the compact; providing for contingent retroactive operation; providing effective dates.

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

Section 1. Effective July 1, 2016, section 1000.361, Florida Statutes, is created to read:

1000.361 Dues for the Interstate Compact on Educational Opportunity for Military Children.—The annual dues assessment for the Interstate Compact on Educational Opportunity for Military Children shall be paid within existing resources by the Department of Education.

Section 2. Effective July 1, 2016, section 1000.40, Florida Statutes, is created to read:

1000.40 Future repeal of the Interstate Compact on Educational Opportunity for Military Children.—Sections 1000.36,

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27 1000.361, 1000.38, and 1000.39 shall stand repealed on July 1,  
28 2019, unless reviewed and saved from repeal through reenactment  
29 by the Legislature.

30 Section 3. Section 2 of chapter 2013-20, Laws of Florida,  
31 is repealed.

32 Section 4. Except as otherwise expressly provided in this  
33 act, this act shall take effect April 9, 2016, or if this act  
34 fails to become law until after that date, it shall take effect  
35 upon becoming a law and operate retroactively to April 9, 2016.