

Bill No. CS for SB 1226

Barcode 344874

CHAMBER ACTION

Senate

House

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The Committee on Education Pre-K - 12 Appropriations (Wise)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 1012.225, Florida Statutes, is
created to read:

1012.225 Merit Award Program for Instructional
Personnel and School-Based Administrators.--

(1) ELIGIBILITY.--In order to be eligible for funding
under this section, a district school board must adopt a Merit
Award Program plan that provides for an assessment and a merit
award based on the performance of students assigned to the
employee's classroom or school pursuant to paragraph (3)(a) or
paragraph (3)(b). Charter schools may participate in the
program by using the district's Merit Award Program plan or
may adopt an alternative Merit Award Program plan as provided
in paragraph (5)(b). All instructional personnel, as defined
in s. 1012.01(2)(a)-(d), and school-based administrators, as

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1 defined in s. 1012.01(3)(c), are eligible as individuals or as
2 instructional teams to receive merit awards, with the
3 exception of substitute teachers. In order to receive a merit
4 award as an instructional team under this section, team
5 members must be assessed on the performance of students
6 assigned to the team members' classrooms or within the
7 members' academic sphere of responsibility. The district
8 school board may not require instructional personnel or
9 school-based administrators to apply for an award, or make any
10 presentation, in order to be assessed for or receive a merit
11 award. A plan is subject to negotiation as provided in chapter
12 447. The Department of Education may not distribute any
13 portion of pro rata funding to a district, or to a district
14 for a charter school within the district, if the district or
15 charter school chooses not to adopt a Merit Award Program plan
16 under this section. Undistributed funds shall be considered
17 unobligated and shall revert to the fund from which the
18 appropriation was made in accordance with s. 216.301.

19 (2) PAY SUPPLEMENTS STRUCTURE.--Merit Award Program
20 plans shall provide for the annual disbursement of merit-based
21 pay supplements to high-performing employees in the manner
22 described in this subsection.

23 (a) Each Merit Award Program plan must designate the
24 top instructional personnel and school-based administrators to
25 be outstanding performers and pay to each such employee who
26 remains employed by a Florida public school, by September 1 of
27 the following school year, a merit-based pay supplement of at
28 least 5 percent of the average teacher's salary for that
29 school district not to exceed 10 percent of the average
30 teacher's salary for that school district. The amount of a
31 merit award may not be based on length of service or base

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1 salary. Pay supplements shall be funded from moneys
2 appropriated by the Legislature under this section and from
3 any additional funds that are designated by the district for
4 the Merit Award Program. School districts are not required to
5 implement this section unless the program is specifically
6 funded by the Legislature. By October 1 of each year, each
7 school district shall provide documentation to the Department
8 of Education concerning the expenditure of legislative
9 appropriations for merit-based pay, and shall refund
10 undisbursed appropriations to the department. If such
11 undisbursed funds are not remitted to the department by
12 November 1, the department shall withhold an equivalent amount
13 from the district's allocation of appropriations made under s.
14 1011.62.

15 (b) A Merit Award Program plan may include additional
16 pay supplements under this section for employees who manifest
17 exemplary work attendance.

18 (c) Merit-based pay supplements shall be awarded in
19 addition to any general increase or other adjustments to
20 salaries which are made by a school district. An employee's
21 eligibility for or receipt of merit-based pay supplements
22 shall not adversely affect that employee's opportunity to
23 qualify for or to receive any other compensation that is made
24 generally available to other similarly situated district
25 school board employees.

26 (3) ASSESSMENT.--

27 (a) The school district's assessment of an
28 instructional personnel staff member must consider the
29 performance of students assigned to his or her classroom or,
30 in the case of co-teaching or team teaching, within his or her
31 academic sphere of responsibility.

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1 (b) The assessment of a school-based administrator
2 must consider the performance of students assigned to his or
3 her school.

4 (c) A district school board must evaluate student
5 performance for purposes of this section based upon student
6 academic proficiency or gains in learning or both, as measured
7 by statewide standardized tests, or, for subjects and grades
8 that are not measured by the statewide assessment program, by
9 national, state, or district-determined testing instruments
10 that measure the Sunshine State Standards, curriculum
11 frameworks, or course descriptions for the content area
12 assigned and grade level taught. This portion of the employee
13 assessment shall be weighted at not less than 60 percent of
14 the overall evaluation.

15 (d) For purposes of this section, measures adopted by
16 the district school board to assess instructional personnel
17 and school-based administrators must balance student
18 performance based on academic proficiency and gains in
19 learning so that top-performing eligible employees have an
20 opportunity to receive an award under this section.

21 (e) Using assessment criteria adopted by the district
22 school board, a professional practices component for the
23 assessment of instructional personnel must be based on the
24 principal's assessment of the instructional personnel and the
25 assessment of school-based administrators must be based on the
26 district superintendent's assessment of the administrator.
27 This portion of the employee assessment shall be weighted at
28 up to 40 percent of the overall evaluation.
29 Performance-related assessment criteria adopted by the
30 district school board for personnel assessments by principals
31 and superintendents shall include:

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1 1. The ability to maintain appropriate discipline.

2 2. The outstanding knowledge of subject matter, with
3 the ability to plan and deliver high-quality instruction and
4 the high-quality use of technology in the classroom.

5 3. The ability to use diagnostic and assessment data
6 and design and to implement differentiated instructional
7 strategies in order to meet individual student needs for
8 remediation or acceleration.

9 4. The ability to establish and maintain a positive
10 collaborative relationship with students' families for the
11 purpose of increasing student achievement.

12 5. The Florida Educator Accomplished Practices and any
13 other professional competencies, responsibilities, and
14 requirements, as established by rules of the State Board of
15 Education and policies of the district school board.

16 6. For school-based administrators, in addition to
17 subparagraphs 1.-5.:

18 a. The ability to manage human, financial, and
19 material resources so as to maximize the share of resources
20 used for direct instruction, as opposed to overhead or other
21 purposes; and

22 b. The ability to recruit and retain high-performing
23 teachers.

24 7. Other appropriate factors identified by the
25 district school board.

26 (4) DUTIES.--

27 (a) Each district school board shall inform its
28 employees of the criteria and procedures associated with the
29 school district's Merit Award Program plan.

30 (b)1. Upon request, the department shall provide
31 technical assistance to school districts for the purpose of

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1 aiding the development of Merit Award Program plans. The
 2 advice and recommendations offered by the department under
 3 this paragraph are not subject to the requirements of chapter
 4 120.

5 2. The department shall collect and disseminate best
 6 practices for district-determined testing instruments and
 7 Merit Award Program plans.

8 (5) REVIEW OF PERFORMANCE-BASED PAY PLANS.--

9 (a) Each participating district school board must
 10 submit its Merit Award Program plan to the Commissioner of
 11 Education for review by October 1 of each year. The plan must
 12 include the negotiated, district-adopted plan or charter
 13 school adopted plan if the district does not submit a plan
 14 intended for use in the following year. The commissioner shall
 15 complete a review of each plan submitted and determine
 16 compliance with the requirements of this section by November
 17 15 of each year. If a submitted plan fails to meet the
 18 requirements of this section, the commissioner must identify
 19 in writing the specific revisions that are required. Revised
 20 plans must be finalized and resubmitted by a school district,
 21 or by a charter school if the district does not submit a plan,
 22 for the commissioner's review by January 31 of each year. The
 23 commissioner shall certify those school district or charter
 24 school plans that do not comply with this section to the
 25 Governor, the President of the Senate, and the Speaker of the
 26 House of Representatives by February 15 of each year.

27 (b) Any charter school that does not follow the school
 28 district's salary schedule may adopt its own performance-based
 29 plan in accordance with this section. Charter school proposals
 30 shall be included with the school district plans or may be
 31 submitted independently if the district does not submit a

1 plan.

2 (c) Each district school board shall establish a
3 procedure to annually review both the assessment and
4 compensation components of its plan in order to determine
5 compliance with this section. After this review and by October
6 1 of each year, the district school board shall submit a
7 report to the Commissioner of Education, along with supporting
8 documentation that will enable the commissioner to verify the
9 district's compliance with this section during the prior
10 school year. The commissioner shall submit a report to the
11 Governor, the President of the Senate, and the Speaker of the
12 House of Representatives certifying those school district or
13 charter school plans that do not comply with this section or
14 whose plans were not implemented in accordance with this
15 section by December 1 of each year.

16 (d) For purposes of the 2007-2008 school year, the
17 plan submitted as required in paragraph (a) applies to the
18 2007-2008 school year as well as the 2008-2009 school year.
19 Thereafter, all plans submitted and approved within the
20 timelines set forth in paragraph (a) apply to the following
21 school year.

22 (6) SUBSEQUENT REVISIONS OF APPROVED PLANS.--Any
23 revision to an approved Merit Award Program plan must be
24 approved by the district school board and reviewed by the
25 commissioner to determine compliance with this section.

26 (7) RULEMAKING.--The State Board of Education shall
27 adopt rules relating to the calculation of average teacher
28 salaries per district, reporting formats, and the review of
29 plan procedures pursuant to ss. 120.536(1) and 120.54 for
30 purposes of administering this section. The State Board of
31 Education must initiate the rulemaking process within 30 days

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1 after this act becomes law.

2 Section 2. Beginning with the 2007-2008 school year,
3 school districts that participate in the Merit Award Program
4 under s. 1012.225, Florida Statutes, must be able to
5 administer end-of-course examinations based on the Sunshine
6 State Standards in order to measure a student's understanding
7 and mastery of the entire course in all grade groupings and
8 subjects for any year in which the districts participate in
9 the program. The statewide standardized assessment, College
10 Board Advanced Placement Examination, International
11 Baccalaureate examination, Advanced International Certificate
12 of Education examination, or examinations resulting in
13 national industry certification recognized by the Agency for
14 Workforce Innovation satisfy the requirements of this section
15 for the respective grade groupings and subjects assessed by
16 these examinations and assessments.

17 Section 3. Paragraph (c) is added to subsection (2) of
18 section 447.403, Florida Statutes, to read:

19 447.403 Resolution of impasses.--
20 (2)

21 (c) If the district school board is the public
22 employer and an impasse is declared under subsection (1)
23 involving a dispute of a Merit Award Program Plan under s.
24 1012.225, no mediator or special magistrate shall be appointed
25 unless both parties agree to such an appointment. If a party
26 does not agree to an appointment, the appointment shall be
27 considered waived and the parties shall proceed directly to
28 resolution of the impasse by the district school board
29 pursuant to paragraph (4)(d).

30 Section 4. From the general revenue funds appropriated
31 pursuant to Specific Appropriation 91 in section 2 of chapter

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1 2006-25, Laws of Florida, the sum of \$147,500,000 is rescinded
 2 and shall revert unallocated to the General Revenue Fund on
 3 the effective date of this section, and the following proviso
 4 language following Specific Appropriation 91 in section 2 of
 5 chapter 2006-25, Laws of Florida, is repealed:

6
 7 From the funds in Specific Appropriation 91, \$147,500,000 is
 8 provided for the Special Teachers are Rewarded performance pay
 9 plan (STAR plan). Funds shall be distributed to school
 10 districts for performance pay rewards to instructional
 11 personnel as defined in section 1012.01(2) (a)-(d), Florida
 12 Statutes, in all K-12 schools in the district, in accordance
 13 with the requirements of section 1012.22, Florida Statutes.
 14 STAR Plan funds shall be allocated based on each district's
 15 proportion of the state total K-12 base funding, subject to
 16 review and approval by the State Board of Education of the
 17 district's STAR plan. The district's STAR plan may include
 18 information from the district's instructional personnel
 19 assessment system, and shall include instructional personnel
 20 evaluation based on the performance of their students. The
 21 Department of Education shall develop model methodologies that
 22 ensure fairness and equity for all instructional personnel,
 23 and shall provide technical assistance upon request.

24
 25 Each school district that chooses to participate in the STAR
 26 Plan shall submit its comprehensive STAR plan, which shall
 27 include rewards for elementary, middle, and high school
 28 instructional personnel, to the State Board of Education by
 29 December 31, 2006. Any charter school that does not follow the
 30 district's salary schedule may submit a separate proposal with
 31 the district's plan. Charter school proposals shall be

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1 included with the district plans or may be submitted
2 independently if the district does not submit a plan.
3 Districts that do not submit a plan by December 31, 2006,
4 shall not be eligible to receive STAR Plan funds. The State
5 Board shall review each district's STAR Plan within 45 days of
6 receipt and shall approve the plan or request revisions. If
7 requesting revisions, the State Board must identify the
8 specific area(s) of the proposed plan needing revision.
9 Districts must submit their revised plan by March 1, 2007. The
10 State Board shall review the revised plan and may either
11 approve the revised plan or deny the district eligibility to
12 receive STAR Plan funds for the 2006-2007 fiscal year. STAR
13 Plan funds shall not be recalculated during the fiscal year
14 except that funds allocated for districts that fail to adopt
15 approved STAR Plans by April 1, 2007, shall be redistributed
16 to those districts that have approved plans in place by the
17 required date. The redistribution calculation shall be
18 verified by the Florida Education Finance Program
19 Appropriation Allocation Conference.

20
21 District STAR Plans must meet the following guidelines:

22
23 1. Eligibility - All instructional personnel are
24 automatically eligible to receive rewards for improved student
25 achievement without having to apply.

26
27 2. Determination of number of rewards - The district plan
28 shall utilize funds received under this program for rewards of
29 at least 5 percent of the base pay of the best performing 25
30 percent of instructional personnel. Districts shall use any
31 remaining funds to provide bonuses to additional instructional

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1 personnel or school-based leaders pursuant to their plans.
 2 District school boards are encouraged to provide additional
 3 rewards to instructional personnel they determine to be
 4 outstanding. District school boards shall distribute funds for
 5 State Board approved charter school plans to charter schools
 6 based on each charter school's proportion of the district's
 7 total K-12 base funding.

8
 9 3. Evaluation instrument - Each district school board shall
 10 select or develop an evaluation instrument. The instrument's
 11 primary determining factor shall be the evaluation of improved
 12 student achievement. The instrument's factors shall be scored
 13 using the following categories, or categories that are
 14 substantially similar in number and connotation:
 15 unsatisfactory, needs improvement, satisfactory,
 16 high-performing, and outstanding. Instructional personnel must
 17 receive no unsatisfactory or needs improvement ratings and may
 18 receive no more than one satisfactory rating on the areas
 19 evaluated in order to receive a reward.

20
 21 4. Instructional personnel evaluation based on student
 22 performance - District school boards shall determine
 23 appropriate methods to evaluate instructional personnel based
 24 on the performance of their students. The methods must measure
 25 improved student achievement during the course of the school
 26 year; and must be approved by the State Board of Education.

27 a. Evaluation of improved student achievement for
 28 instructional personnel linked by course numbers to
 29 instruction in reading or math shall be determined by a
 30 standardized test.

31 b. Evaluation of improved student achievement for

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1 instructional personnel not linked by course numbers to
 2 instruction in reading or math shall be determined by
 3 instruments that measure the Sunshine State Standards for the
 4 area, including challenging grade-level content and critical
 5 thinking skills. District school boards shall develop methods
 6 to evaluate improved student achievement in specialized areas,
 7 including exceptional student education, fine arts, career and
 8 technical education, and other specialties so that all
 9 instructional personnel are eligible for rewards.

10 c. Evaluation of improved student achievement for
 11 secondary instructional personnel linked by course number to
 12 instruction in social studies or science may be assessed by a
 13 standardized test; by linking improved student achievement in
 14 reading or mathematics of the students enrolled in the
 15 instructional personnel's social studies or science class, as
 16 measured by a standardized test; or by instruments that
 17 measure the Sunshine State Standards for the area, including
 18 challenging grade-level content and critical thinking skills.

19
 20 District school board STAR Plan proposals may include a
 21 methodology for performance pay rewards for district-selected
 22 school-based leaders who supervise or directly assist the
 23 instructional personnel whose student achievement results in a
 24 STAR Plan reward.

25 Section 5. (1) The recurring sum of \$147,500,000 from
 26 the General Revenue Fund is appropriated to the Department of
 27 Education for the 2006-2007 fiscal year as a supplemental
 28 appropriation for Aid to Local Governments, Grants and Aids --
 29 Florida Education Finance Program. These funds shall be
 30 allocated among school districts based on each district's
 31 proportion of the state total K-12 base funding and shall be

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1 expended for any of the following purposes:

2 (a) To fund Special Teachers Are Rewarded (STAR)
3 performance pay plans that are implemented based on proviso
4 language following Specific Appropriation 91 in section 2 of
5 chapter 2006-25, Laws of Florida, in effect as of July 1,
6 2006. A district that has been requested by the State Board of
7 Education to submit a revised STAR plan must submit its
8 revised plan by May 1, 2007. The state board shall review the
9 revised plan and may either approve the revised plan or deny
10 the district eligibility to receive STAR plan funds for the
11 2006-2007 fiscal year;

12 (b) To fund performance pay policies adopted pursuant
13 to s. 1012.22, Florida Statutes, if a district school board
14 amends its policy to conform to s. 1012.225(1), (2), and (3),
15 Florida Statutes, prior to the disbursement of funds. However,
16 a school district that does not amend its plan as described in
17 this subsection may disburse funds only in an amount equal to
18 the amount of funds the district disbursed under its policy
19 for the 2005-2006 school year; or

20 (c) To fund performance pay policies approved by the
21 district school board which meet the requirements of s.
22 1012.225(1), (2), and (3), Florida Statutes.

23 (2) The amended policies adopted under paragraph
24 (1)(b) and the policies adopted under paragraph (1)(c) are
25 subject to negotiation as provided in chapter 447, Florida
26 Statutes, except that if an impasse occurs pursuant to s.
27 447.403, Florida Statutes, a mediator or special magistrate
28 shall be appointed only if both parties agree to such
29 appointment. If a party does not agree to such appointment,
30 the appointment shall be considered waived and the parties
31 shall proceed directly to resolution of the impasse by the

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1 district school board pursuant to s. 447.403(4)(d), Florida
2 Statutes. School districts receiving funds under this section
3 must comply with s. 1012.225(5)(c), Florida Statutes.

4 (3) Each school district shall refund the undisbursed
5 balance of its allotment from this appropriation as of
6 September 1, 2007, to the Department of Education. If such
7 funds are not remitted to the department by October 1, 2007,
8 the department shall withhold an equivalent amount from the
9 district's allocation from the Florida Education Finance
10 Program for the 2007-2008 fiscal year.

11 Section 6. Section 3 of chapter 2006-26, Laws of
12 Florida, is repealed.

13 Section 7. Effective June 30, 2007, s.
14 1012.22(1)(c)4., Florida Statutes, is repealed. Rules adopted
15 by the State Board of Education pursuant to s. 1012.22,
16 Florida Statutes, which are in conflict with this act are
17 suspended.

18 Section 8. Except as otherwise expressly provided in
19 this act, this act shall take effect upon becoming a law.

20
21

22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete everything before the enacting clause

25

26 and insert:

27 A bill to be entitled
28 An act relating to a merit award program for
29 district school board employees; creating s.
30 1012.225, F.S.; establishing the Merit Award
31 Program for instructional personnel and

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1 school-based administrators; requiring that a
2 district school board adopt a Merit Award
3 Program plan in order to receive funding under
4 the program; authorizing charter schools to
5 participate in the program or adopt an
6 alternative plan; providing for the plan to be
7 subject to ch. 447, F.S., relating to
8 collective bargaining; providing for the
9 reversion of funds that are not distributed
10 when a district or charter school chooses not
11 to adopt a plan; providing a formula for
12 disbursing merit-based pay supplements to
13 high-performing employees; requiring each
14 school district to document to the Department
15 of Education the district's expenditures under
16 its plan; requiring that undisbursed funds be
17 remitted to the department; providing that the
18 merit-based pay supplements are in addition to
19 other salary adjustments; providing
20 requirements for assessing instructional
21 personnel and school-based administrators which
22 include evaluating student performance;
23 requiring district school boards to inform
24 employees of the criteria for evaluations under
25 the plan; requiring the department to provide
26 technical assistance to school districts in
27 developing program plans and to disseminate
28 best practices; requiring each participating
29 district school board to submit its plan to the
30 Commissioner of Education for review; requiring
31 the commissioner to identify required revisions

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1 in a district's plan; requiring that any
2 revision made to a plan be reviewed by the
3 commissioner; requiring each school board to
4 annually document its compliance to the
5 Commissioner of Education; requiring a report
6 to the Governor and the Legislature;
7 authorizing the State Board of Education to
8 adopt rules; requiring school districts to be
9 able to administer end-of-course examinations
10 with certain exceptions; amending s. 447.403,
11 F.S.; providing a procedure for resolving an
12 impasse with respect to a dispute involving a
13 Merit Award Program Plan; requiring that a
14 specified portion of general revenue funds
15 revert to the General Revenue Fund; repealing a
16 specified portion of Specific Appropriation 91
17 in s. 2, ch. 2006-25, Laws of Florida;
18 providing an appropriation and specifying
19 purposes; repealing s. 3, ch. 2006-26, Laws of
20 Florida, relating to an implementing provision
21 for the Special Teachers Are Rewarded
22 performance pay plan (STAR Plan); repealing s.
23 1012.22(1)(c)4., F.S., relating to a
24 performance-pay policy for school
25 administrators and instructional personnel;
26 suspending rules adopted by the State Board of
27 Education which are in conflict with such
28 provisions; providing effective dates.

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31