

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Appropriations Committee

**BILL:** CS/SB 1680

**INTRODUCER:** Education Pre-K-12 Appropriations Committee and Senator Wise

**SUBJECT:** English Language Learners Pilot Program

**DATE:** April 15, 2009                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Armstrong	Hamon	EA	<b>Fav/CS</b>
2.			GO	
3.			WPSC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

This bill requires the State Board of Education to implement a pilot program that provides professional development training for reading teachers to become qualified to teach reading to students who are English Language Learners (ELL). The pilot program must be based upon a capstone that defines the necessary content to teach reading to ELL students. The pilot program is to begin with the 2009-2010 school year and continues through the 2012-2013 school year.

This bill creates section 1003.561 of the Florida Statutes.

**II. Present Situation:**

In 1984, the Legislature required that English language instruction be provided for a student whose native language is other than English and specified that the instruction be designed to develop the student's mastery of four language skills: listening, speaking, reading, and writing.<sup>1</sup>

<sup>1</sup> Section 2, ch. 84-336, L.O.F.; former §§ 228.041(30) & 233.058, F.S.

In 1989, attorneys representing Multicultural Education, Training, and Advocacy, Inc. (META) advised the Florida Department of Education (DOE) of META's intention to sue the State of Florida on behalf of eight minority rights advocacy groups in the state, including the League of United Latin American Citizens (LULAC). META claimed violations of federal and state provisions concerning the education of Florida's limited English proficient (LEP) students.<sup>2</sup>

In response, the 1990 Legislature required school districts, among other things, to:<sup>3</sup>

- Identify LEP students through assessment;
- Provide LEP students with instruction in English using strategies for teaching English for Speakers of Other Languages (ESOL);
- Provide LEP students with ESOL instruction or home-language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy; and
- Provide qualified teachers.

Instead of pursuing litigation, META and DOE negotiated a settlement agreement, which on August 14, 1990, was approved by a Consent Order issued by a federal district judge.<sup>4</sup> Under the 1990 Consent Order, DOE agreed to the equal treatment of LEP students; proper identification and assessment of LEP students; and adequate placement and programming, certified staff, and supplemental services when needed, for LEP students.<sup>5</sup> Section IV of the Consent Order,<sup>6</sup> among other things, created four categories of school personnel and established separate ESOL training requirements for each of the four categories. In September 2003, DOE and META approved a joint stipulation modifying the 1990 Consent Order.<sup>7</sup> The training requirements for the four categories of school personnel, as modified by the 2003 stipulation, are:

- Category I. Teachers of English/language arts must have:
  - ESOL certification through earning a bachelor's or higher degree in Teaching ESOL (TESOL) and passing the ESOL subject area examination of the Florida Teacher Certification Examinations (FTCE);<sup>8</sup>

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<sup>2</sup> Rosa Castro Feinberg, *Preparing Mainstream Classroom Teachers to Teach Potentially English Proficient Students*, *Proceedings of the First Research Symposium on Limited English Proficient Student Issues*, U.S. Department of Education, Office of Bilingual Education & Minority Languages Affairs (1990), at <http://www.ncele.gwu.edu/pubs/symposia/first/preparing-dis.htm> (last visited Apr. 19, 2008).

<sup>3</sup> Section 41, ch. 90-288, L.O.F.; former § 233.058, F.S.

<sup>4</sup> *League of United Latin American Citizens (LULAC) et al. vs. Florida Board of Education et al.*, No. 90-1913 (S.D. Fla. Aug. 13, 1990), available from Office of Academic Achievement through Language Acquisition, Florida Department of Education, at <http://www.fldoe.org/aala/lulac.asp> (last visited Apr. 19, 2008) [hereinafter *LULAC*].

<sup>5</sup> National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, at <http://www.ncele.gwu.edu/expert/faq/07court.html> (last visited Apr. 19, 2008).

<sup>6</sup> *LULAC*, *supra* note 4; available from Office of Academic Achievement through Language Acquisition, Florida Department of Education, at <http://www.fldoe.org/aala/lulac.asp#four> (last visited Apr. 19, 2008).

<sup>7</sup> Stipulation Modifying Consent Decree, *LULAC* (No. 90-1913) (Sept. 3, 2003), available at <http://www.fldoe.org/aala/pdf/stipulation.pdf> (last visited Apr. 19, 2008).

<sup>8</sup> Office of Academic Achievement through Language Acquisition, Florida Department of Education, *Options for Obtaining ESOL Certification* (Dec. 2006), available at [http://www.fldoe.org/aala/pdf/esol\\_cert.pdf](http://www.fldoe.org/aala/pdf/esol_cert.pdf) (last visited Apr. 19, 2008) [hereinafter *ESOL Certification Options*]; see rule 6A-4.0245, F.A.C.

- ESOL certification through passing the ESOL subject area examination and 120 inservice hours within 3 years after certification; or
- ESOL endorsement through completing 15 semester hours of college credit or 300 inservice hours (3 semester hours or 60 inservice hours within 2 years after assignment of an LEP student and 3 semester or 60 inservice hours each subsequent year that the teacher is assigned an LEP student until completing 15 semester hours or 300 inservice hours).<sup>9</sup>
- Category II. Teachers of mathematics, science, social studies, and computer literacy must have, within 1 year of assignment of an LEP student, ESOL endorsement through completing 3 semester hours of college credit or 60 inservice hours.<sup>10</sup>
- Category III. Teachers of other subjects not listed in Category I or Category II must have, within 1 year of assignment of an LEP student, ESOL endorsement through completing 3 semester hours of college credit or 18 inservice hours.<sup>11</sup>
- Category IV. School administrators and guidance counselors must have 3 semester hours of college credit or 60 inservice hours.

The required competencies of the ESOL training (college credit or inservice hours) include methods of teaching ESOL, ESOL curriculum and materials development, cross-cultural communication and understanding, and testing and evaluation of ESOL.<sup>12</sup> The training competencies for Category I ESOL teachers also include applied linguistics.<sup>13</sup>

#### Requirement for Reading Teachers:

As a term of the Consent Order, the Miami Division of the United States District Court for the Southern District of Florida retains jurisdiction for purposes of overseeing implementation of the Consent Order. As occurred in 2003, changes to the state's ESOL policies which are inconsistent with the Consent Order require modification of the Consent Order by court order after DOE negotiates the change with META.

In 2002, following the establishment of the *Just Read, Florida!* initiative<sup>14</sup> and passage of the federal *No Child Left Behind Act of 2001*,<sup>15</sup> the State Board of Education established

<sup>9</sup> *ESOL Certification Options*, *supra* note 8; see rule 6A-4.0244, F.A.C.

<sup>10</sup> See rule 6A-6.0907(1) and (2), F.A.C.

<sup>11</sup> See rule 6A-6.0907(3), F.A.C.

<sup>12</sup> See rules 6A-4.0244(1)(b) & 6A-6.0907, F.A.C.

<sup>13</sup> Rule 6A-4.0244(1)(b)4., F.A.C.

<sup>14</sup> On September 7, 2001, former Governor Jeb Bush issued Executive Order 01-260, which created the *Just Read, Florida!* initiative.

<sup>15</sup> On January 8, 2002, President George W. Bush signed into law the federal *No Child Left Behind Act of 2001*. Pub. L. 107-110 (2002). The act, among other things, requires states to ensure that all teachers teaching core academic subjects ("English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography," 115 Stat. 1958 (codified at 20 U.S.C. § 7801(11)) in public schools are highly qualified. 115 Stat. 1505 (codified at 20 U.S.C. § 6319(a)(2)).

specialization requirements for a reading endorsement.<sup>16</sup> The reading endorsement requires 15 semester hours of college credit or 300 inservice hours in reading coursework based upon scientifically based reading research with a focus on both the prevention and remediation of reading difficulties.<sup>17</sup>

The certification requirements for a teacher to teach a course are listed in *Course Code Directory and Instructional Personnel Assignments*, which DOE updates annually.<sup>18</sup> By June 30, 2006, DOE required reading teachers to have a reading certification or endorsement.<sup>19</sup> The 2007-2008 course code directory reflects that a teacher who teaches English, language arts, reading, or intensive reading must be certified in reading or have the reading endorsement.<sup>20</sup>

In 2004, DOE created a crosswalk that allows a teacher to receive 80 inservice hours of credit for the reading endorsement based on earning the 300 inservice hours required for the ESOL endorsement.<sup>21</sup> The crosswalk awards the 80 inservice hours based on the competencies of the reading inservice training which are addressed by competencies covered in the ESOL inservice training. Thus, a teacher with the ESOL endorsement is required to earn 220 inservice hours in reading to complete the reading endorsement.

#### Intersection of ESOL and Reading Requirements:

According to DOE, reading courses reported for ESOL funding must be assigned a teacher that has ESOL Category I training (300 inservice hours), and reading courses reported as non-ESOL may be assigned a teacher with ESOL Category III training (18 inservice hours).<sup>22</sup>

In 2001, as part of the *Just Read, Florida!* initiative, DOE was directed to recommend statewide standards for reading programs based on the latest scientific research, instructional strategies, and reading course requirements for middle school and high school students who are not reading at grade level.<sup>23</sup> In 2002, the Legislature added “reading” to the list of basic subject areas requiring ESOL instruction or home-language instruction.<sup>24</sup>

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<sup>16</sup> Rule 6A-4.0292, F.A.C.

<sup>17</sup> *Id.*

<sup>18</sup> Rule 6A-1.09441, F.A.C.

<sup>19</sup> Florida Department of Education, Memorandum from Jim Warford & Mary Laura Openshaw to District School Superintendents, No. 2005-82, 3 (June 23, 2005), available at [http://info.fldoe.org/docushare/dsweb/Get/Document-3062/k12\\_05-82.pdf](http://info.fldoe.org/docushare/dsweb/Get/Document-3062/k12_05-82.pdf) (last visited Apr. 19, 2008).

<sup>20</sup> Florida Department of Education, *2007-2008 Course Code Directory and Instructional Personnel Assignments* (Feb. 1997), available at <http://www.fldoe.org/bii/curriculum/CCD> (last visited Apr. 19, 2008).

<sup>21</sup> Florida Department of Education, *ESOL Endorsement to Reading Endorsement Crosswalk* (2004), available at <http://www.fldoe.org/aala/pdf/esolendorsement.pdf> (last visited Apr. 19, 2008).

<sup>22</sup> Florida Department of Education, *Revised Timelines for Completion of the ESOL Training Requirements*, nn. 1 & 3 (Sept. 2006), at <http://www.fldoe.org/aala/timeline.asp> (last visited Apr. 19, 2008).

<sup>23</sup> Executive Order 01-260 (Sept. 7, 2001).

<sup>24</sup> At the 2002 Special Session “E,” the Legislature enacted a general revision to the Florida K-20 Education Code. Within the revision, current § 1003.56, F.S., was created and a substantially similar § 233.058, F.S., was repealed. Sections 150 and 1058, ch. 2002-387, L.O.F. As previously discussed, former § 233.058, F.S., required school districts to provide LEP students with ESOL instruction in English and ESOL or home-language instruction in the basic subject areas of mathematics,

Beginning with the 2005-2006 school year, DOE requires that all students in grades 6-12, scoring at the two lowest achievement levels (levels 1 and 2) on the reading portion of the Florida Comprehensive Assessment Test (FCAT), must enroll in an intensive reading course.<sup>25</sup> Before this requirement for intensive reading, according to DOE, most reading instruction for LEP students was provided by the students' ESOL teacher, not a reading teacher. Since LEP students, by definition, score lower on the reading portion of the FCAT, LEP students are among the students required to enroll in the intensive reading courses.

Before the requirement of intensive reading for students with low FCAT reading scores, most reading teachers taught supplemental reading courses reported as non-ESOL, which consequently required the teacher to have ESOL Category III training (18 inservice hours). As reading teachers are increasingly assigned to teach intensive reading courses containing LEP students reported for ESOL funding, the teachers are required to meet Category I ESOL training requirements (300 inservice hours).

On March 30, 2007, the Department of Education issued a "reverse crosswalk" that allows a teacher to receive 120 inservice hours of credit for the ESOL endorsement based on earning the 300 inservice hours required for the reading endorsement.<sup>26</sup> The reverse crosswalk awards 120 inservice hours based on the competencies of the ESOL inservice training which are addressed by competencies covered in the reading inservice training.<sup>27</sup> Thus, a teacher with a reading endorsement is required to earn 180 inservice hours in ESOL to complete the ESOL endorsement.

According to the Department of Education the continued use of the old and insufficient training standards for development of new professional development courses in ESOL and Reading is inappropriate. The first step should be to revise the professional development standards and align post secondary ESOL teacher education indicators to district professional development standards

### **III. Effect of Proposed Changes:**

This bill requires the State Board of Education to implement a three year pilot program in which professional development training will be provided for reading teachers to become qualified to teach reading to students who are English Language Learners. The pilot program will be based upon a capstone that defines the necessary content to teach reading to ELL students. A

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science, social studies, and computer literacy. When creating § 1003.56, F.S., the education code revision added "reading" to the list of basic subject areas requiring ESOL instruction or home-language instruction.

<sup>25</sup> Florida Department of Education, *supra* note 19, at 1; §§ 1003.4156(1)(b) & 1003.428(2)(b)2.c., F.S.

<sup>26</sup> Florida Department of Education, *Reading to English for Speakers of Other Languages (ESOL) – Reverse Crosswalk* (Feb. 2007), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-4338/k12-07-24att.pdf> (last visited Apr. 19, 2008); see also Florida Department of Education, *supra* note 27, at 1 (although the reverse crosswalk is dated February 2007, it was issued with the Chancellor's memorandum on March 30, 2007).

<sup>27</sup> Florida Department of Education, Memorandum of Cheri Pierson Yecke to District Superintendents, No. 2007:24, 1 (Mar. 30, 2007), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-4337/k12-07-24memo.pdf> (last visited Apr. 19, 2008).

committee of national and state-level experts in reading instruction and English language acquisition will develop and identify the content for the pilot program.

Students will be taught reading by teachers who have participated in the pilot professional development program and by teachers who have completed an ESOL endorsement professional development program.

Annually, ELL student achievement scores on CELLA reading and grades 3-10 FCAT reading will be reported by the participating school districts to the Department of Education. A comparison will be made of the scores of the students taught reading by teachers participating in the pilot and capstone completers and of the students taught reading by teachers who have completed an ESOL endorsement professional development program.

The Department of Education is to submit a report to the State Board of Education on the results from the pilot program and the commissioner is to recommend to the board whether to adopt a permanent capstone professional development for teachers to become qualified to teach reading to ELL students and the content for such program.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Education will be responsible for the development of the capstone that defines the necessary content to teach reading to English Language Learners. Also, the department must provide the professional development training for the reading teachers who participate in the pilot program. The amount of such cost is unknown and must be provided from available funds within the department's budget.

There will be some internal cost for the participating school districts to report certain information about the students and teachers who participated in the pilot to the department of education; however, this is not a significant cost.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education Pre-K – 12 Appropriations Committee on April 15, 2009.**

The Committee Substitute makes the following changes:

This bill requires the State Board of Education to implement a three year pilot program in which professional development training will be provided for reading teachers to become qualified to teach reading to students who are English Language Learners. The pilot program will be based upon a capstone that defines the necessary content to teach reading to ELL students. A committee of national and state-level experts in reading instruction and English language acquisition will develop and identify the content for the pilot program.

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The Department of Education is to submit a report to the State Board of Education on the results from the pilot program and the commissioner is to recommend to the board whether to adopt a permanent capstone professional development program for teachers to become qualified to teach reading to ELL students and the content for such program.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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