

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 65 Supplemental Educational Services

SPONSOR(S): Schools & Learning Council, Gonzalez

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1414

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Schools & Learning Council	14 Y, 0 N, As CS	Hassell	Cobb
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Council Substitute for HB 65 requires the Department of Education (DOE), beginning with the 2007-2008 school year, to annually assign a grade of "A," "B," "C," "D," or "F," as defined by State Board of Education rule, to each state-approved supplemental education services (SES) provider. The SES provider's grade must be based on a combination of student learning gains and student proficiency levels, as measured by the statewide assessment for students in grades four through 12, and norm-referenced tests approved by the DOE for students in kindergarten through grade three.

The bill assigns each letter grade the following meaning:

- "A" for providing superior service.
- "B" for providing above satisfactory service.
- "C" for providing satisfactory service.
- "D" for providing below satisfactory service.
- "F" for providing unsatisfactory service.

The DOE must annually report the grades to the SES providers, the respective school districts, the parents, and the public by March 1, 2009, and each March 1st thereafter.

The bill does not appear to have a fiscal impact on state or local governments. **(See FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT).**

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families- The bill benefits families of low-income students eligible to receive supplemental education services by increasing a parent's ability to make an informed choice before choosing the SES provider for their child.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal law sets forth specific testing requirements for public school students which is used to measure whether states and schools are making "adequate yearly progress (AYP)" toward state student proficiency goals under the federal Title I requirements.¹ The definition of AYP is established by the state's educational agency within the parameters of requirements set forth in the No Child Left Behind (NCLB) Act. In Florida, the Department of Education (DOE) sets the standards for AYP for all public elementary and secondary schools, local education agencies, and the state itself. The determination of AYP must be based on academic assessments.²

A school that fails to make AYP for two consecutive years is designated as "in need of improvement." Such schools must develop a school improvement plan and provide students with the option of transferring to another school that is not "in need of improvement." Low-income students attending Title I schools that have not made AYP for three or more years are eligible for supplemental education services (SES).³ Supplemental education services must take place outside of the regular school day and consist of tutoring, remediation, and academic intervention to increase student achievement, particularly in reading and mathematics.⁴

Approved providers may be for-profit companies, non-profit groups, local community programs, colleges or universities, national organizations, faith-based groups, private schools, charter schools, traditional public schools, and school districts that have not been identified as in need of improvement.⁵ Parents choose a provider from a state-approved list which is available on-line and includes information on the type of instruction available, the cost of services, grade levels, and location of services.⁶ Providers must meet the terms of their agreements with the school districts. Such agreements must include, but are not limited to: specific achievement goals for each eligible student; requirements for the measurement of student progress and a timeline for improving achievement; requirements for the provision of progress reports to parents; and reimbursement procedures for services provided to students.⁷

¹ See 20 U.S.C. s. 6311(b)(2)

² Part A of Title I of the Elementary and Secondary Education Act (Title I) as reauthorized by the No Child Left Behind Act of 2001, P.L. 107-110. NCLB was subsequently amended by P.L. 108-446, the reauthorization of the Individuals with Disabilities Act (IDEA).

³ *Supplemental Educational Services Non-regulatory Guidance*, U.S. Department of Education, June 13, 2005. See <http://www.ed.gov/policy/elsec/guid/suppsvcsguid.doc>

⁴ 34 C.F.R. § 200.45 and *Supplemental Educational Services: Quick Reference for Parents*, U.S. Department of Education, see <http://www.ed.gov/parents/academic/help/supplemental-services.pdf>

⁵ 34 C.F.R. § 200.47 and *Power Point: Workshop for Potential Applicants for Supplemental Educational Services Providers*, DOE, February 28, 2007. See <http://www.fldoe.org/flbpos/pdf/rfa-ta-pt1.pdf>

⁶ See <http://data.fldoe.org/ses/search>

⁷ 34 C.F.R. § 200.47

The DOE has approved 219 providers to serve students in Florida for the 2007-2008 school year. During the 2006-2007 school year, approximately 70,000 students participated in SES programs. The DOE maintains an on-line list of schools with students who are eligible for these services.

The DOE's responsibilities include the following:⁸

- Promoting maximum participation by service providers;
- Developing and applying objective criteria for approving potential providers;
- Identifying eligible providers with a description of their services;
- Maintaining an updated list of providers, by district, which includes any technology-based or distance-learning providers;
- Ensuring the participation of students with disabilities and students with limited English proficiency;
- Developing, implementing, and publicly reporting on standards to monitor the quality and effectiveness of services; and
- Withdrawing approval from unsuccessful providers.

The DOE has designed an accountability model for state-approved SES providers based on compliance, monitoring, and data analysis. To ensure compliance with state and federal requirements, the DOE has developed a provider approval process consistent with NCLB requirements.⁹

Once providers have been approved, compliance with stated obligations is determined through ongoing monitoring plans and data analysis. The DOE monitors school districts and state-approved providers using work papers consistent with federal and state law to determine compliance and to ensure that providers implement the approved program consistent with their approved application.¹⁰

The DOE is required by NCLB to evaluate the SES program and all state-approved providers. It must determine whether the services that providers offer to students are contributing to an increase in their academic achievement. NCLB requires the state to remove any provider from the state-approved list, which fails to increase the academic proficiency of students in each district where the provider is approved to serve students.¹¹

According to the DOE's bill analysis, it is currently in the process of developing a plan to grade state-approved providers.¹² The analysis indicates that the DOE intends to determine increased student academic achievement through the following:¹³

- For students in grades 4 through 12, an increase of Normal Curve Equivalent (NCE) points on the norm-referenced portion (NRT) of the FCAT Reading and Mathematics.
- For students in grades 2 through 3, an increase in NCE points on other norm--referenced assessments approved by the DOE.¹⁴
- Calculated return on investment using student learning gains and the providers' reimbursement rate as stated on the provider's state-approved application.

Additionally, the DOE will identify components and indicators for use in the grading system with student data submitted by school districts for 2006-2007, via the DOE's automated student data base and stored in the PK20 Education Data Warehouse.¹⁵

⁸ 34 C.F.R. § 200.47 and *Supplemental Educational Services: Non-Regulatory Guidance*, U.S. Department of Education, June 13, 2005.

⁹ Florida Department of Education. *Analysis for HB 065 on Supplemental Education Services for the 2008 Legislative Session*.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ According to the DOE, FCAT scores cannot be used to calculate an increase in academic achievement for students in kindergarten through grade three. FCAT scores are available only for students in grades three through 10. In 2004-2005 and 2005-2006, approximately 70 percent of all students served in SES programs were in kindergarten through grade three.

¹⁵ Florida Department of Education. *Analysis for HB 065 on Supplemental Education Services for the 2008 Legislative Session*.

Effect of Proposed Changes

The bill requires the DOE, beginning with the 2007-2008 school year, to annually assign a grade of “A,” “B,” “C,” “D,” or “F,” as defined by State Board of Education (SBE) rule, to each state-approved SES provider. The bill assigns each letter grade the following meaning:

- “A” for providing superior service.
- “B” for providing above satisfactory service.
- “C” for providing satisfactory service.
- “D” for providing below satisfactory service.
- “F” for providing unsatisfactory service.

Under the bill, each SES provider’s grade must be based on a combination of student learning gains and student proficiency levels, as measured by the statewide assessments¹⁶ for students in grades four through 12, and norm-referenced tests approved by the DOE for students in kindergarten through grade three. The DOE is required to annually report the grades to the SES providers, the respective school districts, the parents, and the public by March 1, 2009, and each March 1st thereafter.

C. SECTION DIRECTORY:

Section 1. Amends s. 1008.331, F.S., requiring the DOE to annually evaluate and grade SES providers; requiring SBE rule; specifying criteria to determine each provider’s grade; requiring the DOE to report grades.

Section 2. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

¹⁶ S. 1008.22, F.S., providing for the student assessment program for public schools.

D. FISCAL COMMENTS:

According to the DOE, it is in the process of developing a plan to grade state-approved providers and it intends to use student data that is submitted by school districts via the DOE's automated student data base and stored in the PK20 Education Data Warehouse to identify components and indicators for use in the grading system. Thus, the bill does not appear to have a fiscal impact on state or local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the SBE to adopt rules to define SES provider grades.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 1, 2008, the Schools and Learning Council adopted a Proposed Council Substitute to HB 65 and reported the bill favorably as a Council Substitute (CS). The differences between the CS and the bill are:

- The CS specifies that the DOE should begin grading SES providers beginning with the 2007-2008 school year and that such grades shall annually be assigned on March 1st.
- The CS removes the specific evaluation criteria for grading contained in the bill at lines 22-35, and instead provides that the DOE shall define grades by rule and that such grades shall be based on student learning gains and proficiency levels for students in grades four-12 and on non-referenced tests for students in kindergarten through grade three.
- The CS add that reports of grades should be provided to parents and the public in addition to the bill's requirement that reports be provided to school districts and the providers.