

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: CS/SB 2458

INTRODUCER: Education Pre-K Committee and Senator Altman

SUBJECT: Education Personnel

DATE: April 13, 2009

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Carrouth	Matthews	ED	Fav/CS
2. McKay	Wilson	GO	Pre-meeting
3. _____	_____	EA	_____
4. _____	_____	WPSC	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill is a comprehensive education personnel initiative that:

Contracts with Classroom Teachers

- Revises the contractual requirements for classroom teachers hired beginning July 1, 2009, including the eligibility, duration, and requirements for probationary contracts, annual contracts, and professional performance contracts;

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Performance and Differentiated-Pay

- Requires the State Board of Education (SBE) to adopt rules concerning compliance requirements for district salary schedules relating to individual performance and differentiated pay;

Reporting Requirements

- Requires the Department of Education (DOE) to annually post on its Internet website the percentage of classroom teachers, by school, who are first-time teachers, temporarily certified teachers, teachers in need of improvement, or out-of-field teachers;
- Requires the DOE to annually report by school district the number of classroom teachers whose performance indicates educational insufficiency based on their students' declining academic performance, and the number of dismissals or terminations of classroom teachers relating to educational insufficiency;
- Requires the DOE to report on the effectiveness of the graduates of state-approved teacher preparation programs, including an analysis of the public school student learning gains on statewide assessments of students who were taught by the graduates;

Performance Appraisals for Instructional, Administrative, and Supervisory Personnel

- Revises the current educator personnel assessment system, establishes an appraisal system, and revises the appraisal procedures and criteria for instructional, administrative, and supervisory personnel, including the requirement that teachers be reviewed at least twice in the first year of teaching;
- Directs the SBE to adopt by rule the Florida Educator Accomplished Practices (FEAP), to serve as the basis for the state's expectations for effective instruction. The Commissioner of Education would be required to periodically review the FEAP, using contemporary educational research and analysis of student performance data in the review and to include in such reviews associations representing teachers, principals, superintendents, and school boards;

Professional Preparation and Education Competence

- Allows successful completion of a professional education training program provided by Teach for America, including achievement of a passing score on the professional education competency examination required by SBE rule, as an option for demonstrating professional educator competence;
- Authorizes the State Board of Education to adopt rules to allow an individual to use his or her teaching experience as a military instructor to verify occupational teaching experience for purposes of demonstrating mastery of professional preparation and education competence; and

Recognition of Teaching Service

- Eliminates a requirement in current law that requires school districts to recognize and accept each year of public, full-time teaching service for certain teachers who were employed beginning July 1, 2001, but who were not employed in the same school district as of June 30, 2001, or has broken employment with the district for one year or more.

This bill substantially amends sections 39.202, 120.81, 1002.36, 1003.62, 1003.621, 1004.04, 1012.21, 1012.22, 1012.2315, 1012.28, 1012.34, 1012.52, 1012.56, 1012.795, 1012.98, 1012.986, creates section 1012.335, and repeals s. 1012.33(3)(g) of the Florida Statutes.

II. Present Situation:

Records of the Department of Children and Families (DCF)

The Department of Education (DOE), as the licensing body, investigates and prosecutes educators who engage in criminal or ethical misconduct; however, the DOE is not currently granted statutory authority to access DCF information regarding an educator who may have committed an act of abuse or neglect.¹ Without clarity under s. 39.202, F.S., DCF does not provide information to the DOE for use in investigating and prosecuting educators.

Florida Educator Accomplished Practices (FEAP) and Performance Appraisals for Instructional Personnel

The FEAP were developed by the Education Standards Commission and adopted under SBE rule in 1997. While the FEAP are currently referenced in several sections of law pertaining to teacher preparation programs,² there are a number of descriptions of teacher performance expectations addressed under current law, without any reference to the FEAP.³ The current array of statutory citations makes it difficult to identify and monitor expectations for teacher performance.

Teacher Preparation

The SBE is currently required to maintain a system for the development and approval of teacher preparation programs that allows postsecondary teacher preparation institutions to employ a variety of innovative teacher preparation practices while being held accountable for producing graduates with the competencies and skills necessary to achieve the state's education goals.⁴

Differentiated Pay

Current law provides for the compensation and salary schedules of public school personnel and includes provisions by which the district school board must abide in the determination and development of the salary schedule.⁵ Furthermore, each district school board is required to adopt a salary schedule with differentiated pay for both school-based administrators and instructional personnel. The adopted salary schedule is subject to negotiation and must allow school administrators and instructional personnel to receive differentiated pay based upon a number of district-determined factors, including, but not limited to, additional responsibilities, school demographics, level of job performance difficulties, and critical shortage areas.⁶ The DOE does not currently produce a report on district compliance with differentiated pay.

¹ Florida Department of Education, bill analysis, March 13, 2009. During an investigation regarding educator misconduct, occasions arise when an educator has been investigated through DCF for some allegation of abuse or neglect. This investigation by DCF may be related to the same incident DOE is investigating, or may be historical information pertinent to the pending case.

² ss. 1004.04, 1004.85, and 1012.56, F.S.

³ See s. 1012.34, F.S., which provides for the required annual appraisal of personnel.

⁴ s. 1004.04, F.S.

⁵ s. 1012.22(1)(c), F.S.

⁶ *Id.*

Teacher Assignment

Section 1012.2315, F.S., prohibits school districts from assigning a higher percentage than the school district average of first-time teachers, temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to schools that are graded “D” or “F” or schools with an above school district average of minority and economically disadvantaged students. A school district must certify to the Commissioner of Education that it has assigned teachers equitably and the commissioner must notify the SBE if a school district is not in compliance. The SBE may then exercise its power⁷ to enforce school district compliance.⁸ Additionally, the DOE collects, analyzes, and reports data on teacher assignment to comply with Title I and II-A requirements under the federal No Child Left Behind Act and data is reported in the aggregate by category for the state and school type.⁹

Teacher Effectiveness

*No Child Left Behind Requirements for Effective Teachers*¹⁰

Under NCLB, a highly qualified teacher must: 1) have a bachelor's degree, 2) possess full state certification or licensure, and 3) prove that he or she knows each subject he or she teaches. Additionally, NCLB requires states to 1) measure the extent to which all students have highly qualified teachers, particularly minority and disadvantaged students; 2) adopt goals and plans to ensure all teachers are highly qualified; and 3) publicly report plans and progress in meeting teacher quality goals. In order to demonstrate competency, secondary teachers must prove that they know the subject they teach through verification of 1) a major in the subject they teach; 2) credits equivalent to a major in the subject; 3) passage of a state-developed test; 4) passage of a High, Objective, Uniform State Standard of Evaluation (HOUSSE);¹¹ 5) an advanced certification from the state; or 6) a graduate degree.

According to the DOE, reports on teacher effectiveness or, conversely, educational insufficiency, do not exist.¹² Assessment of instructional personnel is currently based on the performance of students assigned to their classroom as well as other educational practices. The assessment criteria include, but are not limited to, the following indicators:

- Performance of students.
- Ability to maintain appropriate discipline.
- Knowledge of subject matter.
- Ability to plan and deliver instruction and the use of technology in the classroom.
- Ability to evaluate instructional needs.
- Ability to establish and maintain a positive collaborative relationship with students' families to increase student achievement.

⁷ s. 1008.32, F.S.

⁸ s. 1012.2315, F.S.

⁹ Florida Department of Education, bill analysis, March 13, 2009.

¹⁰ <http://www.ed.gov/nclb/methods/teachers/hqtflexibility.html>

¹¹ High, Objective, Uniform State Standard of Evaluation (HOUSSE) – NCLB allows states to develop an additional way for current teachers to demonstrate subject-matter competency and meet highly qualified teacher requirements. Proof may consist of a combination of teaching experience, professional development, and knowledge in the subject garnered over time in the profession.

¹² Florida Department of Education, bill analysis, March 13, 2009.

- Other professional competencies, responsibilities, and requirements established by the SBE and policies of the district school board.¹³

Contracts for Instructional Personnel

Section 1012.33, F.S., states that instructional employees hired on or after July 1, 1984, are classified for a term of three years as probationary employees, with an extension to four years if the district school board and the employee have agreed in writing.¹⁴

For instructional staff employed after June 30, 1997, the initial annual contract includes a 97-day period during which the employee's contract may be terminated without cause or the employee may resign without breach of contract.¹⁵ All contracts must contain provisions for dismissal during the term of the contract only for just cause. Just cause includes immorality, misconduct in office, incompetency, or being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude, as defined SBE rule.¹⁶ Following the probationary period, the employee may receive a professional service contract, provided he or she is recommended by the district school superintendent for such contract. This would also require that the individual be reappointed by the district school board based on successful performance of duties and demonstration of professional competence.

Section 1012.33(3)(e), F.S., currently stipulates that a professional service contract must be renewed each year unless the district school superintendent charges the employee with unsatisfactory performance and notifies the employee of performance deficiencies.

Section 1012.33(3)(g), F.S., states that as of July 1, 2001, for each employee who enters into a written contract, school districts must, for purposes of pay, recognize and accept each year of public, full-time teaching service earned in Florida and outside the state and for which the employee received a satisfactory performance evaluation.

Other Provisions for Educator Certification

Voluntary Prekindergarten

Currently, voluntary prekindergarten education program providers are not recognized as private schools so the providers cannot request issuance of a temporary certificate and cannot offer a performance education competence demonstration system for evaluation of classroom performance.

Teach for America

Currently, professional education training provided by Teach for America cannot be accepted to satisfy professional teacher preparation requirements for issuance of a professional certificate.

¹³ s. 1012.34(3)(a), F.S.

¹⁴ Each year of service is pursuant to an annual contract. The 3-year probation must be completed in the same school district during a period of time not in excess of five successive years, except for leave duly authorized and granted. An employee's annual contract is not required to be renewed during the probationary period of service.

¹⁵ *Id.*

¹⁶ s. 1012.33(1)(a), F.S., and Rule 6B-4.009, F.A.C.

Military Background

Currently, military instructor teaching experience cannot be recognized as regular teaching experience for certification purposes.

American Council on Education (ACE)

Currently, courses completed and evaluated to establish college credit by the American Council on Education cannot be accepted for educator certification purposes.

III. Effect of Proposed Changes:**Contract with Classroom Teachers**

Instructional personnel hired in a Florida school district on or after July 1, 2009, would be employed under the revised probationary, annual, and professional performance contracts.

Probationary Contracts

Beginning July 1, 2009, each new classroom teacher would be hired under a probationary contract. The probationary contract may not extend beyond one year. A classroom teacher may be dismissed without cause or may resign from the contractual position without violating the contract. The probationary contract would lengthen from 97 days to one school year the timeframe under which either the school district or the staff member may quit without creating a breach of the contract.

Annual Contracts

Upon successful completion of the probationary contract, a classroom teacher would be eligible to receive an annual contract. The contract may not exceed one year in duration and the school board can choose to renew or not renew without cause. A classroom teacher may not receive more than seven consecutive annual contracts.

Professional Performance Contracts

Upon completing at least five annual contracts in the same school district within a 7-year period, excluding authorized leave, a classroom teacher is eligible for a professional performance contract. The professional performance contract may not exceed five years in duration and the school district may choose to renew or not renew without cause at the conclusion of the contract. However, a professional performance contract may only be granted to a classroom teacher:

- Who holds a professional certificate as prescribed by s. 1012.56, F.S., and rules of the State Board of Education;
- Who has been extended the contract offer based on the successful performance of duties and the demonstration of professional competence; and
- Whose performance is satisfactory based on review of the teacher's effectiveness in the classroom on objective student learning gains.

In effect, the bill extends the time period from three years to five years for a classroom teacher to be eligible for a professional performance contract. Additionally, the school district would make the determination whether to renew a professional service contract in its discretion, rather than the contract automatically renewing, unless the superintendent's recommendation for non-renewal based on unsatisfactory performance is sustained following exhaustion of the hearing procedures.

A classroom teacher would have the option of exchanging a professional service contract for a professional performance contract, although it is not clear if there is any benefit to the classroom teacher to make the exchange. Furthermore, districts would have the option to allow individuals hired from another district who hold a professional service or continuing contract to maintain that type of contract or be issued a professional performance contract.

Teacher Effectiveness

Under the bill, the SBE would be required to adopt rules to define educational insufficiency based on three years of objective data on declines in student performance of at least a majority of the students taught by the teacher showing a lack of progress. The DOE would annually report by school district the number of classroom teachers whose performance indicates educational insufficiency and the number of teachers dismissed or terminated because of educational insufficiency.

Educator Appraisal Systems

The DOE would be authorized to review and approve the district's professional competency demonstration system for temporary certified teachers as a specific component of the district's instructional personnel appraisal system. The bill also adds components to monitor the use of the system and evaluate the system's effectiveness in improving instruction and student learning. Teachers would be evaluated at least twice in the first year of teaching.

Components of appraisal systems described in the bill are divided into three parts: performance of students; instructional, practice, or leadership (for instructional or administrative personnel, respectively); and professional responsibilities. The bill maintains current law to require that an appraisal be based primarily on the performance of the individual's students and data indicators assessed annually under s. 1008.22, F.S. The revision of instructional practice components and instructional leadership components in the bill refers specifically to the Florida Educator Accomplished Practices (FEAP) and the Florida Principal Leadership Standards.¹⁷

Performance and Differentiated-Pay

The bill requires the SBE to adopt rules concerning compliance requirements for district salary schedules relating to individual performance and differentiated pay. This provision appears to grant the SBE authority to require school districts to revise their salary schedules if the schedule does not comply with the individual performance and differentiated pay provisions of s. 1012.22, F.S.

Teacher Preparation

The bill would require the DOE to issue a report by March 1, 2010, and biennially thereafter, on the effectiveness of state-approved teacher preparation programs. This report would include an analysis of public school learning gains on statewide assessments by students who were taught by graduates of the state-approved teacher preparation programs. The bill is silent on the manner in which graduates of the state-approved teacher preparation programs are to be reviewed if they

¹⁷ <http://www.fldoe.org/profdev/fpls.asp>

do not teach a subject or grade assessed under the statewide assessment program. The reviewed teacher preparation programs would include alternative certification programs offered through Educator Preparation Institutes,¹⁸ and Florida school districts.¹⁹

Florida Educator Accomplished Practices

The bill establishes the Florida Educator Accomplished Practices (FEAP) as the state's framework of expectations for instructional practice and provides for a periodic revision of these standards. The revision process would provide for a more unified use of the FEAP and ensure that they reflect contemporary research aligned to student performance.

Professional Preparation and Education Competence for Certification

The bill adds options for satisfying mastery of professional preparation and education competency for instructional personnel.

For purposes of satisfying the requirements of s. 1012.56, F.S., the term private school includes voluntary prekindergarten education program providers, and an option for satisfying the mastery of professional preparation and education competency requirement for the professional certificate is added.

Another option to satisfy mastery of professional preparation and education competency would include completion of the professional education training program provided by Teach for America, contingent upon receipt of a passing score earned on the professional education competency examination.

A provision is also added to recognize, for certification purposes, military instructor experience as teaching experience to satisfy the professional preparation requirements under SBE rule.²⁰

Lastly, a provision is added for certification purposes for acceptance of college course credits recommended by the American Council on Education as posted on an official ACE transcript.²¹

Principal Leadership Training - The William Cecil Golden Professional Development Program for School Leaders

The bill provides that state-approved education leadership programs offered in Florida public and nonpublic institutions are currently included in the delivery of the program components, primarily with respect to pre-service programs, and the bill would codify this practice.

Access to DCF Records

The bill would provide clear guidance to DCF to allow the DOE access to records related to child abuse and neglect by an educator. These provisions would support DOE in their ability to determine if an educator's certificate should be disciplined.

¹⁸ s. 1004.85, F.S.

¹⁹ s. 1012.56, F.S.

²⁰ Rule 6A-4.006, F.A.C.

²¹ <http://www.acenet.edu/AM/Template.cfm?Section=CCRS>

Additional Reporting Requirements*Differentiated Pay*

The bill would require districts to report their differentiated pay policies to the DOE and for the DOE to report noncompliant districts to the Legislature.

Assignment of Teachers

The DOE is currently required to post information on the assignment of teachers in aggregate form to comply with requirements under Title II-A of the federal No Child Left Behind Act, with the exception of teachers in need of improvement. The bill would require the DOE to report this information by school and to include the percentage of teachers in need of improvement.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

If the State Board of Education is granted authority under the bill to require school districts to revise their salary schedules for purposes of awarding individual performance and differentiated pay, there would be an operational cost at the district level to transfer funds from one use to the performance and differentiated pay schedule, absent additional funding. This cost is indeterminate as the DOE has not evaluated the differentiated pay provisions of the school district collective bargaining agreements. The bill would require the DOE to complete such an evaluation. However, the DOE indicates that the bill does not grant the State Board of Education any additional authority over enforcing performance and differentiated pay.

The bill requires several additional reporting requirements for the DOE. The DOE has indicated that these additional reporting requirements would be absorbed within its existing budget.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education Pre-K – 12 Committee on April 7, 2009:

The committee substitute:

- Requires that the determination of educational insufficiency be based on three years of declining student achievement data which, at a minimum, demonstrates that at least a majority of the students taught by the teacher show a lack of progress;
- Reduces from 10 to 5 the number of years of teaching (annual contracts) required to be successfully completed before a classroom teacher is eligible for a professional performance contract; and
- Authorizes the State Board of Education to adopt rules to include compliance requirements for district salary schedules relating to performance and differentiated pay.

B. Amendments:

None.