

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 23, 1998 Revised: _____

Subject: Education School Personnel

| | <u>Analyst</u> | <u>Staff Director</u> | <u>Reference</u> | <u>Action</u> |
|----|------------------|-----------------------|------------------|---------------------|
| 1. | <u>O'Farrell</u> | <u>O'Farrell</u> | <u>ED</u> | <u>Favorable/CS</u> |
| 2. | <u>Hickam</u> | <u>Smith</u> | <u>WM</u> | <u>Favorable/CS</u> |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |

I. Summary:

The bill would make several substantive and technical changes to current laws providing for the certification and professional development of public school instructional personnel. The proposed changes include: clarifying the procedure for the fingerprinting of school district personnel, providing for the certification of prospective teachers graduating from institutions seeking accreditation, establishes certain rights and protections for teaching interns, authorizes the banking of inservice and college credits for certification purposes under certain circumstances, creates a stipend program for two days of teacher professional development time outside regular instructional time, and creates the Florida Educator Hall of Fame. The bill would also delete obsolete language and references.

This bill amends sections 231.02, 231.096, 231.15, 231.17, 231.1725, 231.261, 231.263, 231.47, 231.546, 231.600, 231.601, 231.625, and 231.6255; creates sections 231.6002 and 231.63; and repeals section 231.613 of the Florida Statutes.

The bill would repeal subsection (8) of section 236.081, which is the caps adjustment supplement of the Florida Education Finance Program (FEFP) and would amend s. 236.081(1)(d), Florida Statutes, which defines the calculation of maximum student enrollments for the FEFP.

The bill would authorize the Commissioner of Education to establish criteria permitting high school students to exempt the reading and mathematics portions of the High School Competency Test and the college placement test if they have successfully demonstrated competency in those areas on the 10th grade Florida Comprehensive Assessment Test (FCAT).

This bill amends section 229.57 of the Florida Statutes.

II. Present Situation:

A person seeking to be employed in a Florida public school district in an instructional or noninstructional capacity must meet several requirements, including being of good moral character. Section 231.02, F.S., requires persons seeking a school district position that would place them in direct contact are required to file a complete set of fingerprints for processing by the Florida Department of Law Enforcement (FDLE) and the Federal Bureau of Investigation (FBI). Districts with access to the Florida Crimes Telecommunications Network and the National Crime Information Center may use those services for the criminal history background check of employees in lieu of the fingerprint checks by the FDLE and the FBI.

The 1996 Legislature enacted a bill requiring all school district personnel with direct contact with students who had not been fingerprinted (persons employed prior to enactment of the fingerprinting requirement were “grandfathered” in and not required to be fingerprinted) to submit a complete set of fingerprints for employment screening and a criminal background check by January 1, 1997. As of January 1, 1998, all other school district personnel were to have complied with the fingerprinting requirement.

Current law requires school districts to assist any teacher teaching out-of-field to acquire the teaching and subject area content skills demanded by the assignment. Persons teaching out-of-field are to be given priority consideration in summer inservice institutes. A district is authorized to include in its summer inservice institute plan provision for institutes in areas of critical teacher shortage.

Section 231.15, F.S., authorizes the State Board of Education to classify school services and prescribe the requirements for professional, temporary, and part-time certification of teaching personnel.

The process and requirements for obtaining a Florida professional teacher’s certificate are provided in s. 231.17, F.S. Among the requirements is the documented receipt of graduation from an accredited institution of higher learning. There is no clear provision of authority for the State Board of Education to establish rules governing the acceptance of degrees from state and foreign institutions seeking accreditation. The accreditation process takes two years. The lack of specific rulemaking authority in this area could affect the certification of teaching graduates from Florida Gulf Coast University.

District school boards are required by s. 231.1725, F.S., to establish minimum qualifications of substitute teachers, part-time and full-time teachers in adult education programs, part-time and full-time teachers of vocational programs, and part-time and full-time noncertificated teachers in critical teacher shortage areas. The boards are also given the responsibility of determining the critical teacher shortage areas in the district, and reporting the number, qualifications, and areas of assignment of all noncertificated teachers employed each school year. Also, s. 231.15, F.S., directs the State Board of Education to adopt rules authorizing districts to employ non-certificated personnel to provide instructional services in the area of specialty.

Except in cases of excessive force or cruel and unusual punishment, school administrative and instructional personnel, including bus drivers and paraprofessionals, are protected from civil or criminal liability for any action that was consistent with state and local school board rules on the control, discipline, suspension, or expulsion of students. Interns from teacher preparation programs who are working in the schools to gain clinical field experience, and are under the direction of a certified teacher, are not afforded the same protection from liability.

The School Community Professional Development Act is created by s. 231.600, F.S. The act requires school districts, public schools, community colleges, and universities to work together to create a coordinated system of professional development for school system personnel. The statutory purpose of the act is to enable the school community to succeed in improving the schools. The school community is defined as including administrators, instructional personnel, support personnel, principals, members of school advisory councils, parents, business partners, and personnel that provide health and social services to school children. School boards are to include the professional development system in their master plan for the in-service training of district personnel required by s. 236.0811, F.S., and must fund the system as required by that section.

The Department of Education is required to design methods the state and school boards can use to evaluate and improve the district professional development systems. The evaluation must include an annual assessment of data that indicate progress or the lack of progress of students whose needs were identified as being the most critical to improved professional development. This would include students with disabilities, students having limited English proficiency, and low achieving students.

The Department of Education is created by s. 20.15, F.S., and the following five divisions are established:

1. Division of Community Colleges
2. Division of Public Schools and Community Education
3. Division of Universities
4. Division of Workforce Development
5. Division of Human Resource Development

In addition, the Commissioner of Education is authorized to create a Division of Administration within the department.

The 1997 changes to ch. 120, F.S., resulted in some rules of the Education Practices Commission being subject to repeal because they were not supported by specific statutory authority for promulgation. Among those is Rule 6B-10.004, FAC., which allows the commission to discipline educators who violate the provisions of probation imposed by the commission, or the terms of a settlement agreement that is the subject of a commission final order. Without this disciplinary authority the Education Practices Commission must treat each violation as a new complaint and

initiate a new prosecution over the probation violation. This is time consuming and places an additional burden on commission resources.

Section 231.601, F.S., gives the responsibility for operating preservice and inservice teacher education programs jointly to the colleges and universities, district school boards, and practicing educators through teacher education centers. This section of law was sunsetted effective July 1, 1995, pursuant to s. 21, ch. 85-238, LOF.

For purposes of calculating school districts' maximum funded student enrollment in the Florida Education Finance Program (FEFP), the basic grades K-3, basic grades 4-8 and basic grades 9-12 programs in the FEFP comprise Group 1. Group 1 program enrollments are not capped; districts receive full funding for all group 1 enrollment, whether that enrollment is greater than or less than maximum enrollments established by the Legislature. (Maximum enrollments are those funded by the Legislature in the General Appropriations Act and incorporated in the first and second calculations of the FEFP each year). All other FEFP programs (exceptional, at risk, English as a Second Language, and vocational programs) comprise Group 2. The maximum funding a district receives for Group 2 enrollment is the Group 2 enrollment funded by the Legislature in the General Appropriations Act and incorporated in the first and second calculations of the FEFP each year. Districts do not receive additional funding for Group 2 enrollments above those maximum levels except for enrollment increases for students who are clients of the Department of Children and Family Services and the Department of Juvenile Justice. If, for example, a district is funded for 1,000 Group 2 students and subsequently reports an enrollment of 1,100, the district's funding entitlement is unchanged from the appropriated level and becomes the equivalent of 91% of the full funding amount for each of its reported 1,100 students ($1,000/1,100$).

The caps adjustment supplement component of the FEFP funding formula modifies the calculation of maximum enrollments. If, at the time of the fourth and fifth calculation of the FEFP each year, the amount of the FEFP appropriation is greater than the total amount required to fully fund all formula components, half (50%) of the otherwise unused appropriation is provided to districts that exceeded their maximum Group 2 enrollments. The total amount available to the caps adjustment supplement is prorated among districts that have exceeded their Group 2 cap based on the amount of each districts' enrollment above cap.

Section 229.57, F.S., requires all 11th grade students in public schools to take a high school competency test that measures minimum performance skills and competencies in reading, writing, and mathematics. The State Board of Education must adopt the skills and competencies that serve as the basis for the test and, upon recommendation of the Commissioner, designate a passing score for each part of the test. A student must pass each part of the test to qualify for a regular high school diploma.

III. Effect of Proposed Changes:

The bill being considered is a comprehensive measure that combines modification of substantive law, specific rules authorization amendments, and technical changes such as name changes and

cross reference corrections. For clarity, the changes proposed in the bill will be described section by section.

Section 1. According to the Department of Education the services of the Florida Crimes Telecommunications Network and the National Crime Information Center, used by some school districts in lieu of submitting employee fingerprints to FDLE and the FBI, do not provide a complete background check of prospective employees. The bill would delete the districts' authority to use the alternate services, and would require all employee fingerprints to be submitted to FDLE and the FBI.

This section also strikes the, now, obsolete language in s. 231.17, F.S., that required all school district personnel to be fingerprinted by January 1, 1998.

Section 2. Section 231.096, F.S., which addresses assistance for teachers teaching out-of-field, is amended to delete obsolete references to summer inservice institutes and replace it with a requirement that out-of-field teachers' training needs be given priority consideration in district professional development activities.

Section 3. Establishes clear authority for the State Board of Education to designate certification areas and establish the competencies and requirements for the certification of all school-based personnel.

Section 4. The bill provides for a process to be incorporated in State Board of Education rule to validate and accept for teacher certification purposes degrees from state universities, foreign institutions, and other institutions while these institutions seek accreditation and during the 2-year accreditation process.

Section 5. The authority for school districts to employ non-certified persons to teach in areas of critical teacher shortage would be repealed. Also, interns from approved teacher preparation programs would be afforded all the protections and rights of law given to certified teachers, with the exception of the right to bargain collectively, while they are gaining clinical experience in the schools under the direction of a certified teacher.

Section 6. Clarifies that the Education Practices Commission has specific rulemaking authority to establish procedures operations and administration of the commission, the disciplinary proceedings it conducts, indexing, the implementation of commission orders and the retention of records. The commission would also be empowered to establish disciplinary guidelines.

Section 7. This section contains a technical change that addresses the Recovery Network for Educators and corrects a cross-reference that relates to the funding of the network through teacher certification fees.

Section 8. Section 231.47, F.S., would be amended to correct a cross-reference regarding the fingerprinting of substitute teachers.

Section 9. This is another technical change that would amend s. 231.546, F.S., to delete the requirement that the Education Standards Commission recommend locations for teacher centers as well as guidelines for the expenditure of funds and approval of teacher centers. The laws establishing teacher centers were sunset in 1995.

Section 10. The School Community Professional Development Act would be amended to provide that training activities must be coupled with follow-up support. Also, professional development activities would be directed toward improving the academic progress of all students, not just those with the most critical needs.

Section 11. Section 231.6002, F.S., would be created to provide guidelines, requirements, and state board rulemaking authority for a teacher professional development stipend days program. Teachers would receive a stipend amount per day for up to the equivalent of two days training to occur outside regular instructional time. In order to participate, school districts would have to establish matching professional development time equal to the paid stipend time outside the required 180 student instructional days. The program would be implemented only to the extent it is funded in the General Appropriations Act.

Section 12. This section of the bill would amend s. 231.601, F.S., to delete additional obsolete language referring to teacher education centers.

Section 13. Section 231.625, F.S., having to do with teacher retention and referral, would be amended to reflect the current name of the Office of Teacher Recruitment and Retention Services within the Department of Education. Additional technical changes would be made to more accurately describe the work of the office.

Section 14. The Christa McAuliffe Ambassador for Education Program statute, s. 231.6255, F.S., the Teacher of the Year Program, would be updated to more accurately reflect the title and activities of the Office of Teacher Recruitment and Retention.

Section 15. Section 231.63, F.S., would be created to establish The Florida Educator Hall of Fame. The Hall would be located on the Plaza Level of the State Capitol Building and its purpose would be to honor those persons who have made significant contributions to education in Florida. The bill would provide for the design, nominations, recommendations and selection of members. The Commissioner of Education would be authorized to request an annual appropriation from the Legislature to cover the costs associated with the Hall. The Florida Education Foundation, the Department of Education's direct support organization, would also be authorized to contribute to the operation of the Hall.

Section 16. The bill would create three new divisions within the Department of Education to more accurately reflect the department's organizational structure. Those divisions would be:

Division of Administration
Division of Financial Services

Division of Support Services

According to the department the move would not create new positions; however, it would align the existing bureaus under the Deputy Commissioner for Planning, Budget, and Management into the new divisions to improve reporting and management.

Section 17. Section 231.262, F.S., would be amended to authorize the Clerk of the Education Practices Commission to issue a show cause order in situations where a certificate holder had violated the provisions of probation imposed by the commission. If the probationer could not show good cause why a penalty for violating probation should not be imposed, the commission could impose any penalty considered appropriate as provided in s. 231.28(8), F.S. The time from the issuance of the show cause order until resolution by the commission would not count as time served for purposes of the probation.

Section 18. Proposed changes to s. 231.28, F.S., would authorize the Clerk of the Education Practices Commission to issue a show cause order in instances where an educator has violated a provision of a settlement agreement enforced by a final order of the commission. The educator would be required to appear before the commission and show cause as to why his or her action did not warrant additional penalties being levied by the commission.

Section 19. Subsection (8) of section 236.081, the caps adjustment supplement of the Florida Education Finance Program (FEFP), would be repealed. Proposed changes to section 236.081 relating to calculation of maximum student enrollments would add a supplemental calculation for those districts that are over their weighted enrollment ceiling. If, beginning with the third calculation of the FEFP (in late November of 1998, following actual enrollment counts in October), the total *unweighted* enrollment for all Group 2 programs that a district reports for funding is greater than the district's projected Group 2 enrollment used to calculate that district's enrollment ceiling, the amount of the reported enrollment above the enrollment ceiling would be funded at a weight of 1.0. (1.0 multiplied by the base student allocation and by the district cost differential for the district). The maximum full-time-equivalent (FTE) student enrollment funded at the weight of 1.0 would be limited to the number of FTE students moved from Group 2 to Group 1 by the membership of the Enrollment Estimating Conference to implement a policy limiting districts' Group 2 enrollment requests for 1998-99 to a level that would maintain the ratio of weighted to unweighted students for which the district was funded in 1997-98.

Section 20. Section 236.25, F.S., would be amended to correct a cross reference regarding district's school tax.

Section 21. The legislation would authorize the Commissioner of Education to establish criteria that would allow students who had successfully demonstrated proficiency in reading and mathematics on the Florida Comprehensive Assessment Test (FCAT), or by some other measure, to be exempted from taking the corresponding section of the high school competency test or the college placement test when it is administered to high school students. It is believed this change

will provide an incentive for students to do well on the FCAT and, correspondingly, reduce the number of students taking the high school competency test.

Section 22. Section 231.613, F.S., would be repealed. This section of law relates to inservice training institutes which has not been funded since 1994 and has become obsolete. The authority and guidelines for inservice training activities is now contained in the School Community Professional Development Act, s. 231.600, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There would be a cost associated with the teacher stipend for the two professional development days. The bill provides that the professional development stipend program would be implemented only to the extent it is funded by law. Funds for professional development days were not included in the Conference Report on HB 4201.

Authorizing the Education Practices Commission to issue show cause orders may result in reduced operating costs if the orders expedite commission operating efficiency.

The cost of the Florida Educator Hall of Fame is indeterminate.

If a district's reported Group 2 enrollment exceeds its Group 2 enrollment ceiling because the district reports students for funding in Group 2 that had been part of the district's projected Group 1 enrollment, and if the amount of Group 2 enrollment funded at a weight of 1.0 is offset by a corresponding decline in Group 1 enrollment that would have been funded at a weight of 1.0 (Grades 4-8) or a higher weight (1.057 for Grades K-3 and 1.138 for Grades 9-12), there will be no fiscal impact because district enrollment moved from Group 1 to Group 2 will generate the same or a lower level of funding than the funding level provided in Group 1. If a district's Group 2 enrollment exceeds its enrollment ceiling because there is a greater than anticipated enrollment in both Group 1 and Group 2, rather than an enrollment shift from one group to the other, funding at the weight of 1.0 for enrollment above the Group 2 ceiling would have a fiscal impact. If the FEFP appropriation is not sufficient to fully fund all reported enrollment (as adjusted by the enrollment capping procedures defined in s. 236.081, F.S., and described above), every district's total FEFP funding entitlement would be prorated to the amount of the appropriation.

There may be a slight reduction in test administration costs if the number of students taking the high school competency test decreases due to the proposed exemption option.

VI. Technical Deficiencies:

The bill does not fit the Senate definition of a rules authorization bill. It contains several substantive proposals for changes in law, including the creation of two new statutes, and only a few of the specific rules authorization issues submitted by the Department of Education to the Joint Administrative Procedures Committee. It would seem prudent to separate the RAB issues from the rest of the bill so the specific rules authorizations may be more appropriately addressed.

VII. Related Issues:

None.

VIII. Amendments:

None.