

By Representative Thrasher

1 A bill to be entitled
 2 An act relating to school district personnel;
 3 amending s. 231.29, F.S.; revising performance
 4 assessments of school district instructional
 5 staff; requiring notice of unsatisfactory
 6 performance; requiring corrective action;
 7 providing for hearings; specifying district
 8 school board authority; requiring certain
 9 evaluations; amending s. 231.36, F.S.; revising
 10 contracts for school district instructional
 11 staff; specifying a probationary period;
 12 requiring performance assessments; providing
 13 for dismissal; requiring a probationary period
 14 for certain administrative staff; restricting
 15 issuance of professional service contracts
 16 after a date certain; applying new performance
 17 assessment and appeal procedures upon renewal
 18 of a professional service contract; amending s.
 19 231.3605, F.S., relating to educational support
 20 employees; limiting probationary status to
 21 employees hired before a certain date;
 22 providing that this act supersedes local laws;
 23 providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Subsections (1), (2), (3), (4), and (5) of
 28 section 231.29, Florida Statutes, are amended to read:

29 231.29 Assessment procedures and criteria.--

30 (1) For the purpose of improving the quality of
 31 instructional, administrative, and supervisory services in the

1 public schools of the state, the superintendent shall
2 establish procedures for assessing the performance of duties
3 and responsibilities of all instructional, administrative, and
4 supervisory personnel employed by the school ~~in his or her~~
5 district.

6 (2) The following conditions must be considered in the
7 design of the district's instructional personnel assessment
8 system:

9 (a) The system must be designed to support district
10 and school level improvement plans.

11 (b) The system must provide appropriate instruments,
12 procedures, and criteria for continuous quality improvement of
13 the professional skills of instructional personnel beginning,
14 ~~probationary, and nonprobationary stages of a teaching career.~~

15 (c) The system must include a mechanism to give
16 parents an opportunity to provide input into employee
17 performance assessments when appropriate.

18 (d)~~(e)~~ In addition to addressing generic teaching
19 competencies, districts must determine those teaching fields
20 for which special procedures and criteria will be developed.

21 (e)~~(d)~~ The school board shall provide training
22 programs that ~~which~~ are based upon guidelines provided by the
23 Department of Education to ensure that all individuals with
24 evaluation responsibilities understand the proper use of the
25 assessment criteria and procedures. ~~Such training programs~~
26 ~~may be provided under s. 231.087.~~

27 (3)~~(2)~~ The assessment procedure for instructional
28 personnel shall comply with, but shall not be limited to, the
29 following requirements:

30 (a) An assessment ~~relating to the criteria specified~~
31 ~~in subsection (3)~~ shall be conducted for each employee at

1 least once a year. ~~The~~ Such assessment shall be based upon
2 sound educational principles and contemporary research in
3 effective educational practices. The assessment must use data
4 and indicators of student performance and may consider results
5 of peer reviews in evaluating the employee's performance. The
6 assessment criteria must include, but are not limited to,
7 indicators that relate to the following:
8 1. Ability to maintain appropriate discipline;
9 2. Knowledge of subject matter. The district school
10 board shall make special provisions for evaluating teachers
11 who are assigned to teach out-of-field;
12 3. Ability to plan and deliver instruction;
13 4. Ability to evaluate instructional needs;
14 5. Ability to communicate with parents; and
15 6. Other professional competencies, responsibilities,
16 and requirements as established by rules of the State Board of
17 Education and policies of the district school board.
18 (b) All personnel shall be fully informed of the
19 criteria and procedures associated with the assessment process
20 before the assessment takes place.
21 (c) The individual responsible for supervising the
22 employee must assess the employee's performance. The evaluator
23 must submit a written report of the assessment to the
24 superintendent for the purpose of reviewing the employee's
25 contract. The evaluator must submit the ~~A~~ written report of
26 ~~each assessment shall be made and a copy thereof shall be~~
27 ~~given~~ to the employee no later than 10 days after the
28 assessment takes place. The evaluator must discuss the
29 written report of assessment ~~shall be discussed~~ with the
30 employee ~~by the person responsible for preparing the report.~~
31 The employee shall have the right to initiate a written

1 response to the assessment, and the response shall become a
2 permanent attachment to his or her personnel file.

3 (d) ~~If in the event that~~ an employee is not performing
4 his or her duties in a satisfactory manner, the evaluator
5 shall notify the employee in writing of such determination.
6 The notice must ~~and~~ describe such unsatisfactory performance
7 and include notice of the following procedural requirements:

8 1. Upon delivery of a notice of unsatisfactory
9 performance, the evaluator must confer with the employee, make
10 recommendations with respect to specific areas of
11 unsatisfactory performance, and provide assistance in helping
12 to correct deficiencies within a prescribed period of time.

13 2. The employee must be given 120 calendar days from
14 the receipt of the notice of unsatisfactory performance to
15 demonstrate corrective action. School holidays and school
16 vacation periods are not counted when tolling the
17 120-calendar-day period. During the 120 calendar days, the
18 employee must be evaluated periodically and apprised of
19 progress achieved and must be provided assistance and
20 inservice training opportunities to help correct the noted
21 performance deficiencies. At any time during the 120 calendar
22 days, the employee may request a transfer to another
23 appropriate position with a different supervising
24 administrator; however, a transfer does not extend the period
25 for correcting performance deficiencies.

26 3. Within 14 days after the close of the 120 calendar
27 days, the evaluator must assess whether the performance
28 deficiencies have been corrected and forward a recommendation
29 to the superintendent. Within 14 days after receiving the
30 evaluator's recommendation, the superintendent must notify the
31 employee in writing whether the performance deficiencies have

1 been satisfactorily corrected and whether the superintendent
2 will recommend that the school board continue or terminate his
3 or her employment contract for the subsequent school year. If
4 the employee wishes to contest the superintendent's
5 recommendation, the employee must, within 15 days after
6 receipt of the superintendent's recommendation, submit a
7 written request for a hearing before an administrative law
8 judge assigned by the Division of Administrative Hearings of
9 the Department of Management Services. The hearing must be
10 conducted within 45 days after receipt of the written appeal
11 and in accordance with chapter 120. A majority vote of the
12 membership of the school board is required to sustain or
13 change the recommended order of the administrative law judge.
14 The determination of the school board is final as to the
15 sufficiency or insufficiency of the grounds for termination of
16 employment. The evaluator shall thereafter confer with the
17 employee, make recommendations with respect to specific areas
18 of unsatisfactory performance, and provide assistance in
19 helping to correct such deficiencies within a reasonable,
20 prescribed period of time.

21 ~~(3) A complete statement of the assessment criteria~~
22 ~~shall include, but shall not be limited to, observable~~
23 ~~indicators that relate to the following:~~

24 ~~(a) Ability to use appropriate classroom management~~
25 ~~techniques, including ability to maintain appropriate~~
26 ~~discipline.~~

27 ~~(b) Knowledge of subject matter. The district school~~
28 ~~board shall make special provisions for evaluating teachers~~
29 ~~who are assigned to teach out-of-field.~~

30 ~~(c) Ability to plan and deliver instruction.~~

31 ~~(d) Ability to evaluate instructional needs.~~

1 ~~(e) Other professional competencies, responsibilities,~~
2 ~~and requirements as determined by the local district.~~

3 ~~(4) The individual responsible for the supervision of~~
4 ~~the employee shall make the assessment of the employee and~~
5 ~~forward such assessment to the superintendent for the purpose~~
6 ~~of reviewing the employee's contract.~~

7 (4)(5) The superintendent shall notify the department
8 of any instructional personnel who receive two consecutive
9 unsatisfactory ~~annual~~ evaluations and who have been given
10 written notice by the district that their employment is being
11 terminated or is not being renewed or that the school board
12 intends to terminate, or not renew, their employment. The
13 department shall conduct an investigation to determine whether
14 action shall be taken against the certificateholder pursuant
15 to s. 231.28(1)(b).

16 (5) The superintendent shall develop a mechanism for
17 evaluating the effective use of assessment criteria and
18 evaluation procedures by individuals who are assigned
19 responsibility for evaluating the performance of instructional
20 personnel.

21 Section 2. Section 231.36, Florida Statutes, 1996
22 Supplement, is amended to read:

23 231.36 Contracts with instructional staff,
24 supervisors, and principals.--

25 (1)(a) Each person employed as a member of the
26 instructional staff by in any district school system must
27 ~~shall~~ be properly certificated ~~pursuant to s. 231.17~~ or
28 employed pursuant to chapter 231 s. 231.1725 and is shall be
29 entitled to and shall receive a written contract as specified
30 in chapter 230.

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1 1. Each person employed as a member of the
2 instructional staff after June 30, 1997, shall receive a
3 contract that is subject to annual review and renewal at the
4 discretion of the school board. During the first 3 years of
5 employment, the employee shall receive an annual contract. The
6 first 97 days of an employee's initial contract is a
7 probationary period. During the probationary period, the
8 employee may be dismissed without cause or may resign from the
9 contracted position without breach of contract. After the
10 first 3 years of employment, the contract may be renewed at
11 the discretion of the school board for a period not to exceed
12 3 years. Each employee who holds a contract under this
13 subparagraph is subject to the performance assessments and
14 procedures set forth in s. 231.29. Each contract issued under
15 this subparagraph must provide for dismissal during the term
16 of the contract for just cause or for failure to correct
17 performance deficiencies under s. 231.29.

18 2. A professional service contract shall be issued as
19 provided in subsection (3). Each professional service contract
20 must provide for dismissal during the term of the contract
21 only for just cause.

22 3. A continuing contract shall be issued as provided
23 in subsection (4).~~All such contracts, except continuing~~
24 ~~contracts as specified in subsection (4), shall contain~~
25 ~~provisions for dismissal during the term of the contract only~~
26 ~~for just cause.~~

27
28 Just cause includes, but is not limited to, misconduct in
29 office, incompetency, gross insubordination, willful neglect
30 of duty, or conviction of a crime involving moral turpitude.

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1 (b) A supervisor or principal shall be properly
2 certified and shall receive a written contract as specified in
3 chapter 230. Such contract may be for an initial period not to
4 exceed 3 years, subject to annual review and renewal. The
5 first 97 days of an initial contract is a probationary period.
6 During the probationary period, the employee may be dismissed
7 without cause or may resign from the contracted position
8 without breach of contract. After the first 3 years, the
9 contract may be renewed for a period not to exceed 3 years and
10 shall contain provisions for dismissal during the term of the
11 contract only for just cause, in addition to such other
12 provisions as are prescribed by the school board.

13 (2) Any person ~~so~~ employed as a supervisor, principal,
14 or member of the instructional staff on the basis of a written
15 offer of a specific position by a duly authorized agent of the
16 school board for a stated term of service at a specified
17 salary, and who accepted such offer by telegram or letter or
18 by signing the regular contract form, who violates the terms
19 of such contract or agreement by leaving his or her position
20 after the probationary period without first being released
21 from his or her contract or agreement by the school board of
22 the district in which the person is employed shall be subject
23 to the jurisdiction of the Education Practices Commission.
24 The school board shall take official action on such violation
25 and shall furnish a copy of its official minutes to the
26 Commissioner of Education.

27 (3)~~(a)~~ The school board of each district shall provide
28 a professional service contract as prescribed in this
29 subsection herein. ~~Each member of the instructional staff who~~
30 ~~completes the following requirements prior to July 1, 1984,~~
31 ~~shall be entitled to and shall be issued a continuing contract~~

1 ~~in the form prescribed by rules of the state board pursuant to~~
2 ~~s. 231.36, Florida Statutes 1981.~~

3 (a) Each person who was employed as a member of the
4 district's instructional staff prior to July 1, 1997, and who
5 completes the following requirements on or after July 1, 1984,
6 <U>and prior to July 1, 1997, shall be entitled to and shall be
7 issued a professional service contract in the form prescribed
8 by rules of the state board as provided in this subsection
9 herein:

10 1. The member must hold a professional certificate as
11 prescribed by s. 231.17 and rules of the State Board of
12 Education;

13 2. The member must have completed 3 years of
14 probationary service in the district, 1 year of which must be
15 the professional orientation program where required, during a
16 period not in excess of 5 successive years, except for leave
17 duly authorized and granted; and

18 3. The member must have been recommended by the
19 superintendent for such contract and reappointed by the school
20 board based on successful performance of duties and
21 demonstration of professional competence.

22 (b) The professional service contract shall be
23 effective at the beginning of the school fiscal year following
24 the completion of all requirements therefor.

25 (c) The period of service provided herein may be
26 extended to 4 years when prescribed by the school board and
27 agreed to in writing by the employee at the time of
28 reappointment.

29 (d) A school board may issue a ~~continuing contract~~
30 ~~prior to July 1, 1984, and may issue~~ a professional service
31 contract before July 1, 1997, and may issue a contract under

1 subparagraph (1)(a)1. on or after July 1, 1997 ~~subsequent to~~
2 ~~July 1, 1984,~~ to any employee who has previously held a
3 professional service contract or continuing contract in the
4 same or another district within this state. Any employee who
5 holds a continuing contract or professional service contract
6 may, but is not required to, exchange such ~~continuing~~ contract
7 for a ~~professional service~~ contract under subparagraph
8 (1)(a)1. in the same district.

9 (e) A professional service contract shall be renewed
10 each year unless the superintendent, after receiving the
11 recommendations required by s. 231.29 ~~s. 231.29(4)~~, charges
12 the employee with unsatisfactory performance and notifies the
13 employee of performance deficiencies as required by s. 231.29.
14 An employee who holds a professional service contract on July
15 1, 1997, is subject to the procedures set forth in paragraph
16 (f) during the term of the existing professional service
17 contract. The employee is subject to the procedures set forth
18 in s. 231.29(3)(d) upon the next renewal of the professional
19 service contract; however, if the employee is notified of
20 performance deficiencies before the next contract renewal
21 date, the procedures of s. 231.29(3)(d) do not apply until the
22 procedures set forth in paragraph (f) have been exhausted and
23 the professional service contract is subsequently renewed.

24 (f) The superintendent shall notify an employee who
25 holds a professional service contract on July 1, 1997, as
26 ~~determined under the provisions of s. 231.29~~ and notifies the
27 ~~employee~~ in writing, no later than 6 weeks prior to the end of
28 the postschool conference period, of performance deficiencies
29 which may result in termination of employment, if not
30 corrected during the subsequent year of employment (which
31 shall be granted for an additional year in accordance with the

1 provisions in subsection (1)). Except as otherwise hereinafter
2 provided, this action shall not be subject to the provisions
3 of chapter 120, but the following procedures shall apply:

4 1. On receiving notice of unsatisfactory performance,
5 the employee, on request, shall be accorded an opportunity to
6 meet with the superintendent or the superintendent's designee
7 for an informal review of the determination of unsatisfactory
8 performance.

9 2. An employee notified of unsatisfactory performance
10 may request an opportunity to be considered for a transfer to
11 another appropriate position, with a different supervising
12 administrator, for the subsequent year of employment.

13 3. During the subsequent year, the employee shall be
14 provided assistance and inservice training opportunities to
15 help correct the noted performance deficiencies. The employee
16 shall also be evaluated periodically so that he or she will be
17 kept apprised of progress achieved.

18 4. Not later than 6 weeks prior to the close of the
19 postschool conference period of the subsequent year, the
20 superintendent, after receiving and reviewing the
21 recommendation required by s. 231.29 ~~s. 231.29(4)~~, shall
22 notify the employee, in writing, whether the performance
23 deficiencies have been corrected. If so, a new professional
24 service contract shall be issued to the employee. If the
25 performance deficiencies have not been corrected, the
26 superintendent may notify the school board and the employee,
27 in writing, that the employee shall not be issued a new
28 professional service contract; however, if the recommendation
29 of the superintendent is not to issue a new professional
30 service contract, and if the employee wishes to contest such
31 recommendation, the employee will have 15 days from receipt of

1 the superintendent's recommendation to demand, in writing, a
2 hearing. In such hearing, the employee may raise as an issue,
3 among other things, the sufficiency of the superintendent's
4 charges of unsatisfactory performance. Such hearing shall be
5 conducted at the employee's election in accordance with one of
6 the following procedures:

7 a. A direct hearing conducted by the school board
8 within 45 days of receipt of the written appeal. The hearing
9 shall be conducted in accordance with the provisions of ss.
10 120.569 and 120.57. A majority vote of the membership of the
11 school board shall be required to sustain the superintendent's
12 recommendation. The determination of the school board shall
13 be final as to the sufficiency or insufficiency of the grounds
14 for termination of employment; or

15 b. A hearing conducted by an administrative law judge
16 assigned by the Division of Administrative Hearings of the
17 Department of Management Services. The hearing shall be
18 conducted within 45 days of receipt of the written appeal in
19 accordance with chapter 120. The recommendation of the
20 administrative law judge shall be made to the school board. A
21 majority vote of the membership of the school board shall be
22 required to sustain or change the administrative law judge's
23 recommendation. The determination of the school board shall
24 be final as to the sufficiency or insufficiency of the grounds
25 for termination of employment.

26 (g) An employee who has professional service contract
27 status before July 1, 1997, may retain the contract and all
28 rights arising therefrom, unless the employee voluntarily
29 relinquishes the professional service contract.

30 (4) Each member of the instructional staff who
31 completed the requirements of s. 231.36(3)(a), Florida

1 Statutes, 1984 Supplement, and applicable state board rules
2 before July 1, 1984, shall be issued a continuing contract.

3 (a) An employee who has continuing contract status
4 prior to July 1, 1984, shall be entitled to retain such
5 contract and all rights arising therefrom in accordance with
6 existing laws, rules of the State Board of Education, or any
7 laws repealed by this act, unless the employee voluntarily
8 relinquishes his or her continuing contract.

9 (b) Any member of the district administrative or
10 supervisory staff and any member of the instructional staff,
11 including any principal, who is under continuing contract may
12 be dismissed or may be returned to annual contract status for
13 another 3 years in the discretion of the school board, at the
14 end of the school year, when a recommendation to that effect
15 is submitted in writing to the school board on or before April
16 1 of any school year, giving good and sufficient reasons
17 therefor, by the superintendent, by the principal if his or
18 her contract is not under consideration, or by a majority of
19 the school board. The employee whose contract is under
20 consideration shall be duly notified in writing by the party
21 or parties preferring the charges at least 5 days prior to the
22 filing of the written recommendation with the school board,
23 and such notice shall include a copy of the charges and the
24 recommendation to the school board. The school board shall
25 proceed to take appropriate action. Any decision adverse to
26 the employee shall be made by a majority vote of the full
27 membership of the school board. Any such decision adverse to
28 the employee may be appealed by the employee pursuant to s.
29 120.68.

30 (c) Any member of the district administrative or
31 supervisory staff and any member of the instructional staff,

1 including any principal, who is under continuing contract may
2 be suspended or dismissed at any time during the school year;
3 however, the charges against him or her must be based on
4 immorality, misconduct in office, incompetency, gross
5 insubordination, willful neglect of duty, drunkenness, or
6 conviction of a crime involving moral turpitude. Whenever
7 such charges are made against any such employee of the school
8 board, the school board may suspend such person without pay;
9 but, if the charges are not sustained, he or she shall be
10 immediately reinstated, and his or her back salary shall be
11 paid. In cases of suspension by the school board or by the
12 superintendent, the school board shall determine upon the
13 evidence submitted whether the charges have been sustained
14 and, if the charges are sustained, shall determine either to
15 dismiss the employee or fix the terms under which he or she
16 may be reinstated. If such charges are sustained by a
17 majority vote of the full membership of the school board and
18 such employee is discharged, his or her contract of employment
19 shall be thereby canceled. Any such decision adverse to the
20 employee may be appealed by the employee pursuant to s.
21 120.68, provided such appeal is filed within 30 days after the
22 decision of the school board.

23 (5) Should a school board have to choose from among
24 its personnel who are on continuing contracts, or professional
25 service contracts, or contracts issued under subparagraph
26 (1)(a)1. as to which should be retained, such decisions shall
27 be made pursuant to the terms of a collectively bargained
28 agreement, when one exists. If no such agreement exists, the
29 district school board shall prescribe rules to handle
30 reductions in workforce.

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1 (6)(a) Any member of the instructional staff,
2 excluding an employee specified in subsection (4), may be
3 suspended or dismissed at any time during the term of the
4 contract ~~for; however, the charges against him or her must be~~
5 ~~based on~~ just cause as provided in paragraph (1)(a). ~~Whenever~~
6 ~~such charges are made against any such employee of the school~~
7 ~~board,~~The school board must notify the employee in writing
8 whenever charges are made against the employee and may suspend
9 such person without pay; but, if the charges are not
10 sustained, the employee shall be immediately reinstated, and
11 his or her back salary shall be paid. If the employee wishes
12 to contest the charges, the employee must, within 15 days
13 after receipt of the written notice, submit a written request
14 for a hearing before an administrative law judge assigned by
15 the Division of Administrative Hearings of the Department of
16 Management Services. The hearing must be conducted within 45
17 days after receipt of the written appeal and in accordance
18 with chapter 120. A majority vote of the membership of the
19 school board is required to sustain or change the recommended
20 order of the administrative law judge. The determination of
21 the school board is final as to the sufficiency or
22 insufficiency of the grounds for termination of employment.
23 ~~When an employee is notified in writing of such charges, he or~~
24 ~~she will have 15 days from receipt of the notice to demand, in~~
25 ~~writing, a hearing to be conducted at the employee's election~~
26 ~~in accordance with either sub-subparagraph a. or~~
27 ~~sub-subparagraph b. of subparagraph (3)(e)4.~~Any such decision
28 adverse to the employee may be appealed by the employee
29 pursuant to s. 120.68, provided such appeal is filed within 30
30 days after the decision of the school board.
31

1 (b) Any member of the district administrative or
2 supervisory staff, including any principal but excluding an
3 employee specified in subsection (4), may be suspended or
4 dismissed at any time during the term of the contract;
5 however, the charges against him or her must be based on
6 immorality, misconduct in office, incompetency, gross
7 insubordination, willful neglect of duty, drunkenness, or
8 conviction of any crime involving moral turpitude. Whenever
9 such charges are made against any such employee of the school
10 board, the school board may suspend the employee without pay;
11 but, if the charges are not sustained, he or she shall be
12 immediately reinstated, and his or her back salary shall be
13 paid. In cases of suspension by the school board or by the
14 superintendent, the school board shall determine upon the
15 evidence submitted whether the charges have been sustained
16 and, if the charges are sustained, shall determine either to
17 dismiss the employee or fix the terms under which he or she
18 may be reinstated. If such charges are sustained by a
19 majority vote of the full membership of the school board and
20 such employee is discharged, his or her contract of employment
21 shall be thereby canceled. Any such decision adverse to the
22 employee may be appealed by him or her pursuant to s. 120.68,
23 provided such appeal is filed within 30 days after the
24 decision of the school board.

25 (7) The school board of any given district shall grant
26 continuing service credit for time spent performing duties as
27 a member of the Legislature to any district employee who
28 possesses a professional service contract, multiyear contract,
29 ~~or~~ continuing contract, or a contract issued under
30 subparagraph (1)(a)1.
31

1 (8) Notwithstanding any other provision of law, any
 2 member who has retired may interrupt retirement and be
 3 reemployed in any public school. Any member so reemployed by
 4 the same district from which he or she retired may be employed
 5 on a ~~probationary~~ contractual basis as provided in subsection
 6 (1); however, no regular retirement employee shall be eligible
 7 to renew membership under a retirement system created by
 8 chapter 121 or chapter 238.

9 Section 3. Paragraph (a) of subsection (2) of section
 10 231.3605, Florida Statutes is amended to read:

11 231.3605 Educational support employees.--

12 (2)(a) Each educational support employee hired before
 13 July 1, 1997, shall be employed on probationary status for a
 14 period to be determined through the appropriate collective
 15 bargaining agreement or by school board rule in cases where a
 16 collective bargaining agreement does not exist.

17 Section 4. This act supersedes any special law or
 18 local law to the contrary.

19 Section 5. This act shall take effect July 1, 1997.

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 21 *****

22 SENATE SUMMARY

23 Revises performance assessment criteria and evaluations
 24 of school district instructional staff. Requires notice
 25 of unsatisfactory performance and a period of time to
 26 take corrective action. Provides for administrative
 27 hearings and the authority of the district school board
 28 in continuing or terminating various types of contracts
 29 of employment based on performance. Limits the
 30 probationary status of educational support employees
 31 hired before July 1, 1997. Provides for this act to
 supersede inconsistent local laws.