

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7087 PCB PT 09-01 Student Achievement

SPONSOR(S): PreK-12 Policy Committee

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

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee	13 Y, 0 N	Brock	Ahearn
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill contains several provisions related to student achievement and amends Florida law to:

- Clarify the definition of a secondary school and repeal the Secondary School Improvement Award program.
- Offer an exemption from the required intensive reading course for certain middle grade students scoring Level 1 or 2 on FCAT Reading.
- Provide that a high school student who scores at Level 1 or Level 2 on FCAT Reading, but who did not score below level 3 on FCAT Reading in the prior school year, may be exempt from the remediation requirement if the student demonstrates acceptable performance on an alternative standardized reading assessment approved by the SBE. Also, the bill exempts students who pass grade 10 FCAT Reading from remediation requirements.
- Provide that students who have earned a passing score on the grade 10 FCAT Mathematics or achieved a score on a standardized test which is concordant with a passing score on the grade 10 FCAT Mathematics are exempt from remediation.
- Raise the mathematics requirements for students entering ninth grade in 2009-10 who choose the accelerated graduation option of a 3-year college preparatory program to match the regular 4-year, 24-credit regular graduation program option.
- Prevent eighth grade out-of-state and out-of country transfer students from having to spend additional time in middle school.
- Reduce from 3 years to 1 year the period of time that a school district can be designated an "Academically High-Performing School District."
- Clarify and update the circumstances under which concordant scores are used for passing the grade 10 FCAT by specifying that concordant scores earned prior to taking the grade 10 FCAT are not eligible for use in fulfilling the student assessment requirement and by removing language requiring failing the grade 10 FCAT three times prior to using concordant scores.
- Change the date from November 1 to February 1 of each year for school staff and the school advisory council to reach an agreement on how school recognition funds will be distributed.

The bill does not appear to create a fiscal impact on state or local governments. The Department of Education estimates no fiscal impact.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Improvement

Florida Secondary School Redesign Act

Current Law

The Florida Secondary School Redesign Act was enacted in 2006 and requires the Commissioner of Education to create and implement a Secondary School Improvement Award Program to reward public secondary schools for student gains and achievement in reading and math. The Department of Education (DOE) has never implemented this program.¹

Effect of Proposed Changes

The bill defines "secondary school" as a school that serves students in grades 6 through 12 and specifically excludes an elementary school serving students only through grade 6. The DOE indicates that it is important that the level of school must be defined since there are legislative requirements that are specific to a level of school. The Secondary School Improvement Award Program to reward public secondary schools for student gains and achievement in reading and math is repealed. The DOE indicates that it has not implemented this program since its creation in 2006 because there was no funding.²

Academically High-Performing School Districts

Current Law

School districts that demonstrate the ability to consistently maintain or improve their high-performing status are eligible to be designated as "Academically High-Performing School Districts" by the State Board of Education (SBE).³ The districts receive flexibility and exemption from various statutory requirements in the School Code (chapters 1000-1013, F.S.) and rules of the SBE. To receive this designation, school districts must meet the following criteria:

¹ "There is no supporting evidence a Secondary School Improvement Award Program is currently up and running." Department of Education Bill Analysis on Senate Bill 2482, March 2, 2009, at 5.

² Correspondence with the Department of Education concerning Senate Bill 2482, March 15, 2009, at 1.

³ Section 1003.621, F.S.

- Earn a grade of "A" for two consecutive years and have no district-operated schools that earn a grade of "F";
- Comply with all class size requirements; and
- Have no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted.⁴

The academically high-performing school district retains the designation as a high-performing school district for three years, at the end of which time the district may renew the designation if the district meets statutory requirements. In order to maintain the designation as an academically high-performing school district, a school district must meet the following requirements:

- Continue to comply with all class size requirements and have no material weaknesses or instances of material noncompliance noted in the annual financial audit; and
- Earn a grade of "A" for 2 years within a 3-year period. A district in which a district operated school earns a grade of "F" during the three-year period may not continue to be designated as an academically high-performing school district.⁵

The academically high-performing school district must submit a report to the SBE on December 1 of each year that includes longitudinal performance data and a description of the waiver received concerning statutes and SBE rules.⁶

On April 15, 2008, the following 11 school districts were designated as high-performing school districts by the SBE: Brevard, Calhoun, Charlotte, Gilchrist, Martin, Nassau, St. Johns, Sarasota, Seminole, Wakulla, and Walton.⁷ On March 17, 2009, the following 14 school districts were designated as 2008-2009 academically high-performing school districts by the SBE: Alachua, Calhoun, Charlotte, Citrus, Clay, Gilchrist, Leon, Martin, Nassau, Okaloosa, St. Johns, Seminole, Wakulla, and Walton.⁸

Effect of Proposed Changes

The bill changes the SBE designation of academically high-performing school districts from a three-year designation to an annual designation and requires the designation to be made at the next SBE meeting occurring on or after February 1 of each year. The designation is effective beginning the following school year. The bill also includes a requirement for a report that includes a description of each statute and rule that the district did not comply with and the exemption's effect on the district's ability to maintain or improve its high-performing status.⁹

Remediation in Reading and Mathematics

Current Law

Students scoring below proficiency in reading and mathematics on the FCAT must receive remedial instruction, as follows:

- A student identified to have a substantial deficiency in reading through local or statewide assessments in any grade from kindergarten through grade 3, or through teacher observations, must be given intensive reading instruction until the deficiency is remedied.¹⁰
- A middle school student (grades 6-8) or high school student (grades 9-11) must:¹¹

⁴ Section 1003.621(1)(a), F.S.

⁵ Section 1003.621(1)(d), F.S.

⁶ Section 1003.621(4)(f), F.S.

⁷ "Designation of Academically High Performing School Districts," State Board of Education Agenda Item, April 15, 2008.

⁸ "Designation of Academically High Performing School Districts," State Board of Education Agenda Item, March 17, 2009.

⁹ *Id.*, at 2.

¹⁰ Section 1008.25(5)(a), F.S.; Rule 6A-6.054, F.A.C.

¹¹ These requirements apply to middle school students entering grade 6 in the 2006-2007 school year and high school students entering the first year of high school in the 2007-2008 school year. Sections 1003.4156(1) & 1003.428(1), F.S.

- ◆ If the student scores at Level 1 on FCAT Reading, complete an intensive reading course the following year.¹² If the student scores at Level 2, the student must be placed in either an intensive reading course or a content-area course in which reading strategies are determined by diagnosis of reading needs.¹³
- ◆ If the student scores at Level 1 or Level 2 on FCAT Mathematics, the student must receive remediation, which may be integrated into other mathematics courses.¹⁴

A student in grades 3-10 who scores below Level 3 on FCAT Reading or FCAT Mathematics must be administered additional diagnostic assessments to determine the nature of the student's difficulty, the areas of academic need, and strategies for appropriate intervention and instruction.¹⁵ The student's school, in consultation with the student's parents, must implement one of the following progress monitoring plans:

- A federally required student plan, such as an individual education plan;
- A school-wide system of progress monitoring for all students; or
- An individualized progress monitoring plan.¹⁶

Effect of Proposed Changes

The bill offers an exemption from the required intensive reading course for certain middle grade and high school students scoring Level 1 or Level 2 on FCAT Reading. A middle grade student who scores at Level 1 or Level 2 on FCAT Reading, but who did not score below Level 3 on FCAT Reading in the prior school year, may be exempt from the remediation requirement, if the student demonstrates acceptable performance on an alternative standardized reading assessment approved by the SBE.

A high school student who scores at Level 1 or Level 2 on FCAT Reading, but who did not score below level 3 on FCAT Reading in the prior school year, may be exempt from the remediation requirement if the student demonstrates acceptable performance on an alternative standardized reading assessment approved by the SBE. Also, the bill exempts students who pass grade 10 FCAT Reading from remediation requirements. Currently, a passing score is in the Level 2 range (upper Level 2).

Students who have earned a passing score on the grade 10 FCAT Mathematics or achieved a score on a standardized test which is concordant with a passing score on the grade 10 FCAT mathematics are exempt from remediation. Currently, a passing score is in the Level 2 range (upper Level 2). The bill exempts those Level 2 performers from remediation.

The DOE indicates that the reason for the statutory change is that "the provision for middle and high school students to take an alternative standardized assessment if they score below grade level on FCAT reading and did not score below grade level the previous year is a way to ensure that the student was not simply 'having a bad day.' Without this provision, these students **must** be placed in an intensive reading class (Students at Level 1 or 2) or a content area intervention (Students at Level 2)."¹⁷

¹² Sections 1003.4156(1)(b) & (2) & 1003.428(2)(b)2.c., F.S.

¹³ *Id.*

¹⁴ Sections 1003.4156(1)(c) & 1003.428(2)(b)2.d., F.S.

¹⁵ Section 1008.25(4)(a), F.S.

¹⁶ Section 1008.25(4)(b), F.S.

¹⁷ Correspondence with the Department of Education concerning Senate Bill 2482, March 15, 2009, at 1. Further, DOE states: "While no empirical data has been collected, it is safe to say that hundreds of calls, letters and e-mails from parents and students come in each year to the Department. The stories range from a potential valedictorian who came to school (at her school's urging) with a fever of 102 degrees (and scored at level 2) to a student whose pet or family member died during FCAT week. There are many extenuating circumstances that occur in the lives of our children, and this provision gives them a second chance to demonstrate that they can read on grade level before being placed in a reading intervention class. If the alternative assessment corroborates the low FCAT score, then at least the child had a chance to prove otherwise."

Accelerated High School Graduation

Current Law

Students must earn credits in required high school courses to graduate from high school. There are three options for high school graduation: a traditional 24-credit/4-year option, an accelerated 18-credit/3-year College Preparatory Program option, and an accelerated 18-credit/3-year Career Preparatory Program option. Students must also pass the grade 10 FCAT in reading and mathematics or attain a concordant score on either the SAT or the ACT tests.¹⁸

Students selecting an accelerated 18-credit/3-year Career Preparatory Program must complete three credits at the Algebra I level or higher that qualify for state university admission and three credits in electives.¹⁹ The following table lists the number of students selecting accelerated graduation options.

Students Selecting Accelerated Graduation Option²⁰

YEAR	2006-07	2007-08
18-credit college preparatory option. (DOE Code W6A)	99	67
18-credit career preparatory option. (DOE Code W6B)	20	21
18-credit college preparatory option using SAT/ACT test scores rather than FCAT. (DOE Code WFA)	18	12
18-credit career preparatory option using SAT/ACT test scores rather than FCAT. (DOE Code WFB)	3	5
Total Accelerated	140	105
Total Graduates	151341	159100
Percent Accelerated	0.09%	0.07%

Effect of Proposed Changes

Beginning with students who enter grade 9 in the 2009-2010 school year, the bill requires students selecting the accelerated college preparatory graduation option to meet increased mathematics requirements. The bill increases the required mathematics credits from 3 to 4 and reduces electives from 3 to 2 credits. Increasing the mathematics requirement aligns the accelerated graduation requirement with the regular 24-credit core graduation requirement.²¹

Middle Grades Transfer Students

Current Law

Provision is made for a *high school* transfer student to avoid spending additional time in school fulfilling high school course requirements.²² There is *not* a similar provision for transferring middle grades students. However, there is a SBE rule that establishes uniform procedures relating to the acceptance of transfer work and courses for students entering Florida's public schools composed of middle grades 6, 7, and 8 from out of state or out of country. Student performance is validated through official transcripts, successful completion of courses during the first grading period at the receiving school, or through an alternative validation procedure that includes: 1) portfolio validation; 2) demonstrated performance in courses taken at other public and private accredited schools; 3) demonstrated proficiencies on nationally-normed standardized subject area assessments; 4) demonstrated proficiencies on the FCAT; or 5) written review of the criteria utilized for a given subject provided by the former school. Students are given at least 90 days from the transfer date to prepare for the assessments.²³

¹⁸ Sections 1003.428, 1003.429, & 1003.43., F.S.

¹⁹ Section 1003.429(1)(b)2.& 6., F.S.

²⁰ Email correspondence with Department of Education, March 24, 2009.

²¹ *Id.*

²² Section 1003.433, F.S.; see also Rule 6A-1.09941, F.A.C., "State Uniform Transfer of High School Credits." Current middle grade promotion requirements include the following credits in 5 areas: 3 in English; 3 in Mathematics; 3 in Social Sciences; 3 in Sciences; and 1 in Career & Education Planning.

²³ Rule 6A-1.09942, F.A.C., "State Uniform Transfer of Students in the Middle Grades."

Effect of Proposed Changes

The bill provides that students who enter a public middle school at the eighth grade level from out of state or from a foreign country shall not be required to spend additional time in a Florida public school in order to meet the middle grades promotion requirements if the student has met all of the requirements of the school district, state, or country from which he or she is transferring. The DOE states that since this is the first year that eighth grade students must fulfill promotion requirements, many districts have inquired as to whether they should promote eighth grade students who are on grade level but who transfer in from out of state without meeting state requirements.²⁴

The proposed committee bill also requires middle grades transfer students who are not proficient in English to receive immediate and intensive instruction in English language acquisition.²⁵

Student Assessment – Concordant Scores

Current Law

The Florida Comprehensive Assessment Test (FCAT) measures student achievement in grades 3 through 11 using benchmarks from the *Sunshine State Standards*.²⁶ The FCAT consists of criterion-referenced tests in reading, writing, mathematics, and science.²⁷ Grade 10 FCAT Reading and Mathematics must be passed in order to graduate from high school. A student generally has five opportunities to pass the grade 10 FCAT before graduation.²⁸

Concordant scores for the FCAT are scores on the SAT or ACT standardized assessments usually used as college entrance exams. The FCAT concordant scores are as follows.²⁹

- FCAT Reading—SAT 410, ACT 15
- FCAT Mathematics—SAT 370, ACT 15

The use of concordant scores as a means of meeting high school graduation requirements is demonstrated in the following table.³⁰

Academic Year	Number of Standard High School Diploma Graduates Using a Concordant Score (SAT/ACT)
2005-2006	1,780
2006-2007	4,275
2007-2008	7,110

²⁴ Correspondence with the Department of Education concerning Senate Bill 2482, March 15, 2009, at 2.

²⁵ *Id.* The DOE indicates that this is to clarify that this provision is not misinterpreted to mean English Language Learner (ELL) students (since these students generally transfer in from out of state and out of country) are not required to be provided English for Speakers of Other Language (ESOL) services.

²⁶ Section 1008.22(3), F.S.

²⁷ Section 1008.22(3)(c)2., F.S. A criterion-referenced test (CRT) is an assessment in which an individual's performance is compared to a specific learning objective or performance standard and not to the performance of other students. CRTs show how well students performed on specific goals or standards rather than just telling how their performance compares to a norm group of students nationally or locally. The FCAT is based on the *Sunshine State Standards* and measures student progress toward meeting these standards. Florida Department of Education, *FCAT Handbook: A Resource for Educators*, 5 (2005), available at <http://fcats.fldoe.org/handbk/complete.pdf>.

²⁸ Sections 1003.428(4)(b), 1003.429(6)(a), 1003.43(5)(a) & 1008.22(3)(c)5. & (10), F.S.; Rule 6A-1.09422(7), F.A.C.; Florida Department of Education, *FCAT Graduation Requirements* (January 2009), available at <http://fcats.fldoe.org/pdf/fcatpass.pdf>, at 1.

²⁹ Correspondence with the Department of Education, March 20, 2009. The DOE indicates that this data is reported on the "Florida Public High School Graduates" Reports at <http://www.fldoe.org/eias/eiaspubs/default.asp#student>.

³⁰ *Id.*

Current law does not address whether students who take the SAT or ACT tests and achieve a concordant score *prior* to taking the grade 10 FCAT should be allowed to use that score to satisfy graduation requirements.

A student is required to take the grade 10 FCAT three times without earning a passing score in order to use a concordant score on the SAT or ACT tests to satisfy the high school graduation requirement.³¹

Effect of Proposed Changes

The bill addresses concordant scores by:

- Removing the requirement that a student must take the grade 10 FCAT a total of three times without earning a passing score before concordant scores are used to satisfy the assessment requirement for a standard high school diploma. The DOE maintains that the requirement to take and fail the FCAT three times prior to using a concordant score is difficult for students transferring into the Florida school system toward the end of grade 11 and in grade 12. The FCAT summer retakes were eliminated due to budget cuts, making it more difficult to retake the test.³²
- Clarifying that concordant scores earned prior to taking the grade 10 FCAT are not eligible for use in fulfilling the student assessment requirement in order to obtain a standard high school diploma. The DOE states that the purpose of this requirement is to maintain the integrity of each student's first attempt on the grade 10 FCAT. If a student has a concordant SAT/ACT score prior to taking the grade 10 FCAT, the student's motivation to pass the assessment will be diminished.³³
- Providing that a student who has not earned a passing score on the grade 10 assessment must participate in each retake of the assessment until the student earns a passing score on a concordant assessment.

Florida School Recognition Program

Current Law

The Florida School Recognition Program is a performance incentive program with criteria for outstanding faculty and staff in highly productive schools. Selected schools receive financial awards depending on the availability of funds appropriated and the number and size of schools selected to receive an award. Funds must be distributed as determined jointly by the school's staff and school advisory council. If school staff and the school advisory council cannot reach agreement by November 1, the awards must be equally distributed to all classroom teachers currently teaching in the school.³⁴

Effect of Proposed Changes

The bill changes the date from November 1 to February 1 of each year for school staff and the school advisory council to reach an agreement on how school recognition funds will be distributed. This gives school advisory councils an additional three months to determine how to distribute award funds.³⁵

B. SECTION DIRECTORY:

Section 1. Amends section 1003.413, F.S., defining a "secondary school" and specifically excluding an elementary school serving students only through grade 6 and deleting subsection (5) requiring the Commissioner of Education to create and implement a Secondary School Improvement Award Program.

³¹ Section 1008.22(10)(b), F.S.

³² Correspondence with the Department of Education concerning Senate Bill 2482, March 15, 2009, at 1.

³³ *Id.*

³⁴ Section 1008.36, F.S.

³⁵ Department of Education Bill Analysis on Senate Bill 2482, March 2, 2009, at 5.

Section 2. Amends section 1003.4156 F.S., renaming the “CHOICES for the 21st Century” program to the “Florida CHOICES” program and offering an exemption from required intensive reading course for certain middle grade students scoring Level 1 or 2 on FCAT Reading.

Section 3. Amends section 1003.428, F.S., offering an exemption from required intensive reading course for certain high school students scoring Level 1 or 2 on FCAT Reading and providing an exemption for certain high school students who earn a passing score on the grade 10 FCAT Mathematics exam or achieve a concordant passing score on a standardized test.

Section 4. Amends section 1003.429, F.S., increasing the mathematics requirement for the accelerated high school college preparatory program, from 3 to 4 credits and reducing from 3 to 2 the credits required in electives, beginning with students who enter grade 9 in the 2009-2010 school year.

Section 5. Amends section 1003.433, F.S., providing that students who enter the 8th grade from out of state or from a foreign country must not be required to spend additional time meeting middle grades promotion requirements if the student has met all the requirements of the school district, state, or country from which the student is transferring and providing that students not proficient in English should receive immediate and intensive instruction in English language acquisition.

Section 6. Amends section 1003.621, F.S., reducing from 3 to 1 year the designation of academically high-performing school district by the State Board of Education and expanding reporting requirements.

Section 7. Amends section 1008.22, F.S., clarifying that concordant scores earned prior to taking the grade 10 FCAT are not eligible for use in fulfilling the student assessment requirement; clarifying that a student who has not earned a passing score on the grade 10 assessment must participate in each retake of the assessment until the student earns a passing score or achieves a passing score on a concordant assessment; and removing the requirement that a student must take the grade 10 FCAT a total of three times without earning a passing score before concordant scores are used to satisfy the assessment requirement for a standard high school diploma.

Section 8. Amends section 1008.25, F.S., changing the date of the annual student progress report from September 1 of each year to October 1 of each year and authorizing publication to occur on the district school board Internet website.

Section 9. Amends section 1008.36, F.S., changing the date from November 1 to February 1 of each year for school staff and the school advisory council to reach an agreement on how school recognition funds will be distributed.

Section 10. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to affect state government revenues.

2. Expenditures:

The bill does not appear to affect state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to affect local government revenues.

2. Expenditures:

The bill does not appear to affect local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

DOE indicates that there will be no additional costs to the department to implement the requirements of the bill.³⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

There is no new rulemaking authority but the State Board of Education may adopt rules under the existing statute.³⁷

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

³⁶ Correspondence with the Department of Education on PCB-PT-09-01, March 6, 2009.

³⁷ Section 1001.02(1), F.S.