

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 867 Parent Empowerment in Education

SPONSOR(S): Education Committee, Choice & Innovation Subcommittee, Trujillo and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 862

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	8 Y, 5 N, As CS	Ammel	Fudge
2) Education Appropriations Subcommittee	7 Y, 5 N	Seifert	Heflin
3) Education Committee	11 Y, 7 N, As CS	Ammel	Mizereck

SUMMARY ANALYSIS

The bill enables parents, by petitioning the school district, to request implementation of a parent-selected turnaround option when a school is required to select a turnaround option. The turnaround option requested by parents must be considered for implementation by the district school board at a publicly noticed meeting if the petition is signed and dated by a majority of the parents of students enrolled in the school or students who are scheduled for assignment to the school in the following school year.

The district school board may adopt the turnaround option selected by parents or a different option selected by the school board. If the district school board does not adopt the parent-selected option, it must include that option with the implementation plan submitted to the State Board of Education. The state board may approve the district's plan or, if it determines that the parent-selected option is more likely to improve student performance at the school, require the school board to submit a plan for implementing the parent-selected option. However, if the school improves by at least one letter grade, the school no longer has to implement the turnaround option.

Florida's system of school improvement provides the lowest performing schools with the most comprehensive interventions. If such a school does not improve by one letter grade during the first year of intervention, the school district must implement a school turnaround option at the beginning of the next school year. If the school does not improve at least one letter grade after two years of implementing the turnaround option, the school district must submit a plan for implementing a different option at the beginning of the next school year. No process presently exists that requires school districts to consider implementation of a parent-selected turnaround option.

The bill creates new requirements for school districts and charter schools regarding the assignment of students to classroom teachers. The bill prohibits consecutive student assignments to teachers with an annual performance evaluation rating of unsatisfactory or needs improvement and requires that parents of students assigned to an out-of-field or chronically low-performing teacher be informed of the availability of virtual instruction delivered by an in-field, high-performing teacher.

Florida law does not prohibit school districts and charter schools from assigning a student in consecutive years to a low-performing teacher. School districts must notify each parent when his or her child is assigned to an out-of-field teacher or chronically low performing teacher; however, notification that virtual instruction is available as an alternative to such teacher assignments is not required.

The bill has a fiscal impact on state or local governments.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Improvement and Intervention

Present Situation

In 2012, the Legislature revised Florida's school accountability system to comply with the federal Elementary and Secondary Education Act (ESEA), its implementing regulations, and the ESEA flexibility waiver approved for Florida by the Secretary of Education.¹ It required the Department of Education, beginning with the 2011-12 school year, to identify each public school in need of intervention and support to improve student academic achievement. Schools earning a school grade of "D" or "F" are schools in need of intervention and support.² The State Board of Education was required to adopt, in rule, a differentiated matrix of intervention and support strategies that defined the strategies and the roles for the department and the board.³ The state board shall apply the most intense intervention and support strategies to schools earning an "F". In the first full school year after a school initially earns a grade of "F", the school district must: implement intervention and support strategies as outlined in rule; select a turn-around option; and submit a plan for implementing the turnaround option to the department for state board approval. 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;
- Contract with an outside entity that has a demonstrated record of effectiveness to operate the school; or
- Implement a hybrid of turnaround options set forth in subparagraphs 1.-4. or other turnaround models that have a demonstrated record of excellence.

A school earning a grade of "F" has one planning year followed by 2 full school years to implement the turnaround option approved by the state board. Implementation of the turnaround option is no longer required if the school improves by at least one letter grade.⁴ The school must continue to implement strategies identified in its school improvement plan pursuant to s. 1001.42(18)(a), F.S., and the department must annually review the school's implementation of the plan for 3 years.⁵

Effect of Proposed Changes

The bill enables parents, by petition, to request that the school district implement a parent-selected turnaround option if a school earns a grade of "F" and is required to select a turnaround option. The turnaround option requested by parents must be considered for implementation by the district school board at a publicly noticed meeting if the petition is signed and dated by a majority of the parents⁶ of eligible students, i.e., students enrolled in the school or students who are scheduled for assignment to the school in the following school year.

Within 30 days of receiving notice from the Department of Education (DOE) that the school is required to select a turnaround option, each school district must notify, in writing, parents and the school

¹ Section 6, ch. 2012-194, L.O.F.

² Section 1008.33(3)(b), F.S.

³ Section 1008.33(3)(c), F.S.

⁴ Section 1008.33(4)(c), F.S.

⁵ 1008.33(4)(d), F.S.

⁶ The law defines "parent" as either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent. Section 1000.21(5), F.S.

advisory council. The notice must inform parents of the opportunity to petition for a turnaround option and include; a description of each available option and the petition process; the date and location for submitting the petition; the date and location of the publicly noticed school board meeting at which a turnaround option will be determined; and the contact information for the district school board.

At least 30 days must be allowed to circulate parent petitions. A petition may propose one turnaround option; however, multiple petitions each proposing different options may be circulated. Parents may sign more than one petition and may sign before the notice beginning the petition period.

Only one parent per eligible student may sign the petition. One signature may be given by the parent for each child who is an eligible student. If a child's other parent submits a written objection to the petition, the signing parent's signature counts as one-half.

A parent must date the petition on the day it is signed and identify the eligible student on the petition. The parent's signature also certifies the parent's present intent to enroll the student in the school the following school year if the turnaround option supported by the petition is implemented. A majority is achieved when parent signatures are collected for more than one-half of eligible students. If more than one petition obtains a majority of signatures, the one with the most signatures is the option the school board must consider.

The school board must verify signatures on the petition using existing student enrollment documentation or other records containing parent signatures. A signature may also be validated by notarization or photographic identification. The petition must be submitted before the school district selects a turnaround option. The bill prohibits signature gatherers from being paid per signature and requires them to disclose what organization they represent, if asked.

The district school board may adopt the parent-selected turnaround option or a different option selected by the school board. If the district school board does not adopt the parent-selected option, it must include that option with the implementation plan submitted to the state board. If the state board determines that the turnaround option selected by parents is more likely to improve the academic performance of students at the school, the school board must resubmit a plan implementing the parent-selected option.

The bill enables parents of students attending a low-performing school to play a larger role in improving the school's performance. Likewise, the petition process may result in increased parental involvement in school affairs, which research identifies as a key component of school improvement.⁷

Educator Performance and Student Assignments

Present Situation

Research indicates that teacher effectiveness is the most important school-level variable influencing student learning. Students who are taught by ineffective teachers perform at much lower levels than students demonstrating comparable ability taught by high-performing teachers. Students taught by an ineffective teacher for even one year experience long-term negative impacts on achievement.⁸

⁷ The PEW Center on the States, *Engaged Families, Effective Pre-K: State Policies that Bolster Student Success*, at 1 (June 2010), available at http://www.pewcenteronthestates.org/uploadedFiles/PkN_Family_Engagement_FINAL.pdf?n=4141; Southwest Educational Development Laboratory, *A New Wave of Evidence: The Impact of School, Family, and Community Connections on Student Achievement*, at 24 (2002), available at <http://www.sedl.org/cgi-bin/pdfexit.cgi?url=http://www.sedl.org/connections/resources/evidence.pdf> (review of research regarding parental involvement and student success).

⁸ Sanders and Rivers, *Cumulative and Residual Effects of Teachers on Future Student Achievement*, at 6-8 (Nov. 1996), available at <http://www.mccsc.edu/~curriculum/cumulative%20and%20residual%20effects%20of%20teachers.pdf>. Sanders and Rivers found that standardized mathematics assessment scores for students who were taught by a low-performing teacher for three consecutive years were 53 percentile points lower than those of students who were taught by a high-performing teacher for three consecutive years.

In Florida, the performance of classroom teachers⁹ is annually evaluated based upon student performance and instructional practice criteria. Student performance must comprise at least 50 percent of the performance evaluation and must be measured in terms of student learning growth on statewide assessments or, for subjects and grades not tested by statewide assessments, school district-selected assessments.¹⁰ Measurement of student learning growth for classroom teachers must be based upon students assigned to the employee over the course of three school years.¹¹

Instructional practice criteria for classroom teachers are based upon the state board adopted Florida Educator Accomplished Practices (FEAP). The FEAPs include such essential teaching skills as subject matter knowledge, classroom management, and lesson planning and delivery. These criteria are primarily evaluated through classroom observation.¹²

Each classroom teacher is assigned one of four performance ratings:

- Highly effective;
- Effective;
- Needs improvement, or for classroom teachers in their first three years of employment who need improvement, developing; or
- Unsatisfactory.

Performance evaluation results must be used as a basis for professional development, compensation, retention, transfers, and promotions. The law authorizes a school principal to refuse the placement or transfer of a classroom teacher who is not rated effective or highly effective. However, the law does not prohibit a school district from assigning a student in consecutive school years to a classroom teacher rated unsatisfactory or needs improvement.¹³

Information regarding educator performance evaluations is provided to the public annually. School districts must annually report to DOE educator performance evaluation ratings. DOE must annually post on its website the percentage of classroom teachers, other instructional personnel, and school administrators receiving each performance rating by school district and school.¹⁴

Additionally, school districts must annually report to parents the fact that their child is assigned to a classroom teacher whose performance evaluations indicate chronic low-performance, i.e., teachers who have two consecutive unsatisfactory performance evaluations, two unsatisfactory evaluations in a three-year period, or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory.¹⁵ Such evaluations become public records after one year, at which time the evaluation must be furnished to any parent or member of the public who requests it.¹⁶

Each district school board must adopt a plan for assisting teachers teaching subject matter outside their certification area, minor field of study, or a subject area in which the teacher has demonstrated sufficient expertise. The plan must provide such teachers with priority consideration in professional

⁹ Classroom teachers are a sub-set of the larger personnel class known as “instructional personnel.” Instructional personnel and school administrators are evaluated annually. Instructional personnel also include guidance counselors, social workers, career specialists, school psychologists, librarians and media specialists, learning resource specialists, instructional trainers, adjunct educators, and education paraprofessionals. Section 1012.01(2)(a)-(e), F.S. School administrators are school principals, school directors, career center directors, and assistant principals. Section 1012.01(3)(a), F.S.

¹⁰ Section 1012.34(3)(a) and (7), F.S. Newly hired teachers must be evaluated at least twice in the first year of teaching. Section 1012.34(3)(a), F.S. School districts may request approval by the Department of Education to use a student achievement measure or a combination of student learning growth and achievement when such measures are appropriate. Likewise, districts may request approval to determine appropriate measures based upon course characteristics and personnel assignments. Section 1012.34(2)(d) and (7)(c)-(d), F.S.

¹¹ Section 1012.34(3)(a)1.a.-b., F.S. Exceptions apply based upon personnel classification or availability of data. *Id.*

¹² Section 1012.34(3)(a), F.S.

¹³ Sections 1012.28(6), F.S.

¹⁴ Section 1012.34(1)(c), F.S.

¹⁵ Section 1012.2315(5)(b), F.S.

¹⁶ Section 1012.31(3)(a)2., F.S.

development activities and require their participation in a certification or staff development program that addresses the competencies required for the assigned duties. The assistance plan must include duties of administrative personnel and other instructional personnel for assisting out-of-field teachers. The law requires each district school board to notify in writing the parents of students who are assigned to an out-of-field teacher.¹⁷

Effect of Proposed Changes

The bill expands parental notification regarding a child's assignment to classroom teachers teaching out-of-field to also require that the parent of the child be informed of the availability of virtual instruction delivered by an in-field teacher with an annual performance evaluation rating of effective or highly effective. Likewise, notification sent to parents regarding a child's assignment to a classroom teacher whose performance evaluations indicate chronic low-performance¹⁸ must also inform the parent that virtual instruction from a teacher with an annual performance evaluation rating of effective or highly effective is available. Both traditional public schools and charter schools must provide these notifications. These changes will better inform parents of their options when their child is assigned to out-of-field or low-performing teachers. Additionally, the bill authorizes school districts to reimburse teachers for certification fees incurred when he or she is assigned to teach out-of-field.

The bill adds provisions prohibiting a school district or charter school from assigning a student in consecutive school years to a classroom teacher of the same subject who is evaluated as unsatisfactory or needs improvement. This will decrease the likelihood of long-term negative impacts on a student's achievement resulting from repeated assignments to low-performing teachers.

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.10, F.S., relating to Commissioner of Education powers and duties; corrects a cross reference.

Section 2. Amends s. 1002.20, F.S., relating to K-12 student and parent rights; authorizes parents to petition the school district to implement a school turnaround option; authorizes a parent to request the performance evaluation of a teacher; requires certain notifications regarding student assignment to teachers.

Section 3. Amends s. 1002.32, F.S., relating to developmental research lab schools; corrects a cross-reference.

Section 4. Amends s. 1002.33, F.S., relating to charter schools; requires certain notifications regarding student assignment to teachers.

Section 5. Creates s. 1003.07, F.S., relating to parent empowerment; establishes a petition process enabling parents to request implementation of a school turnaround option; specifies requirements regarding the petition process; provides for consideration of the petition by the school board; provides for review of proposed turnaround options by the state board.

Section 6. Amends s. 1008.33, F.S., authority to enforce public school improvement; authorizes parents to petition the school district to implement a school turnaround option.

Section 7. Amends s. 1012.2315, F.S., relating to assignment of teachers; requires certain notifications regarding student assignment to teachers; prohibits school districts from assigning a student in consecutive school years to a low-performing classroom teacher.

¹⁷ Section 1012.42(1) and (2), F.S. This reporting requirement applies to teachers who are teaching subject matter that is outside the field in which the teacher is certified, outside the field that was the applicant's minor field of study, or outside the field in which the applicant has demonstrated sufficient subject area expertise. Section 1012.42(2), F.S.

¹⁸ This reporting requirement applies to a classroom teacher who has two consecutive unsatisfactory performance evaluations, two unsatisfactory evaluations in a three-year period, or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory. Section 1012.2315(5)(b), F.S.

Section 8. Repeals s. 1012.42, F.S., relating to teacher teaching out of field.

Section 9. Provides an effective date of July 1, 2013.

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:

The bill requires parental notification if a student's teacher is out-of-field or is rated "unsatisfactory" or "needs improvement". The bill requires each district to have an assistance plan for out-of-field teachers and provide those teachers with priority for professional development and require those teachers to participate in a certification or staff development program, which the school district may reimburse a certification fee. The costs to the school districts are indeterminable, but could be significant.

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:

The bill requires the State Board of Education to adopt rules establishing a model parent petition form, clear instructions to be provided, petition submission process, standards for verifying signatures, and timelines for school board consideration of a petition at a publicly noticed meeting. The bill provides sufficient specificity to permit the state board to adopt necessary rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2013, the Choice & Innovation Subcommittee reported the proposed committee substitute (PCS) to HB 867 favorably as a committee substitute. The proposed committee substitute removed the provision that allowed parents to request and receive the performance evaluation for each of their student's teachers. It clarified that if a failing school improves by at least one letter grade after interventions and support, a turnaround option does not need to be implemented. It also clarified that elementary students assigned to a classroom teacher who receives an annual evaluation rating of "needs improvement" or "unsatisfactory" cannot be assigned to a teacher who received the same rating the following year. This analysis is drafted to the committee substitute as passed by the Choice & Innovation Subcommittee.

On March 22, 2013, the Education Committee reported CS/HB 867 favorably as a committee substitute. The committee adopted one amendment that required parents be notified within 30 days of the school being notified it earned a grade of "F" and has to select a turnaround option. Previous language required notification when the school had to implement a turnaround option which would have negated the parents' opportunity to select and submit an option for consideration. The analysis is drafted to the committee substitute.