

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 Committee on Appropriations

BILL: CS/CS/SB 616

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Pre-K - 12 Committee; and Senator Legg

SUBJECT: Education Accountability

DATE: March 27, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hand</u>	<u>Klebacha</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sikes</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 616 impacts statutory accountability provisions related to the state's public school student assessment program, the educator performance evaluation system, and the statewide public school accountability system.

The bill maintains the statutorily provided 2014-2015 school year transition to the Florida Standards Assessments, including the suspension of negative consequences associated with school grades and school improvement ratings. Specifically, the bill makes the following adjustments to student assessment, performance evaluation requirements and school accountability.

Student Assessments

The bill:

- Reduces the number of statutorily-required assessments by eliminating the current requirement that a school district administer a local assessment for each course that is not assessed by a statewide, standardized assessment.
- Reduces the total time devoted to testing by adding a provision limiting the amount of time for test administration by limiting to no more than five percent of total school hours per student, per year, but provides exemptions for certain tests and certain students.

- Provides for timely information to teachers and parents by adding in law a provision requiring school districts to make student performance results on district-required local assessment available to the student's teachers and parents within 30 days of test administration.
- Requires the state to provide results of statewide, standardized assessments to parents and teachers within 30 days as a requirement of new or renewed state assessment contracts.
- Eliminates the Grade 11 Florida Standards Assessment (FSA) for English Language Arts and makes the Postsecondary Education Readiness Test (PERT) optional.
- Codifies the rollout schedule for statewide, standardized computer-based testing and paper testing options through the 2017-2018 school year.
- Requires independent verification of the psychometric validity of statewide, standardized assessments before the results can be used to determine third grade retention or high school graduation.
- Requires students who score in the bottom quintile of the grade 3 English Language Arts assessment to be identified as at-risk and provided with the appropriate intervention and support services. Adds a new requirement for the State Board of Education to adopt in rule a notification form that districts must use to inform parents about third grade retention and mid-year promotion and high school graduation requirements and available options.

Performance Evaluation Requirements

The bill:

- Retains the ability for teachers and school administrators to receive performance pay adjustments if they meet specified conditions.
- Modifies teacher performance evaluations by requiring the student performance component to be at least 33 percent, the instructional practice component to constitute at least 33 percent, and the professional and job responsibilities component constitute no more than 33 percent.
- Authorizes the professional and job responsibilities component of a teacher's performance evaluation to utilize peer reviews.
- Allows personnel evaluations to be based on a proportion of a teacher's students or classes, instead of every class assigned to the teacher, except that student performance on statewide, standardized assessments must be included.
- Authorizes school districts to set performance standards for performance evaluation ratings of highly effective, effective, needs improvement, and unsatisfactory for their district. The Commissioner of Education must perform an analysis that compares performance evaluation results calculated by each school district to indicators of performance calculated by the Department of Education using standards of performance adopted by the State Board of Education.
- Removes prescriptive language to allow district discretion on local assessments, including requirements for student growth formulas, not associated with statewide standardized assessments.

School Accountability

The bill:

- Creates, for schools and school districts that experience technical implementation issues during the 2014-2015 school year assessment, a one-time option to use the 2014-2015 school year test results for diagnostic and baseline purposes only.
- Allows a school currently implementing a turnaround option to be released from these requirements if the school improves in the 2014-2015 transition year by at least one letter grade.

Florida Standards Assessment Administration

The bill requires that, if the Department of Education determines the administration of online assessments after January 1, 2015, does not comply with the minimum assessment protocols and requirements established by the department, the department will contract with an independent, auditing entity that has expertise in the area to evaluate the extent of the noncompliance and provide recommendations to remediate the noncompliance in future administrations of online assessments. The bill also requires liquidated damages, if applicable in response to the administration of the spring 2015 Florida Standards Assessment administration, to be collected by the state and distributed to school districts as determined by the Legislature.

The provisions of the bill eliminating mandatory statewide assessments should result in a cost savings for the state. The elimination of the Grade 11 FSA for English Language Arts should reduce state assessment costs by approximately \$1.5 million. By making the PERT examination optional, rather than mandatory, the state assessment costs are projected to decrease by approximately \$200,000. In addition, school districts may experience a reduction in costs as a result of the reduction in local student assessments.

The bill takes effect upon becoming law.

II. Present Situation:

The education of children is a fundamental value of the people of the State of Florida.¹ It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders.² The Legislature, through the Florida K-20 Education Code, provides by law, a state system for all Florida's students to obtain a high quality education.³

The statutory mission of Florida's K-20 education system is to increase the proficiency of all students within one seamless, efficient system, by allowing them the opportunity to expand their knowledge and skills through learning opportunities and research valued by students, parents, and communities.⁴ The effectiveness of this education delivery system is assessed through the state's performance accountability system.⁵

¹ Article IX, s. 1, Fla. Const.

² *Id.*

³ Section 1000.01, F.S.

⁴ Section 1008.31(2)(a), F.S.

⁵ Section 1008.31(1)(a), F.S.

The state's performance accountability system assesses the effectiveness of Florida's seamless K-20 education delivery system and is specifically intended to provide answers to the following questions in relation to its mission and goals:⁶

- What is the public receiving in return for funds it invests in education?
- How effectively is Florida's K-20 education system educating its students?
- How effectively are the major delivery sectors promoting student achievement?
- How are individual schools and postsecondary education institutions performing their responsibility to educate their students as measured by how students are performing and how much they are learning?

Public School Student Assessment Program

Florida's assessment program consists primarily of statewide, standardized assessments that are selected and administered by the state, and local assessments that are selected and administered by the school districts to measure students' attainment of education expectations.⁷

Statewide, Standardized Assessments

The purpose of Florida's student assessment program is to improve instruction; provide student academic achievement and learning gains data to students, parents, teachers, school administrators, and school district staff; and assess the cost benefit of the expenditure of taxpayer dollars.⁸ Specifically, the program is designed to:⁹

- Assess the achievement level and annual learning gains of each student in English Language Arts and mathematics and the achievement level in all other subjects assessed.
- Provide data for making decisions regarding school accountability, recognition, and improvement of operations and management, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs.
- Identify the educational strengths and needs of students and the readiness of students to be promoted to the next grade level or to graduate from high school.
- Assess how well educational goals and curricular standards are met at the school, district, state, national, and international levels.
- Provide information to aid in the evaluation and development of educational programs and policies.

The commissioner is required to design and implement a statewide, standardized assessment program that is aligned to the core curricular content established in the Next Generation Sunshine State Standards and the Florida Standards.¹⁰ Participation in the assessment program is

⁶ Section 1008.31(1)(a), F.S. This performance accountability system is required to comply with the "No Child Left Behind Act of 2001," Pub. L. No. 107-110, and the Individuals with Disabilities Education Act (IDEA). Section 1008.31(1)(c), F.S. The Department of Education (DOE) is responsible for maintaining an accountability system that measures student progress toward the following goals. Section 1008.31(2)(c), F.S.

⁷ Section 1008.22, F.S. Common placement testing is required for the purpose of assessing the skills of students who intend to enter a degree program at any public postsecondary educational institution. Section 1008.30, F.S. Before the beginning of grade 12, all students are required to have their college readiness evaluated. *Id.* The student's high school is required to identify deficiencies and require the student (in 12th grade) to complete appropriate postsecondary preparatory instruction before high school graduation. *Id.*

⁸ Section 1008.22(1), F.S.

⁹ Section 1008.22(1)(a)-(e), F.S.

¹⁰ Section 1008.22(3), F.S.

mandatory for all school districts and all students attending public schools, including adult students seeking a standard high school diploma and students in Department of Juvenile Justice education programs, except as otherwise provided by law.¹¹

Test accommodations are available for certain students, such as students with disabilities and English language learners.¹² Some accommodations may result in the need for longer test times for these students.¹³

The statewide, standardized assessment program consists of:

- Statewide, standardized comprehensive assessments:¹⁴
 - English Language Arts (grades 3 through 11);¹⁵
 - Mathematics (grades 3-8); and
 - Science (once at the elementary grade level and once at the middle grade level).¹⁶
- End-of-Course (EOC) assessments:¹⁷
 - Civics (once at middle grade level);
 - U.S. History EOC;
 - Algebra I EOC;
 - Algebra II EOC;
 - Geometry EOC; and
 - Biology I EOC.
- Florida Alternate Assessment (FAA) (assessment for students with disabilities in the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation).¹⁸

In the fall of 2014, Governor Scott directed the Commissioner of Education to “conduct a thorough and comprehensive investigation of every standardized test that school districts are requiring their students to take.”¹⁹ In late 2014 and early 2015, the Commissioner conducted “a

¹¹ *Id.*

¹² Department of Education, *2014-2015 FSA and FCAT/FCAT 2.0/NGSSS EOC Assessment Accommodations Frequently Asked Questions (FAQ)*, available at <http://fsassessments.org/wp-content/uploads/2015/01/2014-2015-Assessment-Accommodations-FAQ.pdf>

¹³ *Id.*

¹⁴ Section 1008.22(3)(a), F.S. The Elementary and Secondary Education Act of 1965 (ESEA) requires states to implement “a set of high-quality, yearly academic assessments that includes, at a minimum, assessments in mathematics, reading or language arts, and science. With respect to reading/language arts and mathematics, the assessments must be administered in each of grades 3 through 8 and not less than once in grades 10 through 12. With respect to science, the assessments must be administered not less than once during grades 3 through 5, grades 6 through 9, and grades 10 through 12.” U.S. Department of Education, *Letter to Colorado Commissioner of Education, Robert K. Hammond* (Oct. 3, 2014) on file with the Committee on Education Pre-K-12 staff; *see also* 20 U.S.C. s. 6311(b)(3).

¹⁵ Pursuant to standard high school diploma requirements, a student must pass the grade 10 English Language Arts assessment or earn a concordant score. Sections 1003.4282(3)(a) and 1008.22(7), F.S. For scholar designation on a standard high school diploma, a student must pass the grade 11 English Language Arts assessment. Section 1003.4285(1)(a)1., F.S.

¹⁶ Rule 6A-1.09422(3)(b), F.A.C., requires all eligible students in grades five and eight to take the FCAT 2.0 Science.

¹⁷ Section 1008.22(3)(b), F.S. Pursuant to standard high school diploma requirements, a student must pass the Algebra I EOC. *Id.* For scholar designation on a standard high school diploma, a student must pass Algebra II EOC, Geometry EOC, Biology I EOC, and U.S. History EOC assessments. Section 1003.4285(1)(a)2.-4., F.S.

¹⁸ Section 1008.22(3)(c)1., F.S. A child with medical complexity may be exempt from participating in statewide, standardized assessments, including the Florida Alternate Assessment. Section 1008.22(9), F.S.

¹⁹ The Governor’s charge also required the Commissioner to report on the reasons why students are required to take the test, how much time is given for the test, student promotion decisions based on test results, how much time is given for the test, student promotion decisions based on test results, what grade levels and types of students take the test, when the test is given,

thorough and comprehensive investigation of all standardized assessments used in school districts.”²⁰ On February 18, 2015, the Commissioner released her assessment investigation report.²¹

Charts on page 17-18 of the Commissioner’s report identify the testing time per student, per grade for each administration of the statewide, standardized assessments – which are the FSA for English Language Arts and mathematics assessments, EOC assessments, and FCAT 2.0 assessment retakes.²² For example, test times across grades 3 through 11 range from 2.67 to 4.5 hours for the Florida Standards Assessment (FSA) for English Language Arts and 2.67 to 3 hours for FSA mathematics, totaling approximately 7.5 hours maximum for any one grade level for both FSA assessments.²³

Local Assessments

School districts are responsible for measuring student performance in all subjects and grade levels, except those subjects and grade levels measured under the statewide, standardized assessment program.²⁴ Except for those subjects and grade levels measured under the statewide, standardized assessment program, beginning with the 2014-2015 school year, each school district must administer for each course offered in the district a local assessment that measures student mastery of course content at the necessary level of rigor for the course.²⁵ Each district school board must adopt policies for selecting, developing, administering, and scoring local assessments and for collecting assessment results.²⁶ For subjects and grade levels not measured by statewide, standardized assessments, a school district must administer local assessments but is authorized to choose the assessment to be administered from the following options:²⁷

- Statewide assessments.
- Other standardized assessments, including nationally recognized standardized assessments.
- Industry certification assessments.
- District-developed or district-selected end-of-course assessments.
- Teacher-selected or principal-selected assessments.

and whether test results are provided to the teacher and/or students. Rick Scott, *Let’s Keep Florida Learning*, available at <http://www.rickscottforflorida.com/wp-content/uploads/2014/11/Let%E2%80%99s-Keep-Florida-Learning.pdf>.

²⁰ Department of Education, *Assessment Investigation February 18, 2015*, available at <http://www.fldoe.org/core/fileparse.php/12003/urlt/CommAssessmentInvestigationReport.pdf>.

²¹ Department of Education, *Assessment Investigation February 18, 2015*, available at <http://www.fldoe.org/core/fileparse.php/12003/urlt/CommAssessmentInvestigationReport.pdf>;

²² Department of Education, *Assessment Investigation February 18, 2015*, available at <http://www.fldoe.org/core/fileparse.php/12003/urlt/CommAssessmentInvestigationReport.pdf>. The report also contains a summary of local assessment requirements, information concerning district assessments, and an addendum with charts containing specific local assessment information for each district, *Id.* at 27-28. See also specific information on tests given by each school district, Department of Education, *Assessment Investigation February 18, 2015 Appendices*, available at <http://www.fldoe.org/core/fileparse.php/10982/urlt/Appendices.pdf>.

²³ *Id.*

²⁴ Section 1008.22(6)(a), F.S.

²⁵ Section 1008.22(6)(b), F.S.

²⁶ *Id.*

²⁷ Section 1008.22(6)(b), F.S.; Local assessments may include a variety of assessment formats, including, but not limited to, project-based assessments, adjudicated performances, and practical application assignments. Section 1008.22(6)(c), F.S.

To administer the state assessment program for statewide, standardized assessments and local assessments, the commissioner must:

- Develop or obtain statewide, standardized assessments, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts.²⁸
- Recommend, for approval by the State Board of Education (SBE), passing scores on statewide, standardized assessments in the form of achievement levels ranging from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on an assessment.²⁹
- Establish implementation schedules for the administration of statewide, standardized assessments and the reporting of student assessment results.³⁰
- Provide, at a minimum, statewide, standardized assessment data analysis showing student achievement levels and learning gains by teacher, school, and school district.³¹
- Identify methods to assist and support districts in the development and acquisition of assessments which may include developing item banks, facilitating the sharing of developed tests among school districts, acquiring assessments from state and national curriculum-area organizations, and providing technical assistance in best professional practices of test development based upon state-adopted curriculum standards, administration, and security.³²
- Identify, for approval by the SBE, one or more comparative scores for the Algebra I EOC assessment.³³
- Identify, for approval by the SBE, scores on the SAT and ACT that, if achieved, satisfy the graduation requirement that a student pass the grade 10 statewide, standardized English Language Arts assessment. The commissioner may identify concordant scores on assessments other than the SAT and ACT.³⁴

Educator Performance Evaluations

All instructional personnel³⁵ and school administrators employed by Florida's public school districts must undergo an annual performance evaluation based on sound educational principles and contemporary research in effective educational practices.³⁶ The evaluation criteria for instructional personnel include student performance, instructional practice, and professional and job responsibilities.³⁷ Likewise, the evaluation criteria for school administrators include student

²⁸ Section 1008.22(3)(h), F.S.

²⁹ Section 1008.22(3)(e), F.S.

³⁰ Section 1008.22(3)(d), F.S.

³¹ Section 1008.22(5), F.S.

³² Section 1008.22(6)(d), F.S.

³³ Section 1008.22(8), F.S.

³⁴ Section 1008.22(7), F.S.

³⁵ Instructional personnel include classroom teachers and other instructional personnel, such as certified school counselors, librarians, and learning resource specialists. Section 1012.01(2), F.S. Although substitute teachers are classified as classroom teachers, the law specifically excludes them from performance evaluation requirements. Section 1012.34(3)(a), F.S.

³⁶ Section 1012.34(3)(a), F.S. Newly hired classroom teachers are evaluated twice in their first year of teaching in a school district. *Id.*

³⁷ Section 1012.34(3)(a)1., 2., and 4., F.S. School administrator evaluation criteria include instructional leadership. Section 1012.34(3)(a)3., F.S.

performance and professional and job responsibilities.³⁸ Instructional leadership practices are also included in school administrator evaluations.³⁹

Each district superintendent must establish procedures for evaluating the performance of all instructional, administrative, and supervisory personnel employed by the school district.⁴⁰ The superintendents must also annually report evaluation results for instructional personnel and school administrators to the DOE.⁴¹ The DOE approves all district evaluation systems and monitors implementation for compliance with law.⁴²

Public school personnel evaluations must be used to designate instructional personnel and school administrators as “highly effective,” “effective,” “needs improvement” (or, for instructional personnel in the first three years of employment who need improvement, “developing”), or “unsatisfactory.”⁴³ Evaluations occur annually, except classroom teachers newly hired by a district are evaluated at least twice during their first year of teaching in the school district.⁴⁴

Performance evaluations are comprised of components of student performance, instructional practice, institutional leadership, and professional and job responsibilities.

Student Performance

Student performance includes data and indicators of student learning growth⁴⁵ based on student performance on annual statewide assessments or, for subjects and grade levels not tested by statewide assessments, school district assessments.⁴⁶ Student performance must constitute at least 50 percent of a classroom teacher’s or school administrator’s evaluation.⁴⁷

For classroom teachers, excluding substitute teachers, student performance must include student learning growth data for students assigned to the teacher over the course of at least three years.⁴⁸ If less than three years of data are available, then student learning growth may comprise not less than 40 percent of the evaluation.⁴⁹

For other instructional personnel who are not classroom teachers, student performance must include student learning growth data on statewide assessments for students assigned to the

³⁸ Section 1012.34(3)(a)1. and 4., F.S.

³⁹ Section 1012.34(3)(a)3., F.S.

⁴⁰ Section 1012.34(1)(a), F.S.

⁴¹ Section 1012.34(1)(a), F.S.

⁴² Section 1012.34(1)(b), F.S. By December 1 of each year, the commissioner must report to the Governor, President of the Senate, and Speaker of the House of Representatives the approval and implementation status of each school district’s instructional personnel and school administrator evaluation systems. The report must include evaluation results for instructional personnel and school administrators. Section 1012.34(1)(c), F.S.

⁴³ Section 1012.34(2)(e), F.S.

⁴⁴ Section 1012.34(3)(a), F.S.

⁴⁵ Section 1012.34(8), F.S. The formula is known as the “value added model” (VAM). Section 1012.34(7)(a), F.S.

⁴⁶ Sections 1012.34(3)(a)1. and 1008.22(6), F.S. Each school district must publish on its website testing schedules for the administration of district-mandated assessments and report the schedules annually to the DOE by October 1. Section 1008.22(6)(e), F.S.

⁴⁷ Sections 1012.34(3)(a)1., F.S.

⁴⁸ Section 10102.34(3)(a)1.a., F.S.

⁴⁹ Section 1012.34(3)(a)1.a., F.S.

instructional personnel over the course of at least three years⁵⁰ and must comprise at least 30 percent of the evaluation or, if less than three years of data are available, then not less than 20 percent.⁵¹

For school administrators, student performance must include student learning growth data for students assigned to the school over the course of at least three years.⁵² If less than three years of data are available, then student learning growth may comprise not less than 40 percent of the evaluation.⁵³

Instructional Practice

Instructional practice is a component of instructional personnel evaluations which consists of evaluation criteria used in annually observing classroom teachers.⁵⁴ The evaluation criteria must include indicators based on each of Florida Educator Accomplished Practices (FEAP) adopted in rule by the SBE.⁵⁵ For instructional personnel who are not classroom teachers, the evaluation criteria must be based on FEAP indicators and may include specific job expectations related to student support.⁵⁶

Instructional Leadership

Instructional leadership is a component of school administrator evaluations and consists of indicators based on each of the leadership standards adopted in rule by the SBE.⁵⁷

Professional and Job Responsibilities

The professional and job responsibilities component of an evaluation must include additional professional and job responsibilities as adopted in SBE rule.⁵⁸ District school boards may identify professional and job responsibilities in addition to those identified by the SBE.⁵⁹

Statewide Public School Accountability System

Florida's school grading system was created in 1999 as a part of substantial changes to the state's school improvement and accountability system.⁶⁰ The law designated school grade categories and specified the metrics used to measure school performance.⁶¹ School improvement ratings

⁵⁰ The student performance component for instructional personnel who are not classroom teachers may include student learning growth data and other measurable student outcomes specific to the position. Section 1012.34(1)(a)1.b., F.S.

⁵¹ Section 1012.34(3)(a)1.b., F.S.

⁵² Section 1012.34(3)(a)1.c., F.S.

⁵³ Section 1012.34(3)(a)1.c.

⁵⁴ Section 1012.34(3)(a)2., F.S.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Section 1012.34(3)(a)3., F.S.

⁵⁸ Section 1012.34(3)(a)4., F.S.

⁵⁹ Section 1012.34(3)(a)4., F.S.

⁶⁰ Section 7 of chapter 99-398, L.O.F., *codified in* s. 229.57, F.S., *subsequently repealed by* s. 378, ch. 2002-387, L.O.F, and *codified in* s. 1008.34, F.S.

⁶¹ *Id.*

were also established in 1999⁶² as another measure of school accountability for schools that meet specified criteria.⁶³

School Grades

The measure of school accountability is the school grade.⁶⁴ The following letter grades are used to designate school performance.⁶⁵

- “A,” schools making excellent progress.
- “B,” schools making above average progress.
- “C,” schools making satisfactory progress.
- “D,” schools making less than satisfactory progress.
- “F,” schools failing to make adequate progress.

The basic school grade model used for elementary, middle, and high schools is based upon the percentage of total possible points earned by a school for student achievement scores on specified statewide, standardized assessments; student learning gains on statewide, standardized English Language Arts and mathematics assessments; and the improvement of the lowest 25 percent of students in the school in reading and mathematics.⁶⁶ School grades for middle schools and high schools are additionally customized as follows:

- School grades for middle schools include an additional component measuring the percentage of students passing high school level EOC assessments or attaining national industry certifications.⁶⁷
- High school grades are calculated by also including a school’s four-year graduation rate and the percentage of the school’s students who are eligible to earn college and career credit through accelerated courses or who attain national industry certifications.⁶⁸

The procedure for calculating the school grade and the scale used to determine a school grade are specified in SBE rule.⁶⁹

School Improvement Ratings

School improvement ratings are indicators of whether the performance of an alternative school that provides dropouts prevention and academic intervention services has improved, remained the same, or declined compared to the prior year, based on student learning gains on statewide standardized assessments.⁷⁰ Alternative schools and ESE centers may choose to receive a school improvement rating instead of a school grade.⁷¹ An alternative school that earns a school improvement rating receives one of the following ratings:⁷²

⁶² Section 7, ch. 99-398, L.O.F.

⁶³ Section 1008.341, F.S.

⁶⁴ Rule 6A-1.09981(3), F.A.C.

⁶⁵ Section 1008.34(2), F.S.; Rule 6A-1.09981(6)(a), F.A.C.

⁶⁶ Section 1008.34(3)(b)1., F.S.

⁶⁷ Section 1008.34(3)(b)i., F.S. The industry certifications must be identified in the Industry Certification Funding List adopted by the State Board of Education. *Id.*

⁶⁸ Section 1008.34(3)(b)2., F.S.

⁶⁹ Section 1008.34(3)(c)1., F.S.

⁷⁰ See s. 1008.341(2), F.S.; Rule 6A-1.099822(5)(b), F.A.C.

⁷¹ Sections 1008.341(2) and 1008.3415(1), F.S.

⁷² *Id.*

- “Commendable” – a significant percentage of the students attending the school are making learning gains;
- “Maintaining” – a sufficient percentage of the students attending the school are making learning gains; or
- “Unsatisfactory” – students attending are making less academic progress at the alternative school than when the students were served in their home schools.

School improvement ratings are based on the following two components:⁷³

- The percentage of eligible students who make learning gains in English Language Arts, as measured by statewide, standardized assessments; and
- The percentage of eligible students who make learning gains in mathematics, as measured by statewide, standardized assessments.

2014-2015 Transition Year

The 2013-2014 school year was the final year student performance results on statewide, standardized reading, writing, and mathematics assessments (aligned to an earlier set of academic standards)⁷⁴ were used to calculate school grades, school improvement ratings, and districts grades and evaluate public education personnel.⁷⁵

On February 18, 2014, the SBE adopted new state standards, called the Florida Standards, for English Language Arts and mathematics.⁷⁶ Through a competitive bid process, on March 17, 2014, the commissioner announced the selection of the American Institutes for Research to develop the statewide, standardized English Language Arts and mathematics assessments aligned to the Florida Standards.⁷⁷ The new English Language Arts and mathematics assessments are being administered for the first time during the 2014-2015 school year.⁷⁸

To facilitate Florida’s transition to the Florida Standards and associated assessments, the 2014 Legislature established the 2014-2015 school year as an informational baseline year for schools to work toward improved performance in future years.⁷⁹ The results of statewide, standardized assessments, including the Florida Standards assessments, administered in the spring of 2015 will be used to calculate school grades and school improvement ratings; however, schools will be held harmless and insulated from any penalty or reclassification that would otherwise result from the school’s 2014-2015 grade.⁸⁰ Consequently, a school will not be required to select an implement a turnaround option in the 2015-2016 school year based on the school’s 2014-2015

⁷³ Section 1008.341(3)(a) and (b), F.S.

⁷⁴ Statewide assessments include FCAT writing, FCAT 2.0, and end of course (EOC) assessments. See Section 1008.22, F.S.

⁷⁵ Florida Department of Education, *Just for Parents* (June/July 2014), available at <http://www.fldoe.org/core/fileparse.php/7743/urlt/0078176-junejuly.pdf>.

⁷⁶ Florida State Board of Education, *Minutes of February 18, 2014*, available at <http://www.fldoe.org/core/fileparse.php/5444/urlt/0074998-minutes.pdf>.

⁷⁷ Florida Department of Education, *With Students as Top Priority, Florida Chooses Replacement for FCAT*, Press Release (Mar. 17, 2014).

⁷⁸ Department of Education, *Florida Standards Assessments Information for Families*, available at <http://www.fsassessments.org/wp-content/uploads/2014/09/Florida-Family-Brochure-v6-2.pdf>.

⁷⁹ Section 1008.34(7), F.S.

⁸⁰ Section 1, ch. 2014-23, L.O.F.

grade or school improvement rating.⁸¹ Schools, based on grades calculated during the transition year, will be eligible to receive school recognition funds based on their performance.⁸²

III. Effect of Proposed Changes:

This bill impacts statutory accountability provisions related to the state's public school student assessment program, the educator performance evaluation system, and the statewide public school accountability system.

The bill maintains the statutorily provided 2014-2015 school year transition to the Florida Standards Assessments, including the suspension of negative consequences associated with school grades and school improvement ratings. Specifically, the bill makes the following adjustments to student assessment, performance evaluation requirements and school accountability.

Student Assessments

The bill:

- Reduces the number of statutorily-required assessments by eliminating the current requirement that a school district administer a local assessment for each course that is not assessed by a statewide, standardized assessment.
- Reduces the total time devoted to testing by adding a provision limiting the amount of time for test administration by limiting to no more than 5 percent of total school hours per student, per year, during a school year that a student can be required to take state-required and locally-required tests.⁸³
 - Exemptions are allowed to the 5 percent testing limit as follows: a parent may consent to additional assessments, students may take certain assessments, for use as end-of-course assessments⁸⁴ or to demonstrate college readiness,⁸⁵ and for a student with test accommodations via an Individual Education Plan (IEP) or English Language Learner (ELL) plan.⁸⁶
- Provides for timely information to teachers and parents by adding in law a provision requiring school districts to make student performance results on district-required local

⁸¹ *Id.*

⁸² *Id.*

⁸³ Instruction in a standard school for a full time student consists of at least 900 net hours for a student in grades 4-12, and 720 net hours for a student in kindergarten through grade 3. Section 1011.61(1)(a)1., F.S. The 5% testing limit thus equals 45 hours for grades 4-12 and 36 hours for kindergarten through grade 3.

⁸⁴ "The commissioner may select one or more nationally developed comprehensive examinations, which may include examinations for College Board Advanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course, or industry-approved examinations to earn national industry certifications identified in the Industry Certification Funding List, for use as EOC assessments." Section 1008.22(3)(b)4., F.S.

⁸⁵ Students may take the Florida Postsecondary Education Readiness Test (PERT), Accuplacer, SAT, or Enhanced ACT to demonstrate readiness to perform college-level work. Rule 6A-10.0315, F.A.C.

⁸⁶ The 5% testing limit does not interfere with a student's ability to take AP, IB, AICE, dual enrollment, industry certification, AAT and ACT assessments.

assessment available to the student's teachers and parents within 30 days of test administration.⁸⁷

- Requires the state to provide results of statewide, standardized assessments to parents and teachers within 30 days as a requirement of new or renewed state assessment contracts.
- Amends current law regarding mandatory assessments and progress monitoring by:
 - Removing the requirement to take the grade 11 Florida Standards Assessment (FSA) for English Language Arts.
 - Removing the grade 11 FSA for English Language Arts as a requirement to earn a scholar designation on a student's standard high school diploma.
 - Adding a requirement prohibiting administration of a local assessment if a statewide, standardized assessment is administered for the subject or grade level.
 - Removing the administration of the common placement test (e.g., Postsecondary Education Readiness Test or PERT) as a requirement in high school and makes the administration optional at the request of parents, adding authority for districts to administer SAT, ACT, or other alternative assessments, and removing the requirement for remedial instruction.⁸⁸
 - Removing the requirement for progress monitoring except for students performing at level 1 and level 2.
- Codifies the rollout schedule for statewide, standardized computer-based testing and paper testing options through the 2017-2018 school year.
- Requires independent verification of the psychometric validity of statewide, standardized assessments before the results can be used to determine third grade retention or high school graduation.
- Requires students who score in the bottom quintile of the grade 3 English Language Arts assessment to be identified as at-risk and provided with the appropriate intervention and support services.
- Adds a new requirement for the State Board of Education (SBE) to adopt in rule a notification form that districts must use to inform parents about third grade retention and mid-year promotion and high school graduation requirements and available options.⁸⁹

Performance Evaluation Requirements

The bill:

- Retains the ability for teachers and school administrators to receive performance pay adjustments, if they choose to have the student performance component of their performance evaluation based on a statewide or other standardized assessment, industry certification assessment, or a district-developed or selected assessment.

⁸⁷ There is no requirement in state law for a school district to provide results of such assessments to teachers, students or parents within a certain time frame.

⁸⁸ One result of the state's performance accountability system is a requirement that high school students who score Level 1 or 2 to complete an intensive remedial course the following year. Section 1002.4282(5)(a), F.S. Another result is a requirement that students who score less than Level 3 on the English Language Arts or Mathematics assessments to undergo progress monitoring. Section 1008.25, F.S.

⁸⁹ State law identifies grade 3 retention and midyear promotion requirements, and high school graduation requirements; however, it does not specifically require the Department of Education – either annually or contemporaneously with the provision of assessments results – to notify parents and students of such requirements in a clear and effective manner that is easily understood.

- Modifies the student performance component of teacher performance evaluations by lowering the component from at least 50 percent to at least 33 percent of a teacher's total performance evaluation, adding a requirement that the instructional practice component constitute at least 33 percent of a teacher's total performance evaluation, and adding a requirement that the professional and job responsibilities component constitute no more than 33 percent of a teacher's total performance evaluation.
- Authorizes the professional and job responsibilities component of a teacher's performance evaluation to utilize peer reviews.⁹⁰
- Allows personnel evaluations to be based on a proportion of a teacher's students or classes, instead of every class assigned to the teacher, except that student performance on statewide, standardized assessments must be included.
- Authorizes school districts to set performance standards for performance evaluation ratings of highly effective, effective, needs improvement, and unsatisfactory for their district. The Commissioner of Education must perform an analysis that compares performance evaluation results calculated by each school district to indicators of performance calculated by the Department of Education using standards of performance adopted by the State Board of Education.
- Removes prescriptive language to allow district discretion on local assessments, including requirements for student growth formulas, not associated with statewide standardized assessments.

School Accountability

The bill creates, for schools and school districts that experience technical implementation issues during the 2014-2015 school year assessment, a one-time option for superintendents, with a majority vote of the district school board, to adopt a corrective action plan and seek approval from the State Board of Education to use the 2014-2015 school year test results for diagnostic and baseline purposes only.⁹¹ If approved, the school district forfeits designation as an academically-high performing school district, if applicable, and the school forfeits school recognition funding.

The bill also allows a school currently implementing a turnaround option to be released from these requirements if the school improves in the 2014-2015 transition year by at least one letter grade.

Florida Standards Assessment Administration

The bill requires that, if the Department of Education determines the administration of online assessments after January 1, 2015, does not comply with the minimum assessment protocols and

⁹⁰ Current law does not specifically authorize peer reviews to be utilized as part of the professional and job responsibilities evaluation component. Section 1012.34(3)(a)4., F.S.

⁹¹ Superintendents must annually certify certain readiness for state assessments. Florida Department of Education, *2014-2015 Computer-Based Assessment Certification Process*, available at <http://info.fldoe.org/docushare/dsweb/Get/Document-7126/dps-2014-122.pdf>. For the certification for the Spring 2015 Computer-Based Testing for the Florida Standards Assessment: 16 superintendents' certification forms contained an addendum, 19 superintendents requested an extension of time to file the certification, and 27 superintendents submitted the certification. E-mail, Florida Department of Education (February 16, 2016), on file Committee on Education Pre-K-12 staff.

requirements established by the department, the department will contract with an independent, auditing entity that has expertise in the area to evaluate the extent of the noncompliance and provide recommendations to remediate the noncompliance in future administrations of online assessments. The bill also requires liquidated damages, if applicable in response to the administration of the spring 2015 Florida Standards Assessment administration, to be collected by the state and distributed to school districts as determined by the Legislature.

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:

Under the provisions of CS/CS/SB 616, the American Institute for Research (AIR) may be liable for liquidated damages, if determined applicable, as a result of issues associated with the spring 2015 Florida Standards Assessments administration.

C. Government Sector Impact:

The provisions of the bill which eliminate mandatory statewide assessments should result in a cost savings for the state. Based on information provided by the Department of Education, the elimination of the Grade 11 Florida Standards Assessment for English Language Arts should reduce state assessment costs by approximately \$1.5 million. By making the Postsecondary Education Readiness Test optional, rather than mandatory, the state assessment costs are projected to decrease by approximately \$200,000. In addition, school districts may experience a reduction in costs as a result of the reduction in local student assessments.

If liquidated damages are collected from AIR as a result of issues associated with the spring 2015 Florida Standards Assessments administration, the collected funds will be distributed to school districts as determined by the Legislature.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.03, 1003.4282, 1003.4285, 1008.22, 1008.24, 1008.25, 1008.30, 1008.34, 1011.62, 1012.22, 1012.34, and 1012.3401.

This bill repeals section 1012.3401 of the Florida Statutes.

This bill creates an undesignated section of the Florida law.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Appropriations on March 25, 2016:**

The committee substitute:

- Makes the use of peer reviews, student and parent survey responses, and other measure of instructional practice optional rather than required.
- Requires independent verification of the psychometric validity of statewide, standardized assessments before the results can be used to determine third grade retention or high school graduation.
- Requires students who score in the bottom quintile of the grade 3 English Language Arts assessment to be identified as at-risk and provided with the appropriate intervention and support services.
- Codifies the rollout schedule for statewide, standardized computer based testing and paper testing options through the 2016-2017 school year.
- Removes prescriptive language to allow district discretion on local assessments, including requirements for student growth formulas, not associated with statewide standardized assessments.
- Allows a school currently implementing a turnaround option to be excused from these requirements if the school improves in the 2014-2015 transition year by at least one letter grade.
- Repeals s. 1012.3401, F.S., related to outdated bonus awards for districts that implemented performance salary schedules ahead of time.
- Requires liquidated damages, if applicable in response to the administration of the spring 2015 Florida Standards Assessment administration, to be collected by the state and distributed to school districts as determined by the Legislature.

- Requires the state to provide results of statewide, standardized assessments to parents and teachers within 30 days as a requirement of new or renewed state assessment contracts.
- Allows personnel evaluations to be based on a proportion of a teacher's students or classes, instead of every class assigned to the teacher, except that student performance on statewide, standardized assessments must be included.
- Removes the requirement for multiple administrator observations for classroom teacher performance evaluations.
- Authorizes school districts to set performance standards for performance evaluation ratings of highly effective, effective, needs improvement, and unsatisfactory for their district. The Commissioner of Education must perform an analysis that compares performance evaluation results calculated by each school district to indicators of performance calculated by the Department of Education using standards of performance adopted by the State Board of Educations.
- Requires that, if the Department of Education determines the administration of online assessments after January 1, 2015, does not comply with the minimum assessment protocols and requirements established by the department, the department will contract with an independent, auditing entity that has expertise in the area to evaluate the extent of the noncompliance and provide recommendations to remediate the noncompliance in future administrations of online assessments.

CS by Education Pre-K-12 on March 4, 2015:

The committee substitute makes the following changes to SB 616:

Student Assessments

- Clarifies that the 5 percent testing limit is per student per school year.
- Clarifies an exception to the five percent testing limit, so that students may take assessments associated with acceleration mechanisms and industry certifications and assessments to demonstrate college readiness.
- Adds an additional exception to the five percent testing limit by exempting test times associated with student Individual Education Plan (IEP) or English Language Learner (ELL) plan accommodations.
- Adds new requirement for districts to make student performance results on district-required local assessment available to the student's teachers and parents within 30 days of test administration.
- Adds a new requirement for the State Board of Education (SBE) to adopt in rule a notification form that districts must use to inform parents about third grade retention and mid-year promotion and high school graduation requirements and available options.
- Requires OPPAGA to conduct a year-long study, beginning no later than August 1, 2015, to assess the cost-effectiveness of the Department of Education leasing examination questions from American Institute for Research compares with using questions from an existing examination, and reporting the results to the President of the Senate and Speaker of the House of Representatives no later than December 1, 2016.

Performance Evaluation Requirements

- Modifies the student performance component of teacher performance evaluations by lowering the component from at least 40 percent to at least 33 percent of a teacher's total performance evaluation, increasing the instructional practice component from at least 30 percent to at least 33 percent, and increasing the professional and job responsibilities component percentage from no more than 30 percent to no more than 33 percent.
- Adds a new requirement that the instructional practice component of a teacher's performance evaluation have multiple observations by administrative personnel.
- Authorizes a new requirement that the professional and job responsibilities component of a teacher's performance evaluation to utilize peer reviews.

School Accountability

- Retains provision creating the one-time, district contingency option for the 2014-2015 school year with the following modifications:
 - Changes, from supermajority to majority vote of school board, the requirement to pursue SBE approval to pursue a waiver.
 - Limits the reason a district is authorized to request a waiver from any implementation failure to only a technical implementation failure.
 - Clarifies that a school board must adopt the corrective action plan submitted along with the district's waiver request to the SBE.

B. Amendments:

None.