

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1644

SPONSOR: Senator Smith

SUBJECT: Complaints Against Teachers

DATE: March 29, 2001

REVISED: 04/03/01 \_\_\_\_\_

|    | ANALYST      | STAFF DIRECTOR   | REFERENCE  | ACTION                  |
|----|--------------|------------------|------------|-------------------------|
| 1. | <u>White</u> | <u>O'Farrell</u> | <u>ED</u>  | <u>Fav/2 amendments</u> |
| 2. | _____        | _____            | <u>AED</u> | _____                   |
| 3. | _____        | _____            | <u>AP</u>  | _____                   |
| 4. | _____        | _____            | _____      | _____                   |
| 5. | _____        | _____            | _____      | _____                   |
| 6. | _____        | _____            | _____      | _____                   |

## I. Summary:

This bill provides penalties and sanctions for school districts and superintendents that do not report complaints against teachers, as required by law.

This bill amends the following section of the Florida Statutes: 231.262.

## II. Present Situation:

Section 231.261, F.S., creates the Education Practices Commission, and s. 231.262, F.S., gives the commission authority to take action against the certificates of people who are licensed to teach in Florida. The Department of Education, through its Office of Professional Practice Services, investigates complaints against educators and, if the Education Practices Commission takes action, the educator's certificate may be suspended or revoked. Section 231.2615, F.S., contains grounds for discipline that include the following infractions:

- Possession of a certificate fraudulently obtained
- Incompetence
- Gross immorality or moral turpitude
- Conviction of criminal charges
- Breach of contract
- Delinquent child support
- Violation of principles of professional conduct
- Violation of any order of the Education Practices Commission

Section 231.262(1)(c), F.S., requires a school district to file "in writing with the department all legally sufficient complaints within 30 days after the date on which subject matter of the complaint comes to the attention of the school district. The school district shall include all information relating to the complaint which is known to the school district at the time of filing."

“Legally sufficient” means containing the “ultimate facts which show a violation has occurred as provided in s. 231.2615.”

However, there are no penalties for districts or superintendents who do not comply with this law. The department takes action against the teacher only if:

- The complaint is legally sufficient
- The evidence is sufficient
- The commissioner finds probable cause
- The teacher does not surrender his or her license
- The teacher defaults, is found guilty by informal or formal hearing (Division of Administrative Hearings)
- The Education Practices Commission takes final action in a Final Order

### III. Effect of Proposed Changes:

The legislation under consideration amends s. 231.262, F.S., *Complaints against teachers and administrators; procedure; penalty*, to add accountability for school superintendents to submit a required report to the department upon receipt of certain types of complaints against teachers.

The bill adds teeth to the requirement in two ways:

- Authorizes a daily fine against a district that does not comply.
- Describes circumstances in which the commissioner may suspend temporarily the certificate of a teacher during an investigation of complaints against the teacher.

Under the bill, the school district must develop policies to comply with the requirement to report complaints against certified educators. The superintendent is accountable and is not excused if he or she was not informed of each legally sufficient complaint. The school district and the superintendent may be fined up to \$1,000 per day of noncompliance, and the school district and superintendent are jointly and severally liable for the fine.

*Note: Amendment #1, by Education, changes this requirement so that the superintendent may be penalized either for not reporting a complaint that had been brought to his attention, or for not enforcing procedures that would assure that complaints are brought promptly to the superintendent's attention. Instead of a fine, the penalty is loss of salary for a year, as provided in s. 230.33(13).*

In addition, the commissioner may suspend the educator's certificate temporarily while the investigation is going on and before it is determined what, if any, sanctions will be finally taken against the educator's certificate. The bill details a series of requests and responses that are available to the educator and the commissioner. As a last resort, the educator may seek review by the Education Practices Commission, and the commission may sustain or overturn the temporary suspension.

*Note: Amendment #2, by Education, changes this requirement so that, rather than suspend the teaching certificate, the commissioner may require the superintendent and principal to reassign the teacher to a position that does not require contact with students.*

**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:

School districts will incur the cost of developing a policy and procedures to comply with the reporting requirements.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Education:

The superintendent may be penalized either for not reporting a complaint that had been brought to his attention, or for not enforcing procedures that would assure that complaints are brought promptly to the superintendent's attention. Instead of a fine, the penalty is loss of salary for a year, as provided in s. 230.33(13). The superintendent is "charged with knowledge" of the policies and procedures, but not with knowledge of specific infractions no one told him about.

#2 by Education:

The commissioner is not authorized to suspend the teaching certificate of a person under investigation but not found to have committed an infraction. Rather, the commissioner may require the superintendent and principal to reassign the teacher to a position that does not require contact with students.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---