

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7127 PCB EDC 12-01 School Improvement and Education Accountability

SPONSOR(S): Education Committee, Fresen

TIED BILLS: IDEN./SIM. BILLS: CS/SB 1522

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	14 Y, 2 N	Beagle	Klebacha
1) Rules & Calendar Committee	12 Y, 5 N	Rubottom	Birtman

SUMMARY ANALYSIS

On February 9, 2012, the U.S. Department of Education approved Florida's Elementary and Secondary Education Act (ESEA) Flexibility Waiver request. Rather than the combined use of state and federal measures required by ESEA, the waiver authorizes Florida to use its school grading system to identify low-performing schools for intervention. The bill substantially revises Florida's differentiated accountability system to align state law with the waiver.

The bill eliminates existing criteria for identifying public schools for intervention and classification of schools into six categories, five of which require intervention. Instead, the Florida Department of Education (FDOE) must identify public schools for interventions based upon a school earning a grade of "D" or "F." The most intense strategies must be provided to schools earning recurring letter grades of "D" or "F." Traditional public schools that earn a grade of "F" or three consecutive "D's" must implement school turnaround options. Charter schools that earn a grade of "D" or "F" must implement a school improvement plan. Those that earn recurring grades of "D" or that fluctuate between "D" and "F" over a period of years must implement corrective actions. A charter school's sponsor must terminate a charter school that earns two consecutive grades of "F," with certain exceptions. The bill provides eligibility for Opportunity Scholarships to students attending schools earning a grade of "F" or three consecutive "D's."

Currently, traditional public schools and charter schools that fail to meet state and federal accountability requirements are required to implement differentiated accountability interventions. Under differentiated accountability, a school is placed in one of six categories based upon the school's grade and declines in student performance. A school's categorization determines the type and intensity of the intervention and whether the intervention is directed by the school, school district, or FDOE. The lowest performing schools receive the most intensive interventions and may be restructured if initial interventions fail to improve student performance at the school. Certain low-performing charter schools must implement school improvement plans and corrective actions. A charter school sponsor is authorized, but not required, to terminate the charter if poor performance persists. Students attending a public school graded "D" or "F" that is categorized in one of the two lowest performing categories are eligible for Opportunity Scholarships.

The bill also increases the percentage of a high school's grade that may be based upon the statewide assessment components. The calculation of school district grades is revised to capture students who transfer among district schools and students attending ungraded schools. Middle school students enrolled in courses that require passage of a statewide, standardized end-of-course (EOC) assessment will no longer be required to take the corresponding grade level FCAT.

Currently, 50 percent of a high school's grade is based upon statewide assessments and 50 percent is based upon other factors. School district grades are determined based upon the weighted average grade of schools in the district. Thus, students who transfer schools or attend ungraded schools are not reflected in the grade. Middle school students enrolled in courses requiring passage of an EOC assessment must also take the corresponding grade level FCAT.

The bill does not have a fiscal impact on state or local governments.

The bill takes effect July 1, 2012.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7127b.RCC

DATE: 2/29/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Improvement and Accountability

Overview

The Elementary and Secondary Education Act (ESEA) of 1965, as reauthorized and substantially revised by the No Child Left Behind Act of 2001 (NCLB), provides federal grants to states and school districts to improve educational opportunities for economically disadvantaged students.¹ Among other things, ESEA requires each state to develop and implement a single, statewide education accountability system.²

Each state must demonstrate that its schools and school districts are making adequate yearly progress (AYP) based upon state-adopted annual measurable objectives for student achievement on statewide assessments in mathematics and reading/language arts.³ The objectives must identify a minimum percentage of students who are required to meet or exceed the “proficient” level on such assessments.⁴ In addition, ESEA requires the state to narrow achievement gaps of the following subgroups within the state, school districts, and schools:

- Economically disadvantaged students;⁵
- Students from major racial and ethnic groups;⁶
- Students with disabilities; and
- Students with limited English proficiency.⁷

In order for the state, a school district, or a school to make AYP, it must meet the required percentage of “proficient” students listed in its annual measurable objectives in both mathematics and reading/language arts. AYP also requires that the minimum percentage of students must be met for each subgroup.⁸ ESEA sets the 2001-02 school year as the starting point by which states must meet the objectives, with annual increases in the objectives through the 2013-14 school year, at which time all students must achieve proficiency.⁹

States must identify Title I schools¹⁰ that fail to make AYP for two consecutive years as “schools in need of improvement” (SINI).¹¹ ESEA prescribes a series of school improvement interventions, which gradually increase in intensity with each consecutive year a school is identified as a SINI. These

¹ Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002)(NCLB); Pub. L. No. 89-10, 79 Stat. 27 (April 11, 1965)(ESEA).

² 20 U.S.C. s. 6311(b)(2)(A).

³ 20 U.S.C. s. 6311(b)(2)(G).

⁴ 20 U.S.C. s. 6311(b)(2)(G)(iii).

⁵ For the purposes of calculating AYP, a student is considered “economically disadvantaged” if he or she is eligible for free or reduced price lunch or is attending a USDA Provision 2 school, i.e., a school that provides meals to all students at no charge. Florida Department of Education, *2010 Guide to Calculating Adequate Yearly Progress (AYP), Technical Assistance Paper 2009-10*, at 5 (July 2010), available at <http://schoolgrades.fldoe.org/pdf/0708/2008AYPTAP.pdf> [hereinafter *AYP Guide*]; U.S. Department of Agriculture, *Provisions 1, 2, & 3 Fact Sheet*, http://www.fns.usda.gov/cnd/Governance/prov-1-2-3/Prov1_2_3_FactSheet.htm (last visited Aug. 10, 2010).

⁶ Florida’s NCLB state plan defines the state’s major racial and ethnic groups for purposes of NCLB accountability as White, Black, Hispanic, Asian, and American Indian. *NCLB State Plan*, *supra* note 24, at 30-32, 99-100, and 104.

⁷ 20 U.S.C. s. 6311(b)(2)(C)(v)(II).

⁸ 20 U.S.C. s. 6311(b)(2)(I); *AYP Guide*, *supra* note 43, at 2-3. NCLB, however, includes a “safe harbor” provision that allows a state to make AYP if the number of students in a subgroup that fail to achieve the minimum percentage is reduced by 10 percent from the previous year and at least 95 percent of students in the subgroup take the academic assessments. *Id.*

⁹ 20 U.S.C. s. 6311(b)(2)(E), (F) and (G)(iv).

¹⁰ Generally speaking, Title I schools are high-poverty schools. *See* 20 U.S.C. s. 6301(2)-(3).

¹¹ 20 U.S.C. s. 6316(b)(1)(A).

interventions must be applied to all SINIs, regardless of whether a SINI barely misses making AYP or is in need of dramatic intervention.¹²

Florida is one of nine states participating in a U.S. Department of Education (U.S. DOE) pilot project that enables states to implement a more nuanced system of school improvement interventions than that prescribed by ESEA.¹³ This system is known as differentiated accountability because the lowest performing schools receive more comprehensive interventions, while schools that are closer to meeting student achievement goals receive less intensive interventions.¹⁴

The results of the differentiated accountability pilot project were to be used by U.S. DOE as a model for congressional reauthorization of ESEA, which was due to occur in 2007.¹⁵ Because congressional reauthorization of ESEA is over four years past due, U.S. DOE is allowing states to apply for a flexibility waiver that relieves the state from compliance with certain ESEA requirements. Among other things, a state must agree to implement a differentiated accountability system to obtain a waiver.¹⁶ Such waivers will allow states to discontinue use of AYP in identifying schools for intervention and instead use state-determined factors. Waivers will also relieve states from meeting the ESEA's goal of 100 percent student proficiency in mathematics and reading/language arts by the 2013-14 school year.¹⁷

On February 9, 2012, the Florida Department of Education's (FDOE) ESEA waiver request was approved by U.S. DOE. Among other things, Florida's waiver request proposes use of school grades as the sole factor in identifying schools for intervention. Changes to statutes governing Florida's differentiated accountability system are necessary to align state law with the reforms proposed in the waiver request.¹⁸

Statewide Assessments

Present Situation

Florida's statewide assessment program consists of the Florida Comprehensive Assessment Test (FCAT) and statewide, standardized end-of-course (EOC) assessments.¹⁹ The FCAT consists of comprehensive grade-level assessments in reading, writing, mathematics, and science. Reading is tested annually in grades 3 through 10. Mathematics is tested annually in grades 3 through 8. Science is tested at least once at the elementary and middle school levels. Writing is tested at least once at the elementary, middle, and high school levels.²⁰

¹² See 20 U.S.C. s. 6316(b)(1)(E)-(8). These interventions include school improvement plans, public school transfers, technical assistance, supplemental educational services, corrective actions, and restructuring. *Id.*

¹³ U.S. Department of Education, Press Release, *U.S. Education Secretary Margaret Spellings Announces Approval of Three Additional States to Use Differentiated Accountability Under NCLB* (Jan. 8, 2009), available at <http://www2.ed.gov/news/pressreleases/2009/01/01082009b.html>.

¹⁴ Section 1008.33(2)(b) and (4), F.S.

¹⁵ 20 U.S.C. s. 6302 (authorizing appropriations through FY 2007); see U.S. Department of Education, *Differentiated Accountability: Targeting Resources to Schools with the Greatest Need* (May 2008), available at <http://www.ed.gov/nclb/accountability/differentiated/factsheet02.pdf> [hereinafter *U.S. DOE Differentiated Accountability Fact Sheet*]. To participate in the pilot project, a state must agree to provide data to U.S. DOE for comparing school improvement results under differentiated accountability with those achieved under the system mandated by NCLB. *U.S. DOE Differentiated Accountability Fact Sheet*.

¹⁶ U.S. Department of Education, *ESEA Flexibility*, at 1 (Sept. 23, 2011), available at <http://www.ed.gov/esea/flexibility/documents/esea-flexibility.doc>.

¹⁷ Florida Department of Education, *Florida ESEA Flexibility Request*, at 4 (Nov. 14, 2011), available at <http://www.fldoe.org/esea/pdf/ffr.pdf> [hereinafter *ESEA Waiver Request*].

¹⁸ *Id.*

¹⁹ Section 1008.22(3)(c)1. and 2., F.S.

²⁰ Section 1008.22(3)(c)1., F.S. Beginning with students entering 9th grade in the 2010-11 school year, the administration of grade 9 FCAT Mathematics was discontinued. Beginning with the 2011-12 school year, the administration of grade 10 FCAT Mathematics is discontinued, except for prior-year test-takers who must retake the exam to fulfill graduation requirements. Beginning with the 2011-12 school year, the administration of FCAT Science at the high school level is discontinued. *Id.*

Statewide, standardized EOC assessments are course-specific assessments.²¹ Currently, statewide, standardized EOC assessments are required in high school Algebra I, Geometry, and Biology I courses.²² The Algebra I EOC assessment was first administered in the 2010-11 school year, and administration of the Geometry and Biology I EOC assessments begins this school year.²³ Middle school students enrolled in high school Algebra I, Geometry, or Biology I courses are required to take both the EOC assessment and the corresponding grade-level FCAT mathematics or science examination.²⁴

Effect of Proposed Changes

The bill eliminates the requirement that middle school students enrolled in a high school Algebra I, Geometry, or Biology I course with a statewide, standardized EOC assessment also take the corresponding grade-level FCAT mathematics or science examination. This change eliminates duplicative testing of middle school students enrolled in these courses.

The Florida School Grading System

Present Situation

Florida law establishes the Florida School Grading System to measure the performance of Florida's public schools. Subject to certain exceptions, each public school is assigned an "A" through "F" letter grade.²⁵ Each school's grade is based upon a combination of:

- Student achievement scores on statewide assessments and achievement scores for students with disabilities seeking a special diploma.
- Student learning gains on statewide reading and mathematics assessments and learning gains for students seeking a special diploma.
- Improvement of the lowest 25th percentile of students in the school on statewide reading and mathematics assessments, unless these students are exhibiting satisfactory performance.²⁶

The statewide assessments used to determine a school's grade are FCAT reading, writing, mathematics, and science; the Algebra I EOC (beginning 2010-11); the Geometry and Biology I EOCs (beginning 2011-12); and the middle school Civics EOC (beginning 2013-14).²⁷

The factors used to determine a high school's grade differ from those used for elementary and middle schools. Fifty percent of a high school's grade is based upon student achievement and annual learning gains on statewide assessments.²⁸ The other half is based upon the following:

- High school's graduation rate;
- High school's graduation rate of at-risk students scoring at achievement level 1 or 2 in reading and mathematics on the grade 8 FCAT;

²¹ Section 1008.22(3)(c)2.a., F.S.

²² Section 8, ch. 2010-22, L.O.F., *codified at* s. 1008.22(3)(c)2.a.(I) and (II), F.S.; s. 3, ch. 2010-48, L.O.F., *codified at* s. 1008.22(3)(c)2.b., F.S. An EOC assessment in Civics Education is required at the middle school level. Administration of the Civics EOC assessment will begin in the 2012-13 school year. Section 1008.22(3)(c)2.b., F.S.

²³ Section 1008.22(3)(c)2.a. and b., F.S.

²⁴ Section 1008.22(3)(c)2.(I), F.S.; rule 6A-1.09422(3)(c)-(f), F.A.C.

²⁵ Section 1008.34(2), F.S. School letter grades are defined as follows: "A," schools making excellent progress; "B," schools making above average progress; "C," schools making satisfactory progress; "D," schools making less than satisfactory progress; and "F," schools failing to make adequate progress. *Id.* An alternative school may choose to receive a school improvement rating instead of a school grade. Section 1008.34(3)(a)2., F.S. A school serving any combination of students in kindergarten through grade three which does not receive a school grade because its students are not tested may be assigned the grade of a school in its feeder pattern, if certain requirements are met. Section 1008.34(3)(a)3., F.S.

²⁶ Section 1008.34(3)(b)1., F.S.

²⁷ Section 1008.34(3)(b)1. and (c)1., F.S. In the first school year of administration, the EOC assessment counts as 30 percent of a student's course grade. Thereafter, passage of the EOC assessment is required to earn credit in the course. *Id.*

²⁸ Section 1008.34(3)(b)3., F.S.

- Performance and participation of the school's students in Advanced Placement (AP), International Baccalaureate (IB), dual enrollment, and Advanced International Certificate of Education (AICE) courses (as valid data becomes available);²⁹
- Achievement by the school's students of industry certifications;³⁰
- Postsecondary readiness of the school's students, as measured by the SAT, ACT, or the Common Placement Test;³¹
- Performance of the school's students on statewide standardized EOC assessments approved by the commissioner, that are administered, for example, in AP, IB, and AICE courses³² and on EOCs in English/Language Arts II, Algebra II, Chemistry, Physics, Earth/Space Science/ U.S. History, and World History if and when those EOCs are developed and administered; and
- Growth or decline in these components.³³

The Commissioner of Education must annually report statewide assessment results for the state, school districts, and schools. The annual report must describe the performance of each public school and its major student populations, and the median scores of all eligible students who scored at or in the lowest 25th percentile of the state in the previous school year.³⁴

School district grades are calculated using the weighted average, by grade level, for each elementary, middle, and high school. A district's weighted average grade is calculated by weighting individual school grades by school enrollment. This calculation does not capture students who transfer among district schools or attend an ungraded school.³⁵

Effect of Proposed Changes

The bill makes several changes to the factors considered in determining a high school's grade. The bill provides statutory authority to the State Board of Education to increase the percentage of a high school's grade based upon statewide assessments above 50 percent. Should the state board decide to increase the percentage above 50 percent, the remaining grading factors, e.g., graduation rates; performance in AP, IB, dual enrollment, and AICE; and postsecondary readiness, would comprise the remaining percentage. This change allows the state board to assign greater weight to the statewide assessments over other grading factors, thereby increasing the rigor of the high school grading formula.

Additionally, the bill specifies that the postsecondary readiness of a high school's students be based upon "on time" graduates, rather than all graduates. The Postsecondary Education Readiness Test is added as a measurement tool for determining postsecondary readiness. Currently, postsecondary readiness may be measured by the SAT, ACT, or the Common Placement Test.

The bill delays use of student achievement data from the Algebra I, Geometry, Biology I, and middle school Civics EOC assessments to calculate school grades by one year. This change aligns use of these assessments for calculating school grades with the year in which passage of the EOC assessment is required to earn credit in the course. The bill revises the calculation of school district grades to include each student's performance and learning gains on statewide assessments, rather than averaging the grades of individual district schools. Thus, a district's grade will reflect each student

²⁹ See ss. 1007.27 and 1007.271, F.S. (articulated acceleration mechanisms, dual enrollment); College Board, *Advanced Placement Program*, <http://www.collegeboard.com/student/testing/ap/about.html> (last visited Feb. 3, 2012); International Baccalaureate, <http://www.ibo.org> (last visited Feb. 3, 2012); University of Cambridge, International Examinations, *Cambridge Advanced International Certificate of Education Diploma*, <http://www.cie.org.uk/qualifications/academic/uppersec/aice> (last visited Feb. 3, 2012).

³⁰ See s. 1003.493, F.S.

³¹ See s. 1008.30, F.S. (common placement test assesses the basic computation and communication skills of students who intend to enter a degree program at any public postsecondary educational institution); *College Board, SAT*, <http://www.collegeboard.org/> (last visited Feb. 3, 2012); ACT, Inc., *The ACT Test*, <http://www.act.org/aap> (last visited Feb. 3, 2012).

³² To date, no such assessments have been approved.

³³ Section 1008.34(3)(b)2. and (c)4., F.S.

³⁴ Section 1008.34(1), F.S.

³⁵ Section 1008.34(7), F.S. A school does not receive a grade unless it has at least 30 students with valid FCAT scores in both reading and mathematics for the current and previous years. Section 1008.34(3)(a)1., F.S.; rule 6A-1.09981(4), F.A.C.

in the district. Unlike the existing calculation, the new calculation captures students who transfer among district schools or attend an ungraded school.

Lastly, the bill revises the contents of the commissioner's annual report to include the percent of students performing at or above grade level and making a year's worth of progress in reading and mathematics. This change replaces inclusion of "the median scores of all eligible students who scored at or in the lowest 25th percentile of the state in the previous school year" in the report.

Differentiated Accountability

Present Situation

State law provides the framework for Florida's differentiated accountability system. The law requires the state board to comply with ESEA and empowers it to enforce the state system of school improvement and intervention.³⁶ The law directs FDOE to categorize each public school into one of six categories based upon progress towards AYP, the statewide assessment components for school grading, and the level and rate of change in student performance in reading and mathematics.³⁷ The categories are established in rule and, from highest to lowest, are:

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

Placement in all but the highest category identifies a school for interventions.³⁸ 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 must be evaluated for each subgroup. Subgroups include economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency.³⁹

Florida law specifies seven general types of school interventions. These interventions include school improvement planning, leadership and educator quality improvement, professional development, curriculum alignment and pacing, continuous improvement, and monitoring plans and processes.⁴⁰ A school's categorization determines which interventions a school must implement. The specific actions that a school must take to implement a particular intervention vary depending on the school's categorization.⁴¹ FDOE administers interventions for schools in the lowest two categories, i.e., Correct II and Intervene. Interventions for all other schools are administered by the school or school district.⁴²

The most intensive interventions are applied to the lowest performing schools, i.e., Intervene schools.⁴³ The Intervene category includes schools that have received either of the following:

- A grade of "F" in the most recent school year and in four of the last six years.
- A grade of "D" or "F" in the most recent school year and meet at least three of the following criteria:

³⁶ Section 1008.33(1) and (2)(a), F.S.

³⁷ Section 1008.33(3)(b), F.S.; rule 6A-1.099811(2)-(3), F.A.C.

³⁸ Rule 6A-1.099811(3), F.A.C.

³⁹ Section 1008.33(6), F.S.; see 20 U.S.C. s. 6311(b)(2)(C)(v)(II).

⁴⁰ Section 1008.33(3)(c) and (5), F.S.; rule 6A-1.099811(5)-(6), F.A.C.

⁴¹ See generally Florida Department of Education, *Differentiated Accountability Strategies and Support*, Form DA-3 (June 2011), available at http://www.flbsi.org/pdf/Final_2011-2012_Strategies_and_Support_Document_for_Regular_Schools.pdf.

⁴² Section 1008.33(4)(a), F.S.

⁴³ Section 1008.33(4)(a), F.S.; rule 6A-1.099811(5)(e), F.A.C.

- 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 mathematics⁴⁴

In the school year following classification of a school in the Intervene category, the school district must submit a plan to the state board for implementing a school turnaround option at the beginning of the next school year. The school district may select one of the following turnaround options:

- Convert the school to a district-managed turnaround school;
- Reassign students to another school and monitor the progress of each reassigned student;
- Close the school and reopen it as one or more charter schools, each with a governing board with a demonstrated record of effectiveness; or
- Contract with an outside entity that has a demonstrated record of effectiveness to operate the school.

The turnaround option must be implemented if the school does not exit the Intervene category in that school year.⁴⁵ If the school does not exit the Intervene category during the first year of implementing a turnaround option, the school district must submit another plan for implementing a different option at the beginning of the next school year. The plan is subject to state board approval. In considering the plan, the state board has discretion to allow the school district to continue implementing the existing turnaround option, if it finds that the school is likely to improve with additional time.⁴⁶

Implementation Timeline for School Turnaround Options⁴⁷
Current Law

Year 1	School is classified as Intervene.
Year 2	Planning year. School district selects a turnaround option and plans for implementation of the option in Year 3.
Year 3	School implements first turnaround option (if it does not exit intervene in Year 2).
Year 4	School implements second turnaround option (if it does not exit intervene in Year 3).
Year 5	School implements third turnaround option (if it does not exit intervene in Year 4).
Year 6	School implements fourth turnaround option (if it does not exit intervene in Year 5). If the school does not exit intervene in Year 6, the district must close the school, reassign students, and monitor their progress.

Effect of Proposed Changes

The bill makes several changes to Florida’s differentiated accountability system to align state law with reforms proposed in the ESEA waiver. The bill directs the state board to comply with and enforce the ESEA waiver. Classification of schools into six intervention categories, criteria for identifying the lowest performing schools, and identification of schools in need of intervention based upon progress towards AYP, statewide assessments, and the level and rate of change in student performance in reading and mathematics are eliminated. Instead, FDOE must identify schools for intervention based upon a school’s earning a letter grade of “D” or “F.”

The bill requires the state board to adopt by rule a differentiated matrix of intervention and support strategies for traditional public schools, which includes the strategies currently in law. The rule must define the strategies for schools earning a letter grade of “D” or “F” and the roles of school districts and FDOE. The most intense strategies must be provided to schools earning recurring letter grades of “D”

⁴⁴ Section 1008.33(4)(b), F.S.

⁴⁵ Section 1008.33(5)(a), F.S.; rule 6A-1.099811(8)(b), F.A.C.

⁴⁶ Section 1008.33(5)(b), F.S.

⁴⁷ Section 1008.33(5), F.S.; rule 6A-1.099811(8), F.A.C. The state board has authority to extend the implementation period for a turnaround option beyond one year. This chart presumes that no such extension is granted. *See s. 1008.33(5)(b), F.S.*

or “F.” The state board must also adopt rules for implementing differentiated accountability for charter schools.⁴⁸

School turnaround options are required when a traditional public school earns any of the following:

- A grade of “F”;
- Three consecutive grades of “D”; and
- A grade of “F” within two years of improving from a grade of “F” or exiting the Intervene category (under current law).

The bill leaves intact the four turnaround options currently in law and adds a fifth option, which enables districts to develop a hybrid version of the four existing options or use another school turnaround model demonstrated to be effective in improving school performance. School districts may select any of these options for schools earning a grade of “F.”

For traditional public schools graded “F,” the first full school year following receipt of the grade is a planning year. The school district must implement school improvement interventions, select a school turnaround option, and submit a plan for implementing the option to FDOE for state board approval. If the school does not improve by at least one letter grade during the planning year, the turnaround option must be implemented the following school year. The bill increases the implementation period for turnaround options from one school year to two full school years. Unless the state board grants an extension, a school that does not improve by at least one letter grade during the implementation period must select and implement a different turnaround option the following school year. Increasing the implementation period for turnaround options will give school districts time to fully implement options before a different option is required. This will increase the likelihood that turnaround options result in improved performance. Two full school years for implementation takes into consideration that school grades for elementary and middle schools are released in the summer, whereas high school grades are released in late fall or early winter.

**School Turnaround Option Implementation Timeline for “F” Schools
PCB EDC 12-01**

School Year	Required Action
Year 1	School earns a grade of “F”
Year 2	Planning Year. School district selects turnaround option and plans for implementation in Year 3.
Years 3 and 4	School implements first turnaround option (if it earns an “F” in Year 2).
Years 5 and 6	School implements a different option (if it earns an “F” in Years 3 and 4).

Schools earning three consecutive grades of “D” must implement the district-managed turnaround option. A school that earns a grade of “F” within two years of improving from an “F” must implement the turnaround option that was planned for before the school improved its grade. These schools do not get a planning year before implementing a turnaround option. Requiring turnaround options for these schools ensures that they are not able to persist at a low level of performance over time.

A traditional public school is no longer required to implement a turnaround option if it improves by at least one letter grade; however, it must continue implementing strategies prescribed in the school improvement plan. Continued implementation of the plan must be monitored by the school district for three years. A school currently classified as Intervene is not required to implement a turnaround option in the 2012-13 school year unless it earns a grade of “F” for this school year.

Because schools will no longer be identified for interventions based upon categories, the bill makes conforming changes to several statutes referencing intervention categories. Such changes are made to statutes related to:

⁴⁸ Differentiated accountability interventions for charter schools are discussed under the heading “Charter Schools.”

- *Opportunity Scholarships*: Currently, students attending a public school graded "D" or "F" and is a Correct II or Intervene school are eligible for scholarships. The bill provides eligibility to students attending schools earning a grade of "F" or three consecutive "D's."
- *High-performing charter school systems*: Currently, a charter school established by a system in a school zone served by an Intervene school is not initially counted in determining the system's eligibility for "high-performing" status. The bill provides this exception if the traditional public school earns a grade of "F" or three consecutive "D's."
- *Salary supplements for instructional personnel*: Currently, a supplement may be awarded for assignment to a Correct II or Intervene school. The bill allows a supplement for assignment to a school earning a grade of "F" or three consecutive "D's."

Currently, each public school, even schools graded "A," "B," or "C," must annually approve and implement a school improvement plan.⁴⁹ The plan must describe research-based strategies, supports, and interventions for improving the performance of student subgroups that do not make AYP. Under Florida's ESEA Flexibility waiver, AYP will no longer be used to identify the subgroups in need of improvement. Instead, these subgroups will be identified based upon the improvement of the lowest 25th percentile of students in the school on statewide reading and mathematics assessments, as measured by Florida's school grading system.⁵⁰ According to Florida's ESEA waiver request, use of the "lowest 25th percentile in reading and mathematics" is an appropriate replacement for use of AYP status because it contains an over-representation of the subgroups historically in need of improvement.⁵¹

The bill adds a requirement that a school with achievement gaps on statewide assessments by student subgroups or significantly lower graduation rates for a subgroup when compared to the state's graduation rate or schools that fail to significantly decrease the percentage of students scoring below satisfactory on statewide assessments include strategies for improving these results in its school improvement plan. This change will require schools to implement research-based strategies, supports, and interventions for addressing achievement gaps or stagnant improvement rates for low-performing students.

Although the ESEA waiver removed the requirement that a portion of Title I funds be used for Supplemental Education Services (SES),⁵² the waiver does not prohibit school districts from using such funds for SES services.⁵³ More importantly, both the waiver and the bill authorize the state board to require schools with subgroup achievement gaps to develop and implement interventions to reduce or eliminate the gap. These interventions must be included within each school's improvement plan.⁵⁴

Florida law empowers the state board to "hold all school districts and public schools accountable for student performance. The state board is responsible for a state system of school improvement and education accountability that assesses student performance by school, identifies schools in which students are not making adequate progress toward state standards, and institutes appropriate measures for enforcing improvement,"⁵⁵ which would include appropriate alignment of funding resources to meet learning objectives identified in the school improvement plan, as required under the waiver.⁵⁶

⁴⁹ Section 1001.42(18)(a), F.S.

⁵⁰ *ESEA Waiver Request*, *supra* note 17, at 49, 95-96, and 119-120; *see s.* 1008.34(3)(b)1., F.S.

⁵¹ *Id.* at 49.

⁵² Section 1008.331, F.S. (supplemental education services).

⁵³ *ESEA Waiver Request*, *supra* note 17, at 5.

⁵⁴ *Id.* at 116.

⁵⁵ Section 1008.33(2)(a), F.S.

⁵⁶ *ESEA Waiver Request*, *supra* note 17, at 95.

Charter Schools

In the 2011-12 school year, there are 525 charter schools operating in 44 of Florida's 67 school districts and at two state universities. Charter schools currently serve 178,892 students.⁵⁷ Florida law states as guiding principles and purposes for charter schools:

- Meet high standards of student achievement;
- Promote enhanced academic success by aligning responsibility with accountability;
- Improve student learning and academic achievement;
- Encourage the use of innovative learning methods; and
- Provide rigorous competition within the public school district to stimulate continual improvement in all public schools.⁵⁸

Charter schools are subject to the same academic accountability requirements applicable to traditional public schools.⁵⁹ Charter school students must participate in statewide assessments.⁶⁰ Like other public schools, charter schools receive school grades.⁶¹

Legislation enacted in 2011 established criteria for classifying charter schools and charter school systems with a track record of exemplary academic performance and financial stability as "high-performing." Among other things, the legislation promoted the growth of academically successful charter schools by enabling them to expand enrollment and establish new charter schools that replicate the school's educational model in any school district in the state.⁶²

Charter schools that struggle academically are subject to Florida's system of school improvement and intervention. State law provides two separate processes for providing intervention and support to low-performing charter schools. The charter school statute prescribes certain interventions to improve student performance at charter schools graded "D" or "F."⁶³ Charter schools are also subject to differentiated accountability.⁶⁴

The charter school statute requires the director and a representative of the governing board of a charter school graded "D" to annually appear before the sponsor to address academic deficiencies. The sponsor must communicate what services will be provided to help the school address deficiencies. The governing board must work with the sponsor to improve the school's academic performance.⁶⁵

The sponsor of a charter school graded "D" for two consecutive years or "F" must require the governing board to implement a school improvement plan to improve student performance the following year.⁶⁶ If poor performance persists, the sponsor must place the school on probation and require it to take one of the following corrective actions:

- Contract for educational services of the school;
- Reorganize the school, make necessary staffing changes, and implement a plan that addresses the causes of inadequate progress; or
- Reconstitute the school.

⁵⁷ Florida Department of Education, *Charter Schools Funding Report*, at 1 (Jan. 1, 2012)(on file with the committee).

⁵⁸ Section 1002.33(2), F.S.

⁵⁹ Section 1002.33(16)(a)2., F.S.

⁶⁰ Section 1008.22(3), F.S. Statewide assessments include the Florida Comprehensive Assessment Test (FCAT) and state standardized end-of-course examinations. Section 1008.22(3)(c), F.S.

⁶¹ Sections 1002.33(7)(a)4. and (16)(a)2., 1008.33, and 1008.34(3), F.S.; 20 U.S.C. s. 6311(2)(B), (C), and (K). Charter schools with less than 30 students do not receive school grades because at least 30 students are required in order to obtain a valid sample size for school grading purposes. *See* rule 6A-1.09981(4)(a)-(b), F.A.C. A charter alternative school receives a school improvement rating in lieu of a school grade. Section 1008.341, F.S.

⁶² Sections 1002.331 and 1002.332, F.S.; ss. 1 and 2, ch. 2011-232, L.O.F.

⁶³ *See* s. 1002.33(9)(n)-(p), F.S.

⁶⁴ Sections 1002.33(7)(a)4. and (16)(a)2., 1008.33, and 1008.34(3), F.S.; 20 U.S.C. s. 6311(2)(B), (C), and (K).

⁶⁵ Section 1002.33(9)(n), F.S.

⁶⁶ Section 1002.33(9)(o), F.S.

The school must continue with corrective action until student performance improves.⁶⁷ The director and a representative of a charter school that is required to implement a school improvement plan or placed on probation must annually appear before its sponsor to report the progress of the corrective strategies being implemented by the school.⁶⁸ If poor performance persists, the sponsor may terminate the school's charter.⁶⁹

Unlike the interventions for charter schools graded "D" or "F," differentiated accountability interventions are based upon the charter school's category, as determined by its progress towards AYP, the statewide assessment components for school grading, and the level and rate of change in student performance in reading and mathematics.⁷⁰ FDOE has developed a matrix of differentiated accountability interventions for charter schools, many of which are similar to those provided to traditional public schools.⁷¹ However, the school turnaround options required for Intervene schools, e.g., district-managed turnaround model, converting to a charter school, and contracting with an outside entity to manage the school, are not particularly suited for charter schools.⁷²

Effect of Proposed Changes

Currently, state law provides two separate processes for providing intervention and support to low-performing charter schools. The intervention process set forth in the charter school statute was enacted before the statutory amendments created differentiated accountability, and the two processes were never aligned. Additionally, differentiated accountability interventions, which were primarily intended for traditional public schools, are not suited to the unique mission and purpose of charter schools.⁷³

The bill aligns the school improvement interventions in the charter school statute with differentiated accountability, thereby creating a unified process for providing intervention and support to such schools. Similar to current law, the bill requires a charter school that earns a grade of "D" or "F" to develop a school improvement plan, which must be implemented upon approval by the sponsor.

The bill requires corrective actions for charter schools earning three consecutive grades of "D," two consecutive grades of "D" followed by a grade of "F," or two nonconsecutive grades of "F" within a three-year period. Such a charter school may choose to:

- Contract for educational services to be provided directly to students, instructional personnel, and school administrators;
- Contract with an outside entity with a track record of effectiveness to operate the school;
- Hire a new headmaster who has authority to hire new staff; or
- Voluntarily close the school.

A charter school must implement the corrective action for two years. Corrective actions are no longer required if the charter school improves by at least one letter grade; however, the school must continue to implement the school improvement plan. If a charter school does not improve by at least one letter grade after two full school years of implementing a corrective action, the school must choose another action. The sponsor may waive corrective actions if it determines that the charter school is likely to improve its grade if additional time is given to implement the school improvement plan. The sponsor may also extend the implementation period for a corrective action based upon a similar standard.

⁶⁷ Section 1002.33(9)(o)2., F.S.

⁶⁸ Section 1002.33(9)(p), F.S.

⁶⁹ Section 1002.33(8) and (9)(o)3., F.S.

⁷⁰ Section 1008.33(3)(b), F.S.; rule 6A-1.099811(2)-(3), F.A.C.

⁷¹ Florida Department of Education, *Differentiated Accountability Interventions and Support for Charter Schools, Form DA-5* (June 2010), available at http://www.flbsi.org/pdf/Final%202010-2011%20Strategies%20and%20Support%20Document%20for%20Charter%20Schools_June_18.pdf; see *supra* text accompanying note 36.

⁷² See s. 1008.33(5)(a), F.S.

⁷³ See s. 1, ch. 2006-190, L.O.F. (interventions for "D" and "F" charter schools, enacted 2006); see s. 3, ch. 2009-144, L.O.F. (differentiated accountability, enacted 2009).

Waivers or extensions may not be granted to a charter school that earns a second consecutive grade of "F" while in corrective action. Such a charter school must be terminated by the sponsor.

The bill requires the sponsor to terminate a charter school that earns two consecutive grades of "F," unless:

- The charter school was established to turnaround the performance of a traditional public school under differentiated accountability. This exception allows the differentiated accountability turnaround process to run its course for the full two-year implementation period. If such a charter school continues to earn grades of "F," the school district must implement a different turnaround option.
- The charter school is in its first three years of operation and serves a student population in the same school zone as a failing public school. Such a charter school must earn at least a grade of "D" by year three. In year four and thereafter, the exception no longer applies to the charter school. This exception enables a charter school that is established to serve students in an underserved area time to implement its educational model.
- The state board grants the charter school a waiver of termination. To obtain a waiver, the charter school must demonstrate that the learning gains of its students on statewide assessments are comparable or better than the learning gains of similarly situated students enrolled in nearby district public schools. The waiver is valid for one year and may only be granted once. Charter schools that have been in operation for more than five years are not eligible for a waiver. This exception provides charter schools that target low-performing students with time to demonstrate improved student performance.

The sponsor continues to have discretion to, at any time, terminate the charter of a charter school that is required to implement a school improvement plan or corrective actions; however, this discretionary authority does not extend to charter schools that meet one of the three exceptions.

Requiring closure of double "F" charter schools is consistent with the statutory guiding principles and purpose of charter schools, e.g., meeting high standards of student achievement and accountability, innovation, and providing rigorous competition with public schools.⁷⁴ It is also consistent with recent legislation promoting the expansion and replication of high-performing charter schools.

The director and a representative of a charter school that is required to implement a school improvement plan or corrective action must annually appear before the sponsor to report the progress of the corrective strategies being implemented by the school. Thus, the sponsor must monitor the progress of interventions.

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.42, F.S., relating to powers and duties of district school boards; revises the contents of school improvement plans; revises criteria for identifying eligible students for Opportunity Scholarships.

Section 2. Amends s. 1002.33, F.S., relating to charter schools; requires school improvement plans and corrective actions for certain charter schools; requires termination of certain charter schools and provides exceptions; requires sponsor review of school improvement strategies.

Section 3. Amends s. 1002.332, F.S., relating to high-performing charter school systems; revises an exception to eligibility criteria.

Section 4. Amends s. 1002.38, F.S., relating to Opportunity Scholarships; revises criteria for identifying eligible students.

⁷⁴ Section 1002.33(2), F.S.

Section 5. Amends s. 1008.22, F.S., relating to statewide assessments; provides that students enrolled in an Algebra I, Geometry, or Biology I course with a statewide, standardized EOC assessment are not required to take the corresponding grade level FCAT.

Section 6. Amends s. 1008.33, F.S., relating to authority to enforce public school improvement; requires the state board to comply with the ESEA flexibility waiver; requires identification of schools graded “D” or “F” for intervention; provides requirements for school improvement interventions and turnaround options; requires rulemaking.

Section 7. Amends s. 1008.34, F.S., relating to school and school district grading and school report cards; increases the percentage of a high school’s grade that may be based upon the statewide assessment components; specifies use of certain assessments in school grading; revises the calculation of school district grades.

Section 8. Amends s. 1008.345, F.S., relating to implementation of the state system of school improvement and education accountability, makes a conforming change regarding community assessment teams.

Section 9. Amends s. 1012.07, F.S., relating to critical teacher shortage areas; makes a conforming change to selection criteria.

Section 10. Amends s. 1012.22, F.S., relating to public school personnel, school board powers; makes a conforming change to criteria for salary supplements.

Section 11. Amends s. 1012.2315, F.S., relating to assignment of teachers; makes a conforming change.

Section 12. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

A rule is an agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form that imposes any requirement or solicits any information not specifically required by statute or by an existing rule.⁷⁵ A rule requires delegated rulemaking power and a specific law to be implemented.⁷⁶ The state board has broad authority to adopt rules to implement provisions of law conferring duties upon it.⁷⁷ This bill confers new and more specific duties upon the state board that may and in some places require the adoption of implementing rules.

Under the bill, the state board will be required to adopt rules that:

- Establish thresholds for determining compliance with revised school improvement plan requirements (Section 1).
- Prescribe the services that must be provided to students, instructional personnel, and school administrators when a charter school chooses to contract for educational services as a corrective action (Section 2).
- Maintain compliance with the ESEA flexibility waiver (Section 6).
- Establish a differentiated matrix of intervention and support strategies for traditional public schools (Section 6).
- Specify submission timelines and approval criteria for school turnaround option implementation plans and timelines for implementing intervention and support strategies (Section 6).
- Implement differentiated accountability interventions for charter schools (Section 2).⁷⁸

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

⁷⁵ Section 120.52(16), F.S.

⁷⁶ Sections 120.52(8), 120.536(1), F.S.

⁷⁷ Section 1001.02(1), F.S.

⁷⁸ Section 1002.33(27), F.S., authorizes the Department of Education to recommend rulemaking by the state board respecting implementation of the section which governs charter schools. As noted, the bill amends subsection (9) of that section.