

**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 Budget Subcommittee on Education Pre-K - 12 Appropriations

**BILL:** CS/SB 1522

**INTRODUCER:** Education Pre-K - 12 Committee and Senator Montford

**SUBJECT:** Accountability in Public Schools

**DATE:** February 15, 2012      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carrouth</u>	<u>deMarsh-Mathues</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Armstrong</u>	<u>Hamon</u>	<u>BEA</u>	<b>Pre-meeting</b>
3.	_____	_____	_____	_____
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:**

In an effort to provide more clarity while maintaining effective school accountability, the proposed changes in the bill would align Florida’s Differentiated Accountably (DA) system with the state’s school grading system. The proposed changes to the system would more strategically target struggling schools in need of additional support and increase support to school districts in closing the achievement gaps for all subgroups of students.

The bill establishes the same DA requirements for charter schools and traditional public schools.

The bill would change the requirements for determining high-performing status for a charter school system that assumes operation of a school with a grade of “F” or that establish a charter school within a school zone in which the majority of students are enrolled in a turnaround option under DA provisions.

In order to hold schools more accountable for the postsecondary readiness of their students, the bill would change the postsecondary readiness calculation in the high school grades model to

include those students who are on-time graduates.<sup>1</sup> In order for a high school to earn a school grade of “A,” the bill would require a school to demonstrate an increase in the graduation rate of its at-risk students.

Finally, the bill would eliminate duplicative testing for middle school students who participate in high school courses that require an end-of-course (EOC) assessment, therefore limiting the amount of time a student would be tested during the school year.

This bill substantially amends sections 1001.42, 1002.33, 1002.332, 1002.38, 1008.22, 1008.33, 1008.34, 1008.345, 1012.07, 1012.22, and 1012.2315 of the Florida Statutes.

## II. Present Situation:

### *Differentiated Accountability*<sup>2</sup>

Section 1008.33, F.S., provides the framework for Florida’s DA system and requires the State Board of Education (SBE) to comply with the federal Elementary and Secondary Education Act (ESEA).<sup>3</sup> The ESEA establishes SBE authority to enforce a state system of school improvement and intervention and directs the Department of Education (DOE) to categorize each public school in one of six categories. The six categories are based on statewide assessment components for school grading and the level and rate of change in student performance in reading and mathematics.<sup>4</sup> The categories established in SBE rule are, from highest to lowest:

- Schools Not Required to Participate in Differentiated Accountability Strategies;
- Prevent I;
- Correct I;
- Prevent II;
- Correct II; and
- Intervene.

Under current law, placement in all but the highest category identifies a school for interventions.<sup>5</sup> The lowest category, Intervene, includes schools that have received:

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<sup>1</sup> Currently, Florida calculates high school graduation rates for schools using the National Governors Association (NGA) graduation rate, which tracks individual students in and out of the system from their entrance into ninth grade through completion four years later.

<sup>2</sup> The U.S. Department of Education selected Florida to participate in the "Differentiated Accountability Pilot" initiative in 2008. Through Differentiated Accountability, the state is allowed greater flexibility in providing the needed technical assistance and interventions to the schools with greatest need. Florida's DA plan streamlines the federal and state accountability systems and directs increasing schoolwide interventions and school and district accountability based on Adequate Yearly Progress (AYP) and school grades. This program allows the DOE to operate a new tiered approach to working directly with schools to increase student achievement. The support and assistance provided to each school is individualized, depending on the needs of that school. Through DA, schools fall into a matrix of categories based on the level of the school's achievement. The lowest performing schools receive the most support, and under DA, these schools are required to implement the most robust interventions that will help lead to successful school improvement. In order to provide direct support to schools, Florida has created a regional system of support. See: <http://flbsi.org/DA/>.

<sup>3</sup> 20 U.S.C. s. 6311 et seq.

<sup>4</sup> s. 1008.33(3)(b), F.S.

<sup>5</sup> Rule 6A-1.099811(3)(f), F.A.C.

- A grade of “F” in the most recent school year and in four of the last six years; or
- A grade of “D” or “F” in the most recent school year and meet at least three of the following criteria:
  - The percentage of students who are not proficient in reading has increased when compared to measurements taken five years previously;
  - The percentage of students who are not proficient in mathematics has increased when compared to measurements taken five years previously;
  - At least 65 percent of the school’s students are not proficient in reading; or
  - At least 65 percent of the school’s students are not proficient in mathematics.<sup>6</sup>

The DOE administers interventions for schools in the lowest category (Intervene) and “F” schools in the second lowest category (Correct II). Interventions for all other schools are administered by the school or school district.<sup>7</sup>

For a school identified in the lowest category, the school district must select one of the following school turnaround options:

- Convert the school to a district-managed turnaround school by means that include implementation of a turnaround plan approved by the Commissioner of Education that becomes the school’s improvement plan;
- Reassign students to another school and monitor the progress of the reassigned students;
- Close the school and authorize a sponsor to reopen the school as a charter school or multiple charter schools; or
- Contract with an outside entity to operate the school.

The district must submit a plan to the SBE for implementing the option by the beginning of the second year after such identification, unless the school advances to a higher category or exits the category before such time. Implementation of the selected option requires SBE approval. If a school does not move from the lowest category during the initial year of implementing an option, the school district must submit a plan to the SBE to implement an alternate option. The school district must then implement the option at the beginning of the next school year, unless the SBE determines that the school is likely to move from the lowest category if additional time is provided to implement intervention and support strategies under the previous option.<sup>8</sup>

In order to advance to a higher category, a school must make significant progress by improving its school grade and by increasing student performance in mathematics and reading. Student performance is evaluated and reported for each subgroup.<sup>9</sup>

#### *Charter Schools*

Section 1002.33, F.S., requires provisions for charter school accountability to be included within the contract between the charter school and the sponsor, usually the school district. The sponsor

<sup>6</sup> s. 1008.33(4)(b), F.S.

<sup>7</sup> s. 1008.33(2)(b) and (4), F.S.

<sup>8</sup> s. 1008.33(5)(b), F.S.

<sup>9</sup> Subgroups include economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. See the federal Elementary and Secondary Education Act, 20 U.S.C. s. 6311(b)(2)(C)(v)(II).

has the authority to close a charter school if the school fails to meet the student performance outcomes agreed upon in the charter, fails to meet generally accepted standards of fiscal management, violates the law, or shows other good cause.<sup>10</sup>

Charter schools are evaluated and assigned a school grade using the same standards and criteria currently established for traditional public schools. The DOE is required to annually provide an analysis and comparison of the overall performance of charter school students to traditional public school students, based on the statewide assessment program and information reported by the charter school to the school district.<sup>11</sup>

#### *High Performing Charter School Systems*

A high-performing charter school system is currently defined as a charter school system that:

- Operates at least three high-performing charter schools;
- Is one in which at least fifty percent of the schools within the charter school system have received at least two school grades of “A” and no school grade below “B” during the previous three school years; and
- Has no charter school that has received a grade of “D” or “F.”<sup>12</sup>

When a charter-school system assumes operation of a low performing public school that has received a “D” or “F,” the school’s grade is not considered in determining high-performing charter school system status for a period of three-years. Additionally, when a charter school established by a high-performing charter school system that serves a student population, the majority of which resides in a school zone served by a public school that is identified as lowest performing, the school grade will not be considered in determining high-performing charter school system status. However, this provision is contingent upon the school attaining and maintaining a school grade that is higher than that of the public school serving that school zone. This provision must be met within three years after establishment of the charter school.<sup>13</sup>

#### *Student Assessment*

Students enrolled in a high school course that requires an EOC assessment must take all the statewide comprehensive assessments required for that grade level. Middle school students who participate in a high school mathematics course with an associated EOC are required to take both the required EOC assessment and the corresponding comprehensive statewide assessment.

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

Last fall, the U.S. Department of Education offered states the opportunity to request flexibility from certain requirements of the 1965 Elementary and Secondary Education Act (ESEA),<sup>14</sup> as amended by the No Child Left Behind Act of 2001, and the associated regulatory, administrative, and reporting requirements in exchange for rigorous and comprehensive state-developed plans. The stated purpose of the waiver is to improve educational outcomes for all students, close

<sup>10</sup> [http://www.floridaschoolchoice.org/information/charter\\_schools/faqs.asp](http://www.floridaschoolchoice.org/information/charter_schools/faqs.asp).

<sup>11</sup> *Id.*

<sup>12</sup> s. 1002.332, F.S.

<sup>13</sup> *Id.*

<sup>14</sup> See the federal Elementary and Secondary Education Act, 20 U.S.C. s. 6311(b)(2)(C)(v)(II).

achievement gaps, increase equity, and improve the quality of instruction.<sup>15</sup> In response to this initiative, Florida requested<sup>16</sup> and was granted a waiver of 11 specific federal school accountability provisions.<sup>17</sup> The waiver establishes an enhanced school grades accountability system to focus all accountability resources and attention on one system and attain college- and career-ready standards for all students.<sup>18</sup>

The changes in the bill would align Florida's differentiated accountability system with the state's school grading system and conform to provisions included in the federal waiver. According to the DOE, these changes would eliminate the duplication and confusion caused by having two separate accountability systems, one federal and one state. The changes would more strategically target struggling schools in need of additional support and increase support to school districts in closing the achievement gaps for all subgroups of students. Additionally, a uniform system of accountability could provide more clarity on the options available to the parents of students who attend schools designated as having a school grade of "D" or "F" and that are required to implement a DA turnaround option.<sup>19</sup>

Under the bill, beginning with 2011-12 school year, the DOE would annually identify each public school in need of intervention and support to improve student academic performance. Identification would be based on the school's earning a grade of "D" or "F," pursuant to current school grading provisions.<sup>20</sup> The SBE would be required to apply the most intense intervention and support strategies to schools earning a grade of "F." When a school initially receives a grade of "F," the district would be required to select one of five turnaround options and submit a plan for implementation to DOE for approval by the SBE. Schools that earn three consecutive grades of "D" would also be required to implement a school turnaround option.

The bill would increase the school turnaround options available to schools initially identified as having a grade of "F," to include an option of a hybrid model of the four options currently listed in SBE rule.<sup>21</sup> The DOE estimates that the priority/intervene schools category would include 112 schools, reflecting six percent of all Title I schools in the state's current accountability system.<sup>22</sup>

The bill requires the SBE to establish by rule a differentiated matrix of intervention and support strategies to assist identified schools, including identified charter schools.<sup>23</sup>

The school turnaround options established in the bill are:

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<sup>15</sup> U.S. Department of Education, *ESEA Flexibility Review Guidance*, February 10, 2012. See <http://www.ed.gov/category/keyword/esea-flexibility>.

<sup>16</sup> *Florida's Approved Flexibility Request*, January 31, 2012, See <http://www2.ed.gov/policy/eseaflex/approved-requests/fl.pdf>.

<sup>17</sup> Correspondence to Florida Commissioner of Education Gerard Robinson from Secretary Arne Duncan, U.S. DOE, February 9, 2012. See <http://www.fldoe.org/esea/pdf/WaiverApprovalLetter.pdf>.

<sup>18</sup> *Id.* Florida was granted a waiver on February 9, 2012.

<sup>19</sup> s. 1002.38(3)(a)2., F.S.

<sup>20</sup> s. 1008.34, F.S.

<sup>21</sup> Rule 6A-1.099811, F.A.C.

<sup>22</sup> *Florida's Approved Flexibility Request*, January 31, 2012, See <http://www2.ed.gov/policy/eseaflex/approved-requests/fl.pdf>.

<sup>23</sup> The rule must also define the intervention and support strategies for school improvement and the respective roles of the district and DOE.

1. Convert a school to a district-managed turnaround school;
2. Reassign students to another school;
3. Close and reopen the school as one or more charter schools with a governing board that has a demonstrated record of effectiveness;
4. Contract with an outside entity that has a demonstrated record of effectiveness; or
5. Implement a hybrid of existing turnaround options or other turnaround models that have demonstrated a record of effectiveness.

A school would be given two full school years after receiving a grade of “F” to fully implement the turnaround option. In the event a school improves by at least one letter grade, implementation of the turnaround option would no longer be required. However, a school that improves must continue to implement strategies identified in its school improvement plan and the DOE must annually review implementation of the school improvement plan to ensure continued improvement.

In the event a school that earns a grade of “F” does not improve by at least one letter grade after two full years of implementing the turnaround option, the school district would be required to select a different turnaround option and submit another implementation plan to DOE for approval by the SBE. Implementation of the new plan would begin in the following school year unless the SBE determines that the school is likely to improve a letter grade if additional time is provided to implement the existing option.

A school that receives a grade of “F” within two years of raising its grade from an “F” or that receives an “F” within two years of exiting the lowest performing category established under current DA law, must implement one of the turnaround options other than the district managed turnaround option.

A school classified in lowest performing categories under current state DA law prior to July 1, 2012, would not be required to continue implementing any turnaround options, unless the school receives a grade of “F” for the 2011-12 school year. A school receiving a grade of “F” for the 2011-12 school year must continue to meet the current requirements in law.

Under the bill, the SBE would develop rules, in consultation with education stakeholders, to include timelines for submission of implementation plans, approval criteria for plans, and timelines for implementing intervention and support strategies.

The bill would authorize the Commissioner of Education to prescribe the design and content of the annual report required under s. 1008.34, F.S. to include the percentage of students performing at or above grade level and of those making a year’s progress in a year’s time for reading.<sup>24</sup>

The bill requires that in order for a high school to earn a grade of “A,” the school must demonstrate that the school’s at-risk students are making adequate progress. The bill defines at-

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<sup>24</sup> Section 1008.34, F.S. requires the Commissioner of Education to prepare an annual report of the results of the statewide assessment program which describes student achievement in the state, each district, and each school.

risk students as those students scoring at Level 1 or Level 2 on grade 8 FCAT mathematics and reading.

The bill provides flexibility to the school district as to how the school report card is to be communicated to parents. This provision would allow for multiple methods of delivery, including electronic and online versions.

The bill also includes provisions that are required in the federal waiver related to school improvement plans. These provisions require the SBE to adopt in rule thresholds for determining compliance with the requirement to decrease significant student achievement and graduation gaps. Schools that do not significantly decrease the percentage of students scoring below satisfactory on statewide assessments or those schools that do not significantly lower graduation rates for a subgroup when compared to the state's graduation rate, must include within the school's improvement plan strategies for improving these conditions.

#### *Charter Schools*

A charter school that earns a grade of "D" or "F" would be required to present to the charter sponsor information regarding achievement deficiencies. Under the bill, the sponsor would require the charter school governing board to submit a school improvement plan and upon approval by the sponsor, immediately implement the plan. The bill requires DOE to offer technical assistance. In the event a charter school earns a grade of "F" or three consecutive grades of "D" and does not improve by at least one letter grade, the charter school must:

- Contract for educational services for the charter school;
- Reorganize the school under new director or principal; or
- Voluntarily close.

In the event the charter school improves by at least one letter grade, the charter school would no longer be required to implement the plan. However, the charter school must continue to implement corrective strategies and the sponsor must annually review the school improvement plan for compliance. If the charter school does not improve by at least one letter grade after two full years, the school must select a different corrective action and implement that action the following year, unless the sponsor determines that the charter school is likely to improve.

#### *High Performing Charter School Systems*

The bill would change the requirements for determining high-performing status for a charter school system. Under the bill, a charter school system would not be considered high performing if one of the schools in the system has a school grade of "D" or "F," unless:

- A high-performing charter school system, as a result of an implemented turnaround model, has assumed operation of a public school, which has been identified as having a school grade of "F." The public school's grade would not be considered in the determination of a high-performing charter school system status for a period of three years.
- The charter school system establishes a new charter school that serves a student population the majority of which resides in a school zone served by a public school that is identified as having a school grade of "F" or that is required to implement a school turnaround plan.

*Assessment and School Grades*

The bill would eliminate duplicative testing for middle school students who participate in high school courses that require an EOC assessment. For example, a middle school student who takes the Algebra I EOC would no longer be required to also take the grade 8 FCAT Mathematics, therefore limiting the amount of time a student would be tested during the school year.

In order to hold schools more accountable for the postsecondary readiness of their students, the bill would change the postsecondary readiness calculation in the high school grades model to include those students who graduate on time.<sup>25</sup> Under the bill, the Postsecondary Education Readiness Test (PERT)<sup>26</sup> is included as an acceptable method of determining readiness.

Additionally, the bill would allow for Achievement Level standards for the EOC assessments to be established in rule, prior to the assessments being used in the calculation of school grades.

The bill includes technical provisions related to the Opportunity Scholarship Program, critical teacher shortage areas, and assignment of teachers to conform to the DA changes made under the bill.

**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.

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<sup>25</sup> Florida calculates on-time high school graduates as students who matriculate in and out of the system from their entrance into ninth grade through completion four years later. See “Compact Rate” established by the National Governors Association, available at: <http://www.nga.org/cms/home.html>.

<sup>26</sup> See [www.fldoe.org/cc/pert.asp](http://www.fldoe.org/cc/pert.asp).



**C. Government Sector Impact:**

Elimination of the duplicative portions of the accountability systems proposed by the bill in conjunction with the waiver from certain requirements of the Elementary and Secondary Act could potentially reduce administrative costs for the department and school districts.

The bill will make it more difficult for certain high schools to earn an “A” because of the requirement that they must demonstrate an increase in the graduation rate of their at-risk students. This could then reduce the number of schools eligible for School Recognition Program funding.

**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 the Committee on Education Pre-K – 12 on February 14, 2012:**

The committee substitute:

- Includes provisions from the recently granted ESEA federal waiver for the SBE to determine thresholds for improved compliance with requirements to improve achievement gaps and graduation rates for student subgroups;
- Requires schools that earn an “F” or three consecutive “D”s to implement a school turnaround option;
- Clarifies that “F” schools will have two full school years to implement the turnaround option;
- Establishes the same DA requirements for charter schools and traditional public schools; and
- Provides that schools currently identified as lowest performing must continue to meet the current requirements in law if the school receives a grade of “F” in the 2011-12 school year.

**B. Amendments:**

None.