

**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 Education Pre-K - 12 Committee

BILL: CS/SB 736

INTRODUCER: Education Pre-K - 12 Committee and Senator Wise

SUBJECT: Education Personnel

DATE: February 10, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	<b>Fav/CS</b>
2.	_____	_____	BEA	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input 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 provides for a reform of the evaluations of instructional personnel and school administrators; compensation; and employment practices. The bill provides for the following:

**Performance Evaluations for Instructional Personnel and School Administrators**

- Requires the Commissioner of Education (Commissioner) to establish a learning growth model for school district use for the Florida Comprehensive Assessment Test (FCAT) and other statewide assessments to measure the effectiveness of instructional personnel and school administrators based on what a student learns;
- Provides that 50 percent of an evaluation is based on student performance over a 3-year period, with the remainder of the evaluation based on instructional practice or leadership, as applicable;

**Compensation for Performance**

- Requires school districts to establish a new performance salary schedule by July 1, 2014, that provides annual salary increases based upon the performance evaluation;

- Allows current teachers and school administrators to remain on the current salary schedule with an option to move to the new performance salary schedule;
- Beginning with instructional personnel hired on or after July 1, 2011, prohibits a district school board from using advanced degrees to set the salary schedule unless the advanced degree is held in the individual's area of certification;
- Provides for earning additional salary supplements for differentiated pay based on assignment to a high priority location, certification and teaching in critical teacher shortage areas, or assignment of additional academic responsibilities;

### **Employment**

- Eliminates professional service contracts for instructional personnel newly-hired, beginning July 1, 2011;
- Revises the criteria for renewal of contracts by tying renewal to the performance evaluation; and
- Clarifies that just cause under a professional service contract includes unsatisfactory performance on the individual's evaluation.

This bill substantially amends sections 1002.33, 1003.621, 1008.22, 1012.07, 1012.2315, 1012.22, 1012.27, 1012.28, 1012.33, 1012.34, 1012.795; creates section 1012.335; and repeals section 1012.52, of the Florida Statutes.

## **II. Present Situation:**

### **Education Reform**

Florida's education system is now ranked fifth in the nation, according to Education Week's 2010 Quality Counts Report.<sup>1</sup> This year's increase follows continuing trends of improvement that saw the state ranked 8<sup>th</sup> last year, 10<sup>th</sup> in 2009, and 14<sup>th</sup> in 2008, up from 31<sup>st</sup> in 2007.<sup>2</sup> The state has also received accolades for narrowing the achievement gap among more groups of students than most other states.<sup>3</sup>

Florida's success is based on measuring student performance and rewarding results. The Florida School Recognition Program provides public recognition and financial awards to schools that have sustained high student performance or schools that demonstrate substantial improvement in student performance.

Florida's education reform efforts have resulted in laudable progress for students and schools. Despite these accomplishments, 61 percent of tenth grade students read below grade level in 2009-2010, meaning that these students had limited or minimal success with grade-level content.<sup>4</sup>

The labor market demands in a global economy underscore the need for a marked departure from current educational practices. In 2009, 15-year-old students in the United States ranked 14<sup>th</sup> in

<sup>1</sup> See <http://www.edweek.org/ew/toc/2010/01/14/index.html>.

<sup>2</sup> Florida Department of Education, February 7, 2011.

<sup>3</sup> *Gauging the Gaps: A Deeper Look at Student Achievement*, The Education Trust, January 2010.

See [http://www.edtrust.org/sites/edtrust.org/files/publications/files/NAEP%20Gap\\_0.pdf](http://www.edtrust.org/sites/edtrust.org/files/publications/files/NAEP%20Gap_0.pdf).

<sup>4</sup> Florida Department of Education, June 2010. See <http://fcats.fldoe.org/mediapacket/2010/>.

reading literacy, 17<sup>th</sup> in science literacy, and 25<sup>th</sup> in mathematics literacy among the 34 Organisation for Economic Co-Operation and Development (OECD) member countries.<sup>5</sup> The OECD notes that global drivers increasingly focus on “21st century competencies” and that the quantity and quality of learning become central, with the accompanying concern that traditional educational approaches are insufficient.<sup>6</sup> The recently released report by the Harvard Graduate School of Education recommends an examination of the experience of OECD countries, especially those with the best developed career education systems, to address a more demanding labor market and widening skills and opportunities gaps.<sup>7</sup>

### **Instructional Quality**

A consensus of research finds that the single greatest indicator of student achievement is the quality of the teacher in the classroom.<sup>8</sup> Despite this research, the state continues to have an evaluation system, compensation system, and employment system that does not sufficiently take into consideration student performance.

#### *Evaluations*

Recent federal policy changes tacitly recognize the flaws in educator performance evaluations and the absence of a performance management system that gives educators the tools they need to be effective, supports their development, rewards their accomplishments, and holds them accountable for results. The American Recovery and Reinvestment Act of 2009 (ARRA) provides \$4.3 billion for the Race to the Top Fund, a competitive grant program designed to encourage and reward states that are implementing significant education reforms across four education areas: implementing standards and assessments, improving teacher effectiveness and achieving equity in teacher distribution, improving the collection and use of data, and supporting struggling schools.<sup>9</sup>

To receive funds, a state must provide assurance that it will improve teacher effectiveness and comply with the requirements that school programs and targeted assistance schools provide instruction by highly qualified teachers, that poor and minority students are not taught at higher rates than other students by inexperienced, unqualified, or out-of-field teachers, and that it will evaluate and publicly report progress with respect to these requirements.<sup>10</sup> The criteria include the extent to which a state differentiates the effectiveness of teachers and principals and uses this information for decisions on evaluation, compensation, promotion, termination, and tenure.<sup>11</sup>

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<sup>5</sup> National Center for Education Statistics, *Highlights from PISA 2009*, U.S. Department of Education. The OECD is an international organization that helps governments foster prosperity and fight poverty through economic growth and financial stability. See <http://www.oecd.org/>. The OECD’s Programme for International Student Assessment (PISA) is an international study that is administered every three years. The 2009 assessment focused on reading. Rather than examining how well students have learned the school curriculum, PISA looks at how well prepared they are for life beyond school.

<sup>6</sup> OECD, *The Nature of Learning: Using Research to Inspire Practice*, September 9, 2010. <http://www.oecd.org/dataoecd/8/35/45984003.pdf>.

<sup>7</sup> Harvard Graduate School of Education, *Pathways to Prosperity, Meeting the Challenge of Preparing Young Americans for the 21<sup>st</sup> Century*, February 2011.

<sup>8</sup> See *Teacher Quality*, Florida Senate Issue Brief 2010-313, available at:

[http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim\\_reports/pdf/2010-313ed.pdf](http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-313ed.pdf).

<sup>9</sup> ARRA, Public Law 111-5, section 14005(d)(2),(3),(4), and (5). See also section 14006 which provides for incentive grants to states that have made significant progress in meeting the objectives in paragraphs (2),(3),(4), and (5) of section 14005(d).

<sup>10</sup> 20 U.S.C. section 6311(b)(8)(C).

<sup>11</sup> Federal Register, Vol. 74, No. 221, *Final Priorities, Requirements, Definitions, and Selection*

Under the criteria, teacher and principal effectiveness would be judged in significant part by student growth.<sup>12</sup> On August 24, 2010, Florida was awarded a \$700,000,000 Race to the Top grant. Sixty-five of Florida's 67 school districts signed a memorandum of understanding to participate in the grant. The districts have developed and bargained scopes of work to carry out those reforms and receive grant dollars to do so over the next four years.<sup>13</sup>

#### *Compensation for Performance*

Most school district compensation systems are not aligned with the state's primary needs: improving student achievement and placing the best teachers where they are needed most. The traditional salary schedule rewards teachers for years of experience, irrespective of whether that experience benefits students. Talented instructional personnel and school administrators are compensated at the same rate as ineffective personnel, or worse.

#### *Employment*

Without a robust evaluation system, school districts do not have sufficient means to tie continued employment to effective work. The current system creates an automatic renewal of employment with as little as three years of teaching, unless the district school superintendent "charges" an employee with unsatisfactory performance. As a result, it can take up to two years or more to terminate an ineffective employee who has received a professional service contract. Students can actually regress in learning with an ineffective teacher, while the process to terminate grinds forward.

### **III. Effect of Proposed Changes:**

The bill focuses on student success by revising and modernizing three main areas: evaluations, performance pay, and employment. The bill reinforces Florida's successful Race to the Top application.

#### **Performance Evaluations**

##### *Performance of Students*

Most school districts' evaluation systems do not appear to comply with current law. For example, the Auditor General recently reviewed 11 school district financial or operational audit reports for FY 2009-2010. All 11 districts were found to have deficiencies with respect to the evaluation requirements in s. 1012.34(3), F.S.<sup>14</sup> In addition, the Auditor General's preliminary and tentative findings report found 24 of an additional 27 school districts had a preliminary and tentative finding related to s. 1012.34(3), F.S.<sup>15</sup> Many evaluation systems do not weight student performance as the primary factor in the evaluation of instructional personnel. Despite a requirement in law to develop local assessments more than 10 years ago for subjects and grade

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*Criteria*, November 18, 2009, and *Supplemental Information*, Federal Register, Vol. 75, No. 17, January 27, 2010. See <http://www2.ed.gov/legislation/FedRegister/finrule/2009-4/111809a.html>. The U.S. DOE proposes the use of \$4 billion for this initiative and a potential for \$350 million to support the development of assessments by a consortia of states.

<sup>12</sup> *Id.*

<sup>13</sup> DOE bill analysis, February 7, 2011. This includes 62 traditional districts and 3 lab schools. The following school districts are not participating in the grant: Baker, Dixie, Hamilton, Palm Beach, and Suwannee.

<sup>14</sup> See Brevard (2011-060), Calhoun (2011-048), Duval (2011-042), Gulf (2011-067), Hernando (2011-034), Indian River (2011-055), Martin (2011-056), Manatee (2011-050), Osceola (2011-051), Pasco (2011-072), and Walton (2011-066).

<sup>15</sup> See email correspondence from Ted Sauerbeck, Deputy Auditor General, dated February 7, 2011, on file with the committee.

levels not assessed by the FCAT, most districts have not developed assessments to measure student learning for purposes of evaluating the effectiveness of their instructional personnel or school administrators.<sup>16</sup> School districts that have developed assessments do not appear confident in their validity.<sup>17</sup> Current practice results in almost a completely subjective evaluation, without using any objective data. As a result, school districts may not objectively know who the best teachers are, which teachers need help to perfect their instruction, and which teachers need to seek a different profession.

The bill attempts to reinforce Florida's successful Race to the Top grant application, which requires 50 percent of an individual's evaluation to be based on student learning growth or achievement.<sup>18</sup> The bill specifies that 50 percent of an instructional personnel or school administrator's evaluation is based upon the performance of the students assigned to these individuals. This provision would place a significant focus on student outcomes in determining the effectiveness of instructional personnel and school administrators.

#### *Learning Growth Model*

Under Florida's Race to the Top Memorandum of Understanding, the Department of Education is required to develop a student learning growth model that takes into consideration unique student characteristics, challenges, and other factors that affect student performance.<sup>19</sup> School districts are required to measure student growth based on the performance of students on the state-required assessments.<sup>20</sup> Moreover, school districts must use the state-adopted teacher-level student growth measure as the primary factor of the teacher and principal evaluation systems.<sup>21</sup>

Under the bill, the Commissioner would establish a learning growth model for the FCAT and other statewide assessments to measure the effectiveness of a classroom teacher or school administrator based on what a student learns. The model would use the student's prior performance, while considering factors that may be outside a teacher's control, such as a student's attendance, discipline, disability, or English language proficiency. However, the model may not take into consideration a student's gender, race, ethnicity, or socioeconomic status. The legislation does not specify that student growth is the same for all students.

School districts would be required to use the state's learning growth model for FCAT-related courses beginning in the 2011-2012 school year. School districts must use comparable measures of student growth for other grades and subjects with the department's assistance, if needed. Additionally, districts would be permitted to request alternatives to the growth measure if justified.

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<sup>16</sup> See s. 57, ch. 99-398, L.O.F., codified in s. 1012.34(3), F.S. See also s. 1008.22(8), F.S.

<sup>17</sup> See testimony by Duval County Public Schools Superintendent of Schools, Ed Pratt-Dannals, before the Education Pre-K – 12 Committee, Workshop and Panel Discussion on Instructional Quality, January 26, 2011, on file with the committee.

<sup>18</sup> See Florida's Race to the Top Memorandum of Understanding for Phase 2, (D)(2)(ii), available at: <http://www.fldoe.org/ARRA/pdf/phase2mou.pdf>.

<sup>19</sup> *Id.* at (D)(2)(i).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at (D)(2)(ii).

The DOE is pursuing a contract for assistance with constructing Florida's value added student growth measure as a part of the Race to the Top grant.<sup>22</sup> Value added measures will form the basis of the student performance aspect of the new evaluation system, relying on calculations that are able to account for a variety of student variables.<sup>23</sup>

#### *Evaluation Criteria*

The current evaluation system does not connect meaningful evidence of student performance to continued employment and compensation. For the last two years, districts reported that less than one percent of classroom teachers received an unsatisfactory evaluation.<sup>24</sup>

Components of the evaluation system 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 evaluation system must differentiate among four levels: highly effective; effective; needs improvement or, for instructional personnel in the first three years of employment or in the first year of a new teaching assignment who need improvement, developing; and unsatisfactory. Florida's Race to the Top Memorandum of Understanding required a comprehensive range of ratings beyond a simple satisfactory or unsatisfactory, including "effective" and "highly effective".<sup>25</sup> The Commissioner of Education would be required to consult with classroom teachers, other stakeholders, and experts in developing the performance levels for the evaluation system.

Fifty percent of the evaluation for classroom teachers and other instructional personnel would be based on student performance for students assigned to them over a 3-year period. For other instructional personnel, a school district may include specific job-performance expectations related to student support and use growth data and other measurable student outcomes specific to the individual's assignment, as long as the growth accounts for at least 30 percent of the evaluation. The remainder of the evaluation would be based on the Florida Educator Accomplished Practices and professional responsibilities.

Fifty percent of a school administrator's evaluation would also be based on student performance over a 3-year period. The remainder of the evaluation would be based on indicators that include the recruitment and retention of effective or highly effective teachers, improvement in the percentage of classroom teachers evaluated at the effective or highly effective level, management of the school to maximize resources for direct instruction, other leadership practices that result in improved student outcomes, and professional responsibilities.

If less than 3 years of student growth data is available for an evaluation, the district must include the years for which data is available and may reduce the percentage of the evaluation based on student growth to not less than 40 percent for classroom teachers and school administrators and not less than 20 percent for other instructional personnel.

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<sup>22</sup> See [http://www.fldoe.org/news/2010/2010\\_11\\_08-3.asp](http://www.fldoe.org/news/2010/2010_11_08-3.asp).

<sup>23</sup> Value-added modeling (VAM) is a collection of complex statistical techniques that use student test score data. It is referred to as value-added in that it estimates how much teachers and schools add to the academic growth of entering students, while accounting for other factors that impact student learning, such as prior performance.

<sup>24</sup> DOE bill analysis for SB 736, February 7, 2011.

<sup>25</sup> See Florida's Race to the Top Memorandum of Understanding for Phase 2, (D)(2)(ii), available at: <http://www.fldoe.org/ARRA/pdf/phase2mou.pdf>.

Under Florida's Race to the Top Memorandum of Understanding, school districts are required to use state assessments or district-selected assessments to measure student growth for purposes of improving teacher and principal effectiveness.<sup>26</sup> The assessments must be aligned to state standards. School districts may develop or select the assessments or use valid, rigorous national assessments.<sup>27</sup> The bill requires school districts, beginning with the 2014-2015 school year, to administer local assessments that measure student mastery of the content. The school district can use statewide assessments, other standardized assessments, industry certification examinations, or district-developed or selected end-of-course assessments. The bill phases in the local assessments requirement by tying the requirement to the Commissioner of Education identifying methods to assist districts, such as through item banks, the sharing of developed assessments among districts, or other methods.

If a district has not implemented an assessment for a course or has not adopted a comparable measure of student growth, two alternative growth measures may be used for a classroom teacher who teaches the course: student growth on statewide assessments or based on measurable learning targets in the school improvement plan. Additionally, a district school superintendent may assign growth to an instructional team, in lieu of the overall student learning growth of the school on statewide assessments for reading and math.

Florida's Race to the Top Memorandum of Understanding requires multiple evaluations for each first-year teacher.<sup>28</sup> Accordingly, the bill requires newly hired teachers to be evaluated at least twice in the first year of teaching. Finally, evaluations of instructional personnel and school administrators may include parent and peer input.

### **Compensation for Performance**

Under the current compensation system, most individuals are paid on a "steps and lanes" approach, in which salary schedules list increments of pay that are typically tied to years of experience and academic degrees.<sup>29</sup> The current system rewards or, alternatively punishes, instructional personnel irrespective of performance. In most school district compensation systems, the largest rewards are tied to the final five years before retirement, while salary increases for new teachers would increase at a significantly reduced rate.

Florida's Race to the Top Memorandum of Understanding requires the most significant gains in salary to be tied to effectiveness under an individual's annual evaluation.<sup>30</sup> This bill ties the evaluation to the salary schedule for instructional personnel or school administrators hired on or after July 1, 2014. Student outcomes would have a potentially significant affect on future compensation. The salaries of quality teachers, other instructional personnel, and school administrators would grow more quickly, while those of poor performing employees would not.

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<sup>26</sup> *Id.* at (D)(2)(i).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at (D)(2)(iii).

<sup>29</sup> *Performance Pay*, Florida Senate Issue Brief 2011-214, December 2010 available at <http://www.flsenate.gov/Committees/InterimReports/2011/2011-214ed.pdf>.

<sup>30</sup> See Florida's Race to the Top Memorandum of Understanding for Phase 2, (D)(2)(iv)(b), available at: <http://www.fldoe.org/ARRA/pdf/phase2mou.pdf>.



The new salary schedule would require a base salary schedule with the following salary increases:

- A highly effective teacher or school administrator, as determined by his or her evaluation, would receive a salary increase that must be greater than the highest annual salary adjustment available to that individual through any other salary schedule adopted by the school district.
- An effective teacher or school administrator, as determined by his or her evaluation, would receive a salary increase between 50 and 75 percent of the annual salary increase provided to a highly effective employee.
- A teacher or administrator under any other performance rating would not be eligible for a salary increase.

Current teachers and school administrators could remain on their current salary schedule as long as they remain employed by the school district. They may also opt to participate in the new performance salary schedule, but the option is irrevocable.

Florida's Race to the Top Memorandum of Understanding requires differentiated pay for additional academic responsibilities, school demographics, critical teaching shortage areas and level of job-performance difficulties.<sup>31</sup> The bill comports with Race to the Top by requiring school districts to provide opportunities for instructional personnel and school administrators to earn additional salary supplements for assignment to a high priority location (e.g., a Title I eligible school or an eligible low-performing school), certification and teaching in critical teacher shortage areas, or assignment of additional academic responsibilities. This provision allows districts to attract and compensate classroom teachers in high-need areas, such as STEM (Science, Technology, Engineering, and Mathematics), who will better prepare students to graduate ready to meet the demands of the global economy.

Beginning with instructional personnel hired on or after July 1, 2011, a district school board may not use advanced degrees in setting the salary schedule unless the advanced degree is held in the individual's areas of certification. The bill awards compensation for advanced degrees in these areas notwithstanding the research, which indicates that advanced degrees have little, or in some circumstances, a deleterious effect on student learning.<sup>32</sup>

When budget constraints limit a school board's ability to fully fund all adopted salary schedules, the bill prohibits the board from disproportionately reducing performance pay schedules.

### **Employment**

As discussed above, current practice divorces student performance under the evaluation from employment or contracting decisions. Once granted a professional service contract after as little as three years, the law provides for automatic renewal of the contract unless the superintendent "charges" the employee with unsatisfactory performance.<sup>33</sup> The process for removing an

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<sup>31</sup> *Id.*

<sup>32</sup> See *Teacher Quality and Student Achievement: Making the Most of Recent Research*, Laura Goe and Leslie M. Stickler, National Comprehensive Center for Teacher Quality, March 2008.

<sup>33</sup> See s. 1012.33(3)(e), F.S.



individual under a professional service contract for unsatisfactory performance may take over a year and, in some instances, two years or more.<sup>34</sup> Meanwhile, the individual may still be in the classroom with students regressing because of ineffective instruction.

Florida's Race to the Top Memorandum of Understanding requires employment decisions and contract decisions to be tied to effectiveness as demonstrated through the annual evaluation.<sup>35</sup> The bill revises the employment parameters under which a school district would award contracts for instructional personnel hired in a Florida school district on or after July 1, 2011. In effect, professional service contracts and tenure would not be given to any instructional personnel hired on or after that date. Instead, these individuals would be employed on the basis of an annual contract. This gives school districts greater flexibility in meeting student instructional needs by retaining effective employees and quickly removing poor performing employees.

The probationary contract would not extend beyond one year. An employee would be dismissed at any time for just cause or may resign without creating a breach of the contract.

Upon successful completion of a 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. Instructional personnel may receive an annual contract if he or she:

- Holds a temporary or professional certificate as prescribed by s. 1012.56, F.S., and State Board of Education rules; and
- Is recommended by the superintendent for the contract and approved by the district school board.

However, districts would be prohibited from renewing an annual contract if the individual receives:

- Two consecutive unsatisfactory evaluations;
- Two unsatisfactory evaluations within a 3-year period; or
- Three needs improvement evaluations within any 5-year period.

Instructional personnel with an annual contract may be suspended or dismissed at any time for just cause, which includes poor performance. If charges against an employee are not sustained, he or she would be immediately reinstated with back pay.

Performance evaluation results would also be used in making decisions related to the transfer and placement of employees and workforce reductions. Additionally, each school district must annually report to the parent of a student who is assigned to a classroom teacher or school administrator with an unsatisfactory evaluation, needs improvement, or a combination of unsatisfactory or needs improvement for three consecutive years. Finally, the bill provides that two consecutive "unsatisfactory" evaluations, two "unsatisfactory" evaluations within a 3-year

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<sup>34</sup> See testimony of Okaloosa County School District, Superintendent of Schools, Alexis Tibbetts, Ph.D., Senate Committee on Education Pre-K – 12, Presentation on the Termination of Ineffective Teachers, March 26, 2009.

<sup>35</sup> See Florida's Race to the Top Memorandum of Understanding for Phase 2, (D)(2)(iv)(c)-(d), available at: <http://www.fldoe.org/ARRA/pdf/phase2mou.pdf>.

period, or three “needs improvement” evaluations within any 5-year period is just cause for terminating an individual with a professional service contract.

### **Application to Charter School**

Florida law specifies that all charter schools are considered public schools and are exempt from certain laws and rules.<sup>36</sup> The bill holds charter schools to the same standard as other public schools with respect to performance evaluations for instructional personnel and school administrators, assessments, performance pay and salary schedules, contracts with instructional personnel, and workforce reductions. It is unclear whether the DOE would review and approve a charter school’s evaluation system.

### **Other**

For school districts that receive a grant of \$75 million or more from a private foundation to improve teacher effectiveness, the bill provides an annual renewable exemption to the requirements for performance pay and evaluations, provided specific criteria are met.

In conformance with the bill’s new contracting provisions, the bill repeals certain special laws or general laws of local application regarding contracting provisions for instructional personnel and school administrators in public schools. At this juncture, it appears the local tenure acts of Duval and Volusia, relating to public schools, would be repealed. Hillsborough County’s special act would not be repealed in conformity with the annual exemption it is eligible for, as discussed above.

Rules adopted to implement this act are exempt from legislative review in order to expedite rulemaking and meet Race to the Top timelines.

### **Other Potential Implications:**

Initiatives at the state and national level are increasingly linking evaluations, performance pay, and employment decisions for effective teachers and principals with student achievement. The provisions of the bill could enable meaningful decision-making for performance evaluations and compensation and provide incentives for educators to remain focused on the academic growth of their students.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

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<sup>36</sup> s. 1002.33(16), F.S.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The fiscal impact of this bill is indeterminate.

According to the DOE, there will be additional costs to the districts for monitoring the use of evaluation criteria by supervisors and administrators.

As part of Florida's funding in Race to the Top, the DOE will assist school districts in their development of assessment items that may be used for locally developed assessments.<sup>37</sup> Specifically, the DOE will provide the following:

- Resources for districts to develop assessment items for "hard to measure" content areas, including Physical and Health Education, Fine Arts, and World Languages;
- Assessment items for core academic areas (Math, Social Studies, Science, Language Arts, and Spanish) for grade levels and content areas that are not already tested by FCAT or state end-of-course assessments; and
- Development of a technology platform that will provide districts secure access to high-quality assessment items and tools for the creation and administration of student assessments.

The DOE notes that over the next three years the grant will provide funding for the development of end-of-course exams in most subject areas. The DOE also noted that additional resources or user charges will be necessary to maintain an assessment item bank or platform at the conclusion of the grant period.

According to the DOE, there are over 400 charter schools in Florida. The DOE reports that there will be a significant impact on its staff to review the evaluation systems for these schools.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>37</sup> DOE bill analysis of SB 736, February 7, 2011, on file with the committee.

**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 February 10, 2011:**

The committee substitute:

- Adds newly-hired teachers to the requirement to be evaluated twice in the first year of teaching;
- Allows an evaluation to be amended if assessment data becomes available within 90 days after the close of the school year and requires notice to the employee and an opportunity to respond when an evaluation has been amended;
- Clarifies that just cause under a professional services contract includes two annual unsatisfactory ratings in a 3-year period and three annual “needs improvement” ratings in any 5-year period;
- Exempts rules adopted to implement this act from legislative review in order to expedite rulemaking and meet Race to the Top timelines;
- Limits the number of performance evaluation categories to four;
- Adds association representatives and others to the stakeholders working on developing the performance levels for the evaluations; and
- Requires rules that allow for teachers and other instructional personnel to review the class roster for accuracy.

- B. **Amendments:**

None.