

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 491 Certification of Public School Educators

SPONSOR(S): Policy & Budget Council; Schools & Learning Council; Carroll and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 286

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Schools & Learning Council	12 Y, 0 N, As CS	Gillespie/Eggers	Cobb
2) Policy & Budget Council	30 Y, 1 N, As CS	Martin	Hansen
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

CS/CS/HB 491 requires that a teacher who completes 300 inservice hours (or the equivalent) for a reading endorsement shall receive credit for 120 inservice hours toward certification or endorsement in English for Speakers of Other Languages (ESOL), thereby requiring the teacher to complete a net 180 inservice hours of ESOL training in order to receive an ESOL endorsement or certification. The 180 inservice hours must be earned as follows:

- Sixty inservice hours of applied linguistics or documented completion of the training;
- Sixty inservice hours of methods of teaching ESOL or documented completion of the training; and
- Sixty inservice hours of practicum/demonstration of mastery or documented completion of the training.

CS/CS/HB 491 creates the Reading and English for Speakers of Other Languages (ESOL) Inservice Requirements Task Force. The task force must submit a report to the Governor and Legislature by February 1, 2009, which includes information and recommendations concerning the inservice requirements for reading and ESOL teachers. The 14-member task force is composed of the Commissioner of Education or designee, three teachers, three district school superintendents, a representative from a college or university, and representatives from six statewide organizations. The task force is abolished upon delivering its final report and recommendations to the Governor and Legislature.

The Department of Education (DOE) and school districts may incur minimal travel and per diem costs associated with the task force.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The council substitute does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

In 1984, the Legislature required that English language instruction be provided for a student whose native language is other than English and specified that the instruction be designed to develop the student's mastery of four language skills: listening, speaking, reading, and writing.¹

In 1989, attorneys representing Multicultural Education, Training, and Advocacy, Inc. (META) advised the Florida Department of Education (DOE) of META's intention to sue the State of Florida on behalf of eight minority rights advocacy groups in the state, including the League of United Latin American Citizens (LULAC). META claimed violations of federal and state provisions concerning the education of Florida's limited English proficient (LEP) students.²

In response, the 1990 Legislature required school districts, among other things, to:³

- Identify LEP students through assessment;
- Provide LEP students with instruction in English using strategies for teaching English for Speakers of Other Languages (ESOL);
- Provide LEP students with ESOL instruction or home-language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy; and
- Provide qualified teachers.

Instead of pursuing litigation, META and DOE negotiated a settlement agreement, which on August 14, 1990, was approved by a Consent Order issued by a federal district judge.⁴ Under the 1990 Consent Order, DOE agreed to the equal treatment of LEP students; proper identification and assessment of LEP students; and adequate placement and programming, certified staff, and supplemental services when needed, for LEP students.⁵ Section IV of the Consent Order,⁶ among other things, created four categories of school personnel and established separate ESOL training requirements for each of the

¹ Section 2, ch. 84-336, L.O.F.; former §§ 228.041(30) & 233.058, F.S.

² Rosa Castro Feinberg, *Preparing Mainstream Classroom Teachers to Teach Potentially English Proficient Students*, *Proceedings of the First Research Symposium on Limited English Proficient Student Issues*, U.S. Department of Education, Office of Bilingual Education & Minority Languages Affairs (1990), at <http://www.ncele.gwu.edu/pubs/symposia/first/preparing-dis.htm> (last visited Apr. 19, 2008).

³ Section 41, ch. 90-288, L.O.F.; former § 233.058, F.S.

⁴ *League of United Latin American Citizens (LULAC) et al. vs. Florida Board of Education et al.*, No. 90-1913 (S.D. Fla. Aug. 13, 1990), available from Office of Academic Achievement through Language Acquisition, Florida Department of Education, at <http://www.fldoe.org/aala/lulac.asp> (last visited Apr. 19, 2008) [hereinafter *LULAC*].

⁵ National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, at <http://www.ncele.gwu.edu/expert/faq/07court.html> (last visited Apr. 19, 2008).

⁶ *LULAC*, *supra* note 4; available from Office of Academic Achievement through Language Acquisition, Florida Department of Education, at <http://www.fldoe.org/aala/lulac.asp#four> (last visited Apr. 19, 2008).

four categories. In September 2003, DOE and META approved a joint stipulation modifying the 1990 Consent Order.⁷ The training requirements for the four categories of school personnel, as modified by the 2003 stipulation, are:

- Category I. Teachers of English/language arts must have:
 - ESOL certification through earning a bachelor's or higher degree in Teaching ESOL (TESOL) and passing the ESOL subject area examination of the Florida Teacher Certification Examinations (FTCE);⁸
 - ESOL certification through passing the ESOL subject area examination and 120 inservice hours within 3 years after certification; or
 - ESOL endorsement through completing 15 semester hours of college credit or 300 inservice hours (3 semester hours or 60 inservice hours within 2 years after assignment of an LEP student and 3 semester or 60 inservice hours each subsequent year that the teacher is assigned an LEP student until completing 15 semester hours or 300 inservice hours).⁹
- Category II. Teachers of mathematics, science, social studies, and computer literacy must have, within 1 year of assignment of an LEP student, ESOL endorsement through completing 3 semester hours of college credit or 60 inservice hours.¹⁰
- Category III. Teachers of other subjects not listed in Category I or Category II must have, within 1 year of assignment of an LEP student, ESOL endorsement through completing 3 semester hours of college credit or 18 inservice hours.¹¹
- Category IV. School administrators and guidance counselors must have 3 semester hours of college credit or 60 inservice hours.

The required competencies of the ESOL training (college credit or inservice hours) include methods of teaching ESOL, ESOL curriculum and materials development, cross-cultural communication and understanding, and testing and evaluation of ESOL.¹² The training competencies for Category I ESOL teachers also include applied linguistics.¹³

As a term of the Consent Order, the Miami Division of the United States District Court for the Southern District of Florida retains jurisdiction for purposes of overseeing implementation of the Consent Order. As occurred in 2003, changes to the state's ESOL policies which are inconsistent with the Consent Order require modification of the Consent Order by court order after DOE negotiates the change with META.

⁷ Stipulation Modifying Consent Decree, *LULAC* (No. 90-1913) (Sept. 3, 2003), available at <http://www.fldoe.org/aala/pdf/stipulation.pdf> (last visited Apr. 19, 2008).

⁸ Office of Academic Achievement through Language Acquisition, Florida Department of Education, *Options for Obtaining ESOL Certification* (Dec. 2006), available at http://www.fldoe.org/aala/pdf/esol_cert.pdf (last visited Apr. 19, 2008) [hereinafter *ESOL Certification Options*]; see rule 6A-4.0245, F.A.C.

⁹ *ESOL Certification Options*, *supra* note 8; see rule 6A-4.0244, F.A.C.

¹⁰ See rule 6A-6.0907(1) and (2), F.A.C.

¹¹ See rule 6A-6.0907(3), F.A.C.

¹² See rules 6A-4.0244(1)(b) & 6A-6.0907, F.A.C.

¹³ Rule 6A-4.0244(1)(b)4., F.A.C.

Requirements for Reading Teachers:

In 2002, following the establishment of the *Just Read, Florida!* initiative¹⁴ and passage of the federal *No Child Left Behind Act of 2001*,¹⁵ the State Board of Education established specialization requirements for a reading endorsement.¹⁶ The reading endorsement requires 15 semester hours of college credit or 300 inservice hours in reading coursework based upon scientifically based reading research with a focus on both the prevention and remediation of reading difficulties.¹⁷

The certification requirements for a teacher to teach a course are listed in *Course Code Directory and Instructional Personnel Assignments*, which DOE updates annually.¹⁸ By June 30, 2006, DOE required reading teachers to have a reading certification or endorsement.¹⁹ The 2007-2008 course code directory reflects that a teacher who teaches English, language arts, reading, or intensive reading must be certified in reading or have the reading endorsement.²⁰

In 2004, DOE created a crosswalk that allows a teacher to receive 80 inservice hours of credit for the reading endorsement based on earning the 300 inservice hours required for the ESOL endorsement.²¹ The crosswalk awards the 80 inservice hours based on the competencies of the reading inservice training which are addressed by competencies covered in the ESOL inservice training. Thus, a teacher with the ESOL endorsement is required to earn 220 inservice hours in reading to complete the reading endorsement.²²

Intersection of ESOL and Reading Requirements:

According to DOE, reading courses reported for ESOL funding must be assigned a teacher that has ESOL Category I training (300 inservice hours), and reading courses reported as non-ESOL may be assigned a teacher with ESOL Category III training (18 inservice hours).²³

In 2001, as part of the *Just Read, Florida!* initiative, DOE was directed to recommend statewide standards for reading programs based on the latest scientific research, instructional strategies, and reading course requirements for middle school and high school students who are not reading at grade

¹⁴ On September 7, 2001, former Governor Jeb Bush issued Executive Order 01-260, which created the *Just Read, Florida!* initiative.

¹⁵ On January 8, 2002, President George W. Bush signed into law the federal *No Child Left Behind Act of 2001*. Pub. L. 107-110 (2002). The act, among other things, requires states to ensure that all teachers teaching core academic subjects (“English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography,” 115 Stat. 1958 (codified at 20 U.S.C. § 7801(11)) in public schools are highly qualified. 115 Stat. 1505 (codified at 20 U.S.C. § 6319(a)(2)).

¹⁶ Rule 6A-4.0292, F.A.C.

¹⁷ *Id.*

¹⁸ Rule 6A-1.09441, F.A.C.

¹⁹ Florida Department of Education, Memorandum from Jim Warford & Mary Laura Openshaw to District School Superintendents, No. 2005-82, 3 (June 23, 2005), available at http://info.fldoe.org/docushare/dsweb/Get/Document-3062/k12_05-82.pdf (last visited Apr. 19, 2008).

²⁰ Florida Department of Education, *2007-2008 Course Code Directory and Instructional Personnel Assignments* (Feb. 1997), available at <http://www.fldoe.org/bii/curriculum/CCD> (last visited Apr. 19, 2008).

²¹ Florida Department of Education, *ESOL Endorsement to Reading Endorsement Crosswalk* (2004), available at <http://www.fldoe.org/aala/pdf/esolendorsement.pdf> (last visited Apr. 19, 2008).

²² *Id.*; see also Florida Department of Education, Memorandum from Jim Warford & Mary Laura Openshaw to District School Superintendents, No. 2005-26 (Mar. 4, 2005), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-2802/reesol.pdf> (last visited Apr. 19, 2008).

²³ Florida Department of Education, *Revised Timelines for Completion of the ESOL Training Requirements*, nn. 1 & 3 (Sept. 2006), at <http://www.fldoe.org/aala/timeline.asp> (last visited Apr. 19, 2008).

level.²⁴ In 2002, the Legislature added “reading” to the list of basic subject areas requiring ESOL instruction or home-language instruction.²⁵

Beginning with the 2005-2006 school year, DOE requires that all students in grades 6-12, scoring at the two lowest achievement levels (levels 1 and 2) on the reading portion of the Florida Comprehensive Assessment Test (FCAT), must enroll in an intensive reading course.²⁶ Before this requirement for intensive reading, according to DOE, most reading instruction for LEP students was provided by the students’ ESOL teacher, not a reading teacher. Since LEP students, by definition, score lower on the reading portion of the FCAT, LEP students are among the students required to enroll in the intensive reading courses.

Before the requirement of intensive reading for students with low FCAT reading scores, most reading teachers taught supplemental reading courses reported as non-ESOL, which consequently required the teacher to have ESOL Category III training (18 inservice hours). As reading teachers are increasingly assigned to teach intensive reading courses containing LEP students reported for ESOL funding, the teachers are required to meet Category I ESOL training requirements (300 inservice hours).

On March 30, 2007, the Department of Education issued a “reverse crosswalk” that allows a teacher to receive 120 inservice hours of credit for the ESOL endorsement based on earning the 300 inservice hours required for the reading endorsement.²⁷ The reverse crosswalk awards 120 inservice hours based on the competencies of the ESOL inservice training which are addressed by competencies covered in the reading inservice training.²⁸ Thus, a teacher with a reading endorsement is required to earn 180 inservice hours in ESOL to complete the ESOL endorsement.

According to DOE, as of 2006, there were approximately 49,085 teachers with an ESOL certification or endorsement, 7,837 teachers with a reading certification or endorsement, and 7,132 teachers who have certification or endorsement in both ESOL and reading.²⁹

Prior Legislation:

In 2007, the Legislature enacted CS/SB 2512,³⁰ which is substantially similar to HB 491. On June 28, 2007, Governor Charlie Crist vetoed CS/SB 2512, which he returned to the Legislature with the following veto message:

²⁴ Executive Order 01-260 (Sept. 7, 2001).

²⁵ At the 2002 Special Session “E,” the Legislature enacted a general revision to the Florida K-20 Education Code. Within the revision, current § 1003.56, F.S., was created and a substantially similar § 233.058, F.S., was repealed. Sections 150 and 1058, ch. 2002-387, L.O.F. As previously discussed, former § 233.058, F.S., required school districts to provide LEP students with ESOL instruction in English and ESOL or home-language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy. When creating § 1003.56, F.S., the education code revision added “reading” to the list of basic subject areas requiring ESOL instruction or home-language instruction.

²⁶ Florida Department of Education, *supra* note 19, at 1; §§ 1003.4156(1)(b) & 1003.428(2)(b)2.c., F.S.

²⁷ Florida Department of Education, *Reading to English for Speakers of Other Languages (ESOL) – Reverse Crosswalk* (Feb. 2007), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-4338/k12-07-24att.pdf> (last visited Apr. 19, 2008); see also Florida Department of Education, *supra* note 28, at 1 (although the reverse crosswalk is dated February 2007, it was issued with the Chancellor’s memorandum on March 30, 2007).

²⁸ Florida Department of Education, Memorandum of Cheri Pierson Yecke to District Superintendents, No. 2007:24, 1 (Mar. 30, 2007), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-4337/k12-07-24memo.pdf> (last visited Apr. 19, 2008).

²⁹ Florida Department of Education, *2007 Agency Bill Analysis of HB 129*, 3 (Mar. 8, 2007).

³⁰ Florida Senate, *CS/SB 2512, Enrolled* (2007), available at <http://www.flsenate.gov/data/session/2007/Senate/bills/billtext/pdf/s2512er.pdf> (last visited Apr. 19, 2008).

This bill will reduce the required professional development from 300 hours to 60 hours for reading teachers who teach students who speak English as a second language. I am concerned that this reduction may impede these students' academic, social, and cultural progress. The Florida Hispanic Legislative Caucus has also unanimously expressed similar concerns about this bill in a recent letter to me.

Florida holds high academic standards for its students. Reading is the cornerstone of learning, and reading teachers are the foundation through which students achieve these standards. It is imperative that our students learn to read English from the highest-quality instructors so that they can succeed more readily in other subjects. Accordingly, I cannot justify lower standards for these teachers.

For these reasons, I withhold my approval of Committee Substitute for Senate Bill 2512, and do hereby veto the same.³¹

Proposed Changes:

The council substitute requires that a teacher who completes 300 inservice hours (or the equivalent) for a reading endorsement shall receive credit for 120 inservice hours toward certification or endorsement in English for Speakers of Other Languages (ESOL), thereby requiring the teacher to complete a net 180 inservice hours of ESOL training in order to receive an ESOL endorsement or certification. The 180 inservice hours must be earned as follows:

- Sixty inservice hours of applied linguistics or documented completion of the training;
- Sixty inservice hours of methods of teaching ESOL or documented completion of the training; and
- Sixty inservice hours of practicum/demonstration of mastery or documented completion of the training.

The council substitute specifies that documentation of these inservice requirements is subject to approval by DOE.

As previously discussed, DOE has issued a "reverse crosswalk" that allows a teacher to receive 120 inservice hours of credit for the ESOL endorsement based on earning the 300 inservice hours required for the reading endorsement. Thus, under current policy, a teacher with a reading endorsement must earn 180 inservice hours in ESOL to complete the ESOL endorsement.

On January 25, 2008, DOE published a notice of rule development in the *Florida Administrative Weekly*.³² The notice included a statement that the preliminary text of proposed rule development is available from DOE. Among other provisions, the preliminary text proposes to include reading teachers among the category of teachers required to earn 60 inservice hours of ESOL, thereby reducing the current inservice policy for reading teachers from 300 inservice hours to 60 inservice hours:

(a) Any teacher using ESOL strategies to teach **reading**, **mathematics**, science, social studies, or computer literacy assigned to instruct **English Language Learners** ~~English Language Learners [sic] limited English proficient students~~ on September 15, 1990, or for the first time in any given school year thereafter shall complete at least **sixty points of inservice training or three semester hours of college credit** in methods of

³¹ The Honorable Charlie Crist, Governor of Florida, Letter to Kurt S. Browning, Secretary of State (June 28, 2007), available at http://www.flgov.com/leg_actions/2007/2007_VETOSB2512.pdf (last visited Apr. 19, 2008).

³² Florida Department of State, *Florida Administrative Weekly*, Vol. 34, No. 4, at 461 (Jan. 25, 2008), available at <https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2008/3404/3404doc.pdf> (last visited Apr. 19, 2008).

teaching English to speakers of other languages, ESOL curriculum and materials development, cross-cultural communications and understanding, or testing and evaluation of ESOL by September 15 of the following year, or ...³³

The council substitute, in effect, codifies in law DOE's current policy that a teacher who has a reading endorsement must, in order to obtain an ESOL endorsement, complete 180 inservice hours (or the equivalent) in ESOL, after 120 hours of inservice credit is applied under the "reverse crosswalk." The council substitute also has the effect of prohibiting DOE from adopting a rule substantially similar to the preliminary text of its proposed rule under development, which reduces the ESOL inservice requirement from 300 inservice hours to 60 inservice hours (or the equivalent) for teachers who have a reading endorsement.

The council substitute, upon becoming a law, creates the Reading and English for Speakers of Other Languages (ESOL) Inservice Requirements Task Force. The purpose of the task force is to study existing statutory requirements and recommend policy to "strengthen their components." The task force must submit a report to the Governor and presiding officers of the Legislature by February 1, 2009. The report must include, but is not limited to, information and recommendations concerning the inservice requirements for reading and ESOL teachers. The task force is composed of 14 members:

- Commissioner of Education or designee;
- Director of the Florida Center for Reading Research;
- Three K-12 teachers (one certified in reading, one certified in ESOL, and one certified in both reading and ESOL, of which one teacher is appointed by the Governor, one by the President of the Senate, and one by the Speaker of the House of Representatives);
- Three district school superintendents appointed by the Commissioner of Education, one from a small, one from a medium, and one from a large school district;
- Representative from the Florida Association of Bilingual and ESOL Supervisors;
- Representative from the Florida Education Association;
- Representative from a college or university who has knowledge of teacher preparation programs for reading and ESOL;
- Representative from the Florida Association for Staff Development;
- Representative from the Florida Organization of Instructional Leaders; and
- Representative of a statewide group that represents students with disabilities.

The council substitute specifies that the Commissioner of Education or designee serves as the task force's chair. The task force members must be appointed by July 1, 2008, and the task force must convene its initial meeting by September 1, 2008. The task force is abolished upon delivering its final report and recommendations to the Governor and Legislature.

The task force is assigned to DOE for administrative purposes. Task force members are entitled to per diem and travel expenses and are subject to the Code of Ethics for public officers and employees.

The council substitute provides an effective date of July 1, 2008, except as otherwise provided in the council substitute.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section which establishes ESOL inservice requirements.

³³ Florida Department of Education, *Preliminary Text of Proposed Rule Development, rule 6A-6.0907(1)(a), F.A.C.* (Feb. 14, 2008) (emphasis in bold italic type added; emphasis in underline and strikethrough type in original).

Section 2. Creates an unnumbered section which creates the Reading and English for Speakers of Other Languages (ESOL) Inservice Requirements Task Force.

Section 3. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The council substitute, upon becoming a law, creates a 14-member task force, which must be appointed by July 1, 2008, must conduct its initial meeting by September 1, 2008, must submit a report to the Governor and Legislature by February 1, 2009, and is abolished upon delivery of its final report. The DOE and school districts may incur minimal travel and per diem costs associated with the task force.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The council substitute does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The council substitute requires the Governor, the President of the Senate, and the Speaker of the House of Representatives to each appoint one K-12 teacher to the Reading and English for Speakers of Other Languages (ESOL) Inservice Requirements Task Force. One of the teachers must be certified in reading, one must be certified in ESOL, and one must be certified in both areas. However, the council substitute does not designate which of the three teachers the Governor or presiding officers is required to appoint, nor does the council substitute specify a process for the Governor and presiding officers to coordinate their appointments to meet these requirements.

The task force must also include a representative of a college or university and a representative of a statewide group that represents students with disabilities. The council substitute does not assign to any officer, or to the remaining members of the task force, the authority to determine which college or university, or which statewide group representing students with disabilities, is to be represented on the task force.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 7, 2008, the Schools & Learning Council adopted an amendment offered by Representative Carroll. The amendment clarifies that, if a primary teacher of English/language arts passes the ESOL subject area examination of the Florida Teacher Certification Examinations (FTCE), the teacher is required to complete 120 inservice or the equivalent (instead of 300 inservice hours).

On April 15, 2008, the Policy & Budget Council adopted an amendment (*remove everything after the enacting clause*) offered by Representative Zapata. The amendment removed provisions from the council substitute which specified that a teacher providing ESOL instruction must complete the following inservice requirements:

- Primary teacher of English/language arts:
 - Three hundred inservice hours (or the equivalent); or
 - If the teacher passes the ESOL subject area examination of the Florida Teacher Certification Examinations (FTCE), 120 inservice hours (or the equivalent).
- Teacher of basic subject areas of reading, mathematics, science, social studies, or computer literacy: 60 inservice hours (or the equivalent).
- Teacher of non-basic subject areas: 18 inservice hours (or the equivalent).
- School administrator or guidance counselor: 60 inservice hours (or the equivalent).

The amendment required that a teacher who completes 300 inservice hours (or the equivalent) for a reading endorsement shall receive credit for 120 inservice hours toward certification or endorsement in ESOL, thereby requiring the teacher to complete a net 180 inservice hours of ESOL training in order to receive an ESOL endorsement or certification. The council substitute also created a 14-member task force to submit a report to the Governor and Legislature by February 1, 2009, which includes information and recommendations concerning the inservice requirements for reading and ESOL teachers.

The Policy & Budget Council reported the council substitute favorably as a council substitute, which incorporated the changes made to CS/HB 491 by the amendment adopted by the council.