

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1139 w/CS Reading Deficiencies

**SPONSOR(S):** Arza

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2310 (S)

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) EDUCATION K-20	24 Y, 1 N w/CS	Ashworth	Bohannon
2) Education Appropriations (Sub)	16 Y, 0 N	Hammock	Mizereck
3) Appropriations		Mizereck	Baker
4)			
5)			

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### SUMMARY ANALYSIS

CS/HB 1139 strengthens the statutory provisions for students with reading deficiencies, their parents' rights, and the responsibilities of the district school board and school. The bill increases the requirements for notification to parents regarding their child's reading deficiency, learning difficulty, lack of reading achievement, academic improvement plan, intensive reading instruction until the deficiency is corrected, promotion determinants, additional evaluations, portfolio reviews, assessments, mid-year promotions, and proposed interventions and supports.

The CS remedies a glitch in the good cause exemptions. Under current law, if a student has received intensive remediation for more than 2 years and has previously been retained in kindergarten, grade 1, or grade 2, the student is eligible for a good cause exemption. However, the previous retention provision does not include grade 3. The bill remedies this situation by adding grade 3.

The CS requires that retained grade 3 students must be provided intensive interventions in reading to ameliorate the student's specific reading deficiency, as identified by a valid and reliable diagnostic assessment.

The CS requires each district to undertake several tasks toward notifying parents and providing for intensive remedial instruction of those students with reading deficiencies, including implementing a policy of mid-year promotions of any child retained in grade 3 due to a reading deficiency, establishing a Reading Enhancement and Acceleration Development (READ) initiative, and providing any student retained in grade 3 who has received intensive instructional services but is still not ready for grade promotion the option of being placed in a transitional instructional setting, which must specifically be designed to produce learning gains sufficient to meet grade 4 performance standards while continuing to remediate the area of reading deficiency.

The CS requires the READ initiative to focus on the prevention of the retention of grade 3 students, offer intensive accelerated reading instruction to grade 3 students who failed to meet promotion standards to grade 4 and to each K-3 student who is assessed as exhibiting a reading deficiency, provide to all K-3 students at risk of retention as identified by the statewide assessment system used in *Reading First* schools, be provided during regular school hours in addition to the regular reading instruction, and provide a state-identified reading curriculum.

The bill does not appear to have a significant fiscal impact. Refer to Section II.D. FISCAL COMMENTS..

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1139d.ap.doc

**DATE:** April 19, 2004

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. DOES THE BILL:

- |                                      |   |  |   |
|--------------------------------------|---|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |

For any principle that received a “no” above, please explain:

The bill marginally increases government by adding some responsibilities to the school, school district, and the State Board of Education.

### B. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Current Law

Section 1008.25, F.S., states that it is the intent of the Legislature that each student’s progression from one grade to another be determined, in part, upon proficiency in reading; that district school board policies facilitate such proficiency; and that parents be informed of their student’s academic progress.

District school boards are required to:

- Establish a comprehensive program for student progression which includes specific levels of performance in reading as well as other subjects.
- Allocate remedial and supplemental instruction resources on a first priority for students who are deficient in reading by the end of grade 3.
- Assist schools and teachers to implement research-based reading activities and reading strategies that have been shown to be successful in teaching reading to low-performing students.<sup>1</sup>
- Report annually to the parent of each student the progress of the student toward achieving state and district expectations for proficiency in reading.<sup>2</sup>

If a student does not meet specific levels of performance in reading on the required statewide assessment tests, the student must be provided with additional diagnostic assessments to determine the nature of the student’s difficulty and areas of academic need.<sup>3</sup> If the student has been identified as having a deficiency in reading, the academic improvement plan<sup>4</sup> must identify the student’s specific areas of deficiency in phonemic awareness, phonics, fluency, comprehension, and vocabulary; the desired levels of performance in these areas; and the instructional and support services to be provided to meet the desired levels of performance. Each student who does not meet the minimum performance expectations for the statewide assessment tests in reading must continue to be provided with remedial or supplemental instruction until the expectations are met.

<sup>1</sup> Section 1008.25(4)(b) and (6)(b), Florida Statutes.

<sup>2</sup> Section 1008.25(7)(a), Florida Statutes.

<sup>3</sup> Section 1008.25(4)(a), Florida Statutes.

<sup>4</sup> An academic improvement plan is designed to assist the student in meeting state and district expectations for proficiency. It must be developed by the school, in consultation with the student’s parent, and be implemented by the school, pursuant to s. 1008.25(4)(b), F.S.

Any student who exhibits a substantial deficiency in reading, based on locally determined or statewide assessments in K-3 or through teacher observations, must be given intensive reading instruction immediately following the identification of the reading deficiency; and the student must be reassessed at the beginning of the next grade. The intensive reading instruction must be continued until the reading deficiency is remedied. If not remedied by the end of grade 3, as demonstrated by a Level 2 or higher score on the statewide assessment testing grade 3 for reading, the student must be retained.<sup>5</sup>

Parents of a student who exhibits a substantial deficiency in reading must be notified in writing of:

- The deficiency.
- The current services that are provided to the student.
- Proposed supplemental instructional services and supports designed to remediate.
- That if the reading deficiency is not remediated by the end of grade 3, the student must be retained unless exempt from mandatory retention for good cause.<sup>6</sup>
- Strategies for parents to use in helping their child succeed in reading proficiency.

### Just Read, Florida!

*Just Read, Florida!* Is a comprehensive coordinated reading initiative implemented in 2001 by executive order of the Governor. It is aimed at helping every student become a successful, independent reader based on a scientific reading research foundation. Some of the implemented efforts of *Just Read, Florida!* are:

- Teacher training through the Florida Center for Reading Research at Florida State University and other professional development programs.
- Distribution of a reading kit to parents of newborns.
- Mentoring initiatives with volunteers.
- Partnering of teens with the mentoring initiatives to train teens as lead reading mentors.
- Promotion of reading efforts through advertising by corporate sponsors.
- Toll-free phone line story time.
- Families Building Better Readers workshops.
- Clifford's Reading Tips for parents in English and Spanish
- Summer reading camps for students.

### NAEP

Under the 2002 National Assessment of Educational Progress (NAEP), Florida is the only state to show significant improvement in fourth grade reading and has posted improvement in reading for nearly all student groups. Florida surpassed the national average in fourth grade reading. In fourth grade reading, Florida improved its score by four points, while the national score dipped slightly.

### Reading First and the Florida Center for Reading Research at Florida State University

The Florida Center for Reading Research was created two years ago to conduct research to help teachers teach reading. The center is one of three in the nation chosen to help states implement

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<sup>5</sup> Section 1008.25(5)(b), Florida Statutes.

<sup>6</sup> Good cause exemptions, pursuant to s. 1008.25(6)(b), F.S., are limited English proficient students who have had less than 2 years of instruction in an ESOL program; students with disabilities whose individual education plan indicates that participation in the statewide assessment program is not appropriate; students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education; students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the Sunshine State Standards in reading equal to at least a Level 2 performance on the FCAT; students with disabilities who participate in the FCAT and who have an individual education plan that reflects that the student has received the intensive remediation in reading for more than 2 years but still demonstrates a deficiency in reading and was previously retained in kindergarten, grade 1, or grade 2; students who have received the intensive remediation in reading for 2 or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, or grade 2 for a total of 2 years. Intensive reading instruction for students so promoted must include an altered instructional day based on an academic improvement plan that includes specialized diagnostic information and specific reading strategies for each student.

*Reading First* programs. It helps school officials design programs that use teaching principles endorsed by the federal government in the *Reading First* initiative. The state has received federal money from the program and awarded grants to more than 300 high-poverty schools that agree to follow the concepts of *Reading First*. The guiding principle of the *Reading First* program is “scientifically based reading instruction.” The Florida Center for Reading Research reviews curriculum materials to help schools decide what books and materials to buy and develops tests and other tools to measure and track results.

### **Provisions of HB 1139**

HB 1139 strengthens the statutory provisions for students with reading deficiencies, their parents’ rights, and the responsibilities of the district school board and school.

#### Parents

The bill affords parents the right to be informed immediately when it is known that their child has a reading deficiency. The notification must include an understandable description and explanation of the exact nature of the student’s learning difficulty and lack of reading achievement. The bill strengthens the existing provision that the parent be consulted regarding the development of the academic improvement plan. Also, the parent is to be informed that the student will receive intensive reading instruction until the deficiency is corrected.

Notification must also include:

- That the FCAT is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to the student to assist the parents and the district in knowing when the child is reading at or above grade level.
- District’s specific criteria and policies for *mid-year promotion, which means promotion of a retained student at any time during the year of retention once the student has demonstrated ability to read on grade level.*
- If child is retained in grade 3, description of proposed interventions and supports that will be provided to child to remediate the reading deficiency.

#### Good Cause

Currently a student who has received the intensive remediation in reading for more than 2 years and was previously retained in kindergarten, grade 1, or grade 2 is eligible for a good cause exemption from retention in grade 3. However, under current law, if a student has received the same intensive remediation for more than 2 years and has been retained in grade 3 previously, the student is *not* eligible for a good cause exemption. The bill adds grade 3 to the other grades for the good cause exemption, thus remedying that situation.

#### Retained Grade 3 Students

Retained grade 3 students must be provided intensive interventions in reading to ameliorate the student’s specific reading deficiency, as identified by a valid and reliable diagnostic assessment. The intensive intervention must include:

- Effective instructional strategies.
- Participation in district’s summer reading camp of no less than six weeks.
- Appropriate teaching methodologies to assist students in becoming successful readers and able to read at or above grade level and ready for promotion to grade 4.

#### District Responsibilities

Each district must:

- Conduct a review of student academic improvement plans for all students who did not score above a level 1 on the reading portion of the FCAT and did not meet the criteria for a good cause exemption. The review must address additional supports and services.
- Require a student portfolio to be completed for each such student.

- Provide retained grade 3 students with intensive instructional services and supports, including a minimum of 90 minutes of daily uninterrupted scientifically-based specialized reading instruction and other strategies, including small group instruction, reduced teacher-student ratios, more frequent progress monitoring, tutoring mentoring, transition classes containing third and fourth grade students, extended school day, week, or year, and summer reading camps.
- Provide written notification to the parent.
- Implement a policy of mid-year promotions of any child retained in grade 3 due to a reading deficiency. The policy is for students who can demonstrate that he or she is reading at grade level and ready for promotion to grade 4. Tools for reevaluating include subsequent assessments, alternative assessments, and portfolio reviews. Students promoted after November 1 must demonstrate proficiency above that required to score at level 2 on the grade 3 FCAT.
- Provide students who are retained in grade 3 with a high performing teacher as determined by student performance data and above satisfactory performance.
- Provide parents of students to be retained in grade 3 with at least one of the following instructional options:
  - Supplemental tutoring in reading services.
  - “Read at Home” plan outlined in parental contract.
  - Mentor/tutor with specialized reading training.
- Establish a Reading Enhancement and Acceleration Development (READ) initiative.
- Report to SBOE on specific intensive reading interventions and supports implemented.
- *Provide any student retained in grade 3 who has received intensive instructional services but is still not ready for grade promotion the option of being placed in a transitional instructional setting, which must specifically be designed to produce learning gains sufficient to meet grade 4 performance standards while continuing to remediate the area of reading deficiency.*

### READ Initiative

The focus of the READ initiative must be to:

- Prevent the retention of grade 3 students.
- Offer intensive accelerated reading instruction to grade 3 students who failed to meet promotion standards to grade 4 and to each K-3 student who is assessed as exhibiting a reading deficiency.

The READ initiative must:

- Be provided to all K-3 students at risk of retention as identified by the statewide assessment system used in *Reading First* schools. The assessment must measure phonemic awareness, phonics, fluency, vocabulary, and comprehension.
- Be provided during regular school hours in addition to the regular reading instruction.
- Provide a state-identified reading curriculum that has been reviewed by the Florida Center for Reading Research at Florida State University and meets, at a minimum, the following specifications:
  - Assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level.
  - Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.
  - Provides scientifically based and reliable assessment.
  - Provides initial and ongoing analysis of each student’s reading progress.
  - Is implemented during regular school hours.
  - Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

### State Board of Education Responsibilities

The State Board of Education must adopt standards for grade 3 retained students to be promoted during the school year that provide a reasonable expectation that the student's progress is sufficient to master appropriate grade 4 level reading skills.

Commissioner of Education Responsibilities

The Commissioner of Education must annually prescribe the required components of the SBOE requested reports regarding the specific intensive reading interventions implemented by each district.

C. SECTION DIRECTORY: (Describes the provisions of the strike-all amendment)

**Section 1.** Amends s. 1002.20, F.S.; requiring:

- Each elementary school to regularly assess the reading ability of each K-3 student;
- Immediate notification to parent of any K-3 student who exhibits a reading deficiency;
- Parent notification to contain understandable description and explanation of learning difficulty and lack of reading achievement;
- Parent be consulted in development of academic improvement plan and that student will be given intensive reading instruction.

**Section 2.** Amends s. 1008.25, F.S.;

- Deleting obsolete dates;
- Requiring that parent of student with a reading deficiency be notified that FCAT is not the sole determiner of promotion and that additional assistance is available to child;
- Requiring that parent of student with a reading deficiency be notified of mid-year promotion;
- Defining mid-year promotion;
- Adding grade 3 to good cause exemptions for students who were previously retained;
- Providing for successful progression for retained readers with intensive;
- Requiring that intervention include certain strategies, activities, and methodologies;
- Requiring district to conduct review of academic improvement plans for certain students;
- Requiring review address additional supports and services needed to remediate;
- Requiring student portfolio for each such student;
- Providing retained students with intensive instructional services and supports for reading remediation, including 90 minutes per day of uninterrupted reading instruction;
- Including certain other strategies;
- Providing written notification to parent of any retained grade 3;
- Requiring notification to be immediate, include description of deficiency, difficulty in learning, and lack of achievement in reading, description of proposed interventions and supports;
- Requiring districts to implement a policy for mid-year promotion for certain students;
- Providing for use of certain tools to reevaluate retained student;
- Requiring that students promoted after November 1 demonstrate a certain proficiency;
- Requiring State Board of Education to adopt certain standards for promotion to grade 4;
- Requiring district to provide certain students a high performing teacher;
- Requiring district to provide parents with at least one instructional option;
- Providing certain instructional options;
- Requiring districts to establish Reading Enhancement and Acceleration Development (READ);
- Requiring focus of READ Initiative to be to prevent retention of third graders and to offer intensive accelerated reading instruction to certain students;
- Setting READ initiative requirements;
- Requiring reading curriculum to assist students in developing the ability to read;
- Requiring districts to report to SBOE on district intensive reading interventions and supports;
- Requiring Commissioner to annually prescribe the required components of requested reports;
- Requiring districts to provide retained grade 3 student who has received intensive instructional services the option of placement in a transitional instructional setting; and

- Requiring transitional instructional setting to be designed to produce learning gains.

**Section 3.** Provides an effective date of July 1, 2004.

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

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

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

None.

#### **2. Expenditures:**

None.

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

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

None.

#### **2. Expenditures:**

None.

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

None.

### **D. FISCAL COMMENTS:**

HB 1835 provides an appropriation of \$95,934,028 to continue "Just Read, Florida!" to achieve Florida's reading goal for all students to be reading on grade level or higher by 2012. In addition, there is an appropriation of \$653,922,659 for Supplemental Academic Instruction for which the priority use of the funds shall be the provision of supplemental intensive instruction, consistent with the Sunshine State Standards, including summer school and intensive English immersion instruction, for students in grades 3 and 10 who scored FCAT Level I.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

#### **2. Other:**

None.

### **B. RULE-MAKING AUTHORITY:**

No new rule-making authority is granted.

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

None.

### **AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 31, 2004, the Committee on Education K-20 adopted a strike-all amendment and passed HB 1139 with a committee substitute. The bill with the committee substitute differs from the original bill in the following ways:

- Requires the use of the statewide assessment system as identification for K-3 students at risk of retention
- Requires written notification to the parent that the FCAT is not the sole determiner of promotion and that additional options are available to assist in knowing when a child is ready for promotion
- Requires written notification to the parent regarding the district's specific criteria and policies for mid-year promotion
- Remedies a glitch in the good cause exemptions by allowing a student a student a good cause exemption if he or she has received intensive remediation for more than 2 years and has previously been retained in grade 3. (Current law allows this good cause exemption for students who have previously been retained in kindergarten, grade 1, or grade 2.)
- Provides that a student retained due to a reading deficiency in grade 3 must be provided intensive interventions in reading for no less than 6 weeks in summer reading camp
- Strengthens the requirements for written notification to parents of retained students
- Strengthens the mid-year promotion requirements
- Requires districts to provide retained students with a high performing teacher
- Requires districts to provide parents with certain instructional options for students who are retained including supplemental tutoring, reading at home plan, mentor
- Requires district to report to SBOE on intensive reading interventions and supports
- Requires districts to provide retained students who have received intensive instructional services but are still not ready for grade promotion, the option of being placed in a transitional instructional setting.

On April 16, 2004, the Subcommittee on Education Appropriations recommended HB 1139 with one amendment. The amendment requires each school district, beginning with the 2004-2005 school year, to establish Intensive Acceleration Classes for retained third graders who scored Level I on FCAT reading, and sets requirements for the classes.