

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 Appropriations Subcommittee on Education

BILL: SB 1060

INTRODUCER: Senator Legg

SUBJECT: Career and Adult Education

DATE: January 28, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Scott</u>	<u>Klebacha</u>	<u>ED</u>	Favorable
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1060 updates terminology and expands opportunities and requirements related to career and adult education. Specifically, the bill:

- Updates, revises, and expands terminology and criteria to align statutory law to federal guidelines and regulations regarding apprenticeship programs.
- Increases the number of Career and Professional Education (CAPE) Digital Tool certificates that can be earned by elementary and middle school students, and approved annually on the CAPE Industry Certification Funding List.
- Requires school district career centers and charter technical career centers to establish financial aid appeal procedures for students seeking redress of grievances.

The bill has no impact on state funds. The increase in the number of CAPE Digital Tool certificates made available on the CAPE Industry Certification Funding List may result in an increase in the number of students eligible to generate additional full-time equivalent (FTE) funding to school districts. Each CAPE Digital Tool certificate generates 0.025 FTE, which would generate approximately \$104 in additional funding for each certificate earned in the 2015-2016 fiscal year.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Apprenticeship Programs

Federal Program Requirements

The United States Congress enacted the National Apprenticeship Act (also known as the Fitzgerald Act in honor of its author, Congressman William J. Fitzgerald)¹ in 1937.² Following the passage of the act, Registered Apprenticeship (RA) programs consisted mainly of manufacturing, construction, and utilities industries.³ In 2008, revised regulations were issued by the U.S. Department of Labor which increase program flexibility to better serve the needs of today's apprentices and program sponsors.⁴

For apprentices and program sponsors, the regulations:⁵

- Incorporate technology-based learning;
- Provide additional pathways to certification;
- Introduce interim credentials;
- Improve registration and review process;
- Update the reciprocal registration provision; and
- Introduce provisional registration.

For State Apprenticeship Agencies (SAAs), the regulations:⁶

- Increase linkages with the workforce investment system;
- Redefine the roles and responsibilities of SAAs and State Apprenticeship Councils;
- Establish a process for continued recognition; and
- Increase flexibility for location of an SAA.

For the U.S. Department of Labor, the regulations:⁷

- Enhance program accountability; and
- Ensure national conformity with federal apprenticeship legislation and regulations.

¹ U.S. Department of Labor, *Workforce System Results* (Sep. 30, 2012), at 2, available at <http://www.doleta.gov/Farmworker/pdf/workforceSystemResultsSept2012.pdf>.

² U.S. Department of Labor, *History and Fitzgerald Act*, <http://www.doleta.gov/oa/history.cfm> (last visited January 14, 2016). See 29 U.S.C. s. 50 (1937), as amended.

³ *Id.* Since 1937, RA programs have grown to 24,000 programs providing education and training to approximately 400,000 apprentices in emerging and high-growth sectors such as energy conservation, health care, and information technology, in addition to traditional industries such as manufacturing and construction. *Id.*

⁴ *Id.* “These revised regulations published, on October 29, 2008, update Title 29 CFR, part 29 and provide a framework that supports an enhanced, modernized apprenticeship system.” U.S. Department of Labor, *Regulations*, <http://www.doleta.gov/oa/regulations.cfm> (last visited January 14, 2016).

⁵ U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, at 1-2, available at http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf.

⁶ U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, at 2-3, available at http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf.

⁷ U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, at 3, available at http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf.

Registered apprenticeship program sponsors (*i.e.*, employers, employer associations, and labor management organizations)⁸ identify the minimum qualifications to apply to their apprenticeship programs.⁹

State Law Regarding Apprenticeship Programs

While the Federal government works in cooperation with states to oversee the nation's apprenticeship programs, the states have the authority to register apprenticeship programs through federally recognized SAAs.¹⁰ In Florida, the Department of Education (DOE) serves as the registering entity to ensure compliance with federal and state apprenticeship standards, provide technical assistance, and conduct quality assurance assessments.¹¹

Florida law provides education and training opportunities, in the form of apprenticeship and preapprenticeship programs, to prepare individuals for trades, occupations, and professions suited to their abilities.¹²

An apprenticeship program means “an organized course of instruction, registered and approved by the department, which course shall contain all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices¹³ including such matters as the requirements for a written apprenticeship agreement.”¹⁴ A preapprenticeship program means “an organized course of instruction in the public school system or elsewhere, which course is designed to prepare a person 16 years of age or older to become an apprentice and which course

⁸ Registered Apprenticeship program sponsors vary from small, privately owned businesses to national employer and industry associations. There are nearly 29,000 sponsors representing more than 250,000 employers, such as UPS, the United States Military Apprenticeship Program, Werner Enterprises, and CVS/pharmacy. U.S. Department of Labor, *Apprentices*, <http://www.doleta.gov/oa/apprentices.cfm> (last visited January 14, 2016).

⁹ U.S. Department of Labor, *Apprentices*, <http://www.doleta.gov/oa/apprentices.cfm> (last visited January 14, 2016). An individual must be at least 16 years of age to be an apprentice. *Id.* In hazardous occupations, individuals must usually be 18 years of age. *Id.* Program sponsors may also identify additional minimum qualifications and credentials to apply (*e.g.*, education, ability to physically perform the essential functions of the occupation, and proof of age). *Id.* All applicants are required to meet the minimum qualifications. *Id.* Based on the selection method utilized by the sponsor, additional qualification standards, such as fair aptitude tests and interviews, school grades, and previous work experience may be identified. *Id.*

¹⁰ 29 C.F.R. ss. 29.1 and 29.13 (2008).

¹¹ 29 C.F.R. s. 29.2 (2008).

¹² Section 446.011(1), F.S.

¹³ An “apprentice” means “a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyman craftsmen, which training should be combined with properly coordinated studies of technical and supplementary subjects, and who has entered into a written agreement, which may be cited as an apprentice agreement, with a registered apprenticeship sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee.” Section 446.021(2), F.S. A “journeyman means” “a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation.” Section 446.021(4), F.S. An apprenticeable occupation is a skilled trade which possesses all of the characteristics that are specified in law (*e.g.*, customarily learned in a practical way through a structured, systemic program of on-the-job, supervised training and involves manual, mechanical, or technical skills and knowledge which require a minimum of 2,000 hours of work and training, which hours are excluded from the time spent at related instruction). Section 446.092, F.S.

¹⁴ Section 446.021(6), F.S. An apprenticeship agreement may not operate to invalidate any apprenticeship provision in a collective agreement between employers and employees which establishes higher apprenticeship standards. Section 446.081(1), F.S.

is approved by and registered with the department and sponsored by a registered apprenticeship program.”¹⁵

The DOE is responsible for administering, facilitating, and supervising registered apprenticeship programs, including, but not limited to:¹⁶

- Developing and encouraging apprenticeship programs.
- Cooperating with and assisting apprenticeship sponsors to develop apprenticeship standards and training requirements.
- Monitoring RA programs.
- Investigating complaints regarding failure to meet the standards¹⁷ established by the DOE.
- Canceling registration of programs that fail to comply with DOE standards and policies.

Additionally, the DOE, district school boards, and Florida College System (FCS) institution district boards of trustees must work together with existing apprenticeship programs so that individuals completing preapprenticeship programs may be able to receive credit towards completing registered apprenticeship programs.¹⁸

The State Apprenticeship Advisory Council (Council) advises the DOE on matters related to apprenticeship.¹⁹ The Council is comprised of 10 voting members appointed by the Governor and two ex officio nonvoting members.²⁰ The Commissioner of Education (Commissioner) or the Commissioner’s designee must serve ex officio as chair of the Council, but may not vote.²¹ Two public members who are knowledgeable about registered apprenticeship and apprenticeable occupations are appointed by the Governor to the Council.²² One of the public members must be recommended by joint organizations and one must be recommended by nonjoint organizations.²³

¹⁵ Section 446.021(5), F.S.

¹⁶ Section 446.041, F.S.

¹⁷ The DOE is responsible for developing apprenticeship and preapprenticeship uniform minimum standards for the apprenticeable trades and assisting district school boards and community college district boards of trustees in developing preapprenticeship programs. Sections 446.011(2), 446.032, and 446.052, F.S.; Rule 6A-23.004, F.A.C. “Uniform minimum preapprenticeship standards” means “the minimum requirements established uniformly for each craft under which a preapprenticeship program is administered and includes standards for admission, training goals, training objectives, curriculum outlines, objective standards to measure successful completion of the preapprenticeship program, and the percentage of credit which may be given to preapprenticeship graduates upon acceptance into the apprenticeship program.” Section 446.021(8), F.S.

¹⁸ Section 446.052(3), F.S.

¹⁹ Section 446.045(2)(a), F.S.

²⁰ *Id.*

²¹ Section 446.045(2)(b), F.S.

²² *Id.*

²³ *Id.* A “joint organization” means an apprenticeship sponsor who participates in a collective bargaining agreement. Section 446.045(1)(a), F.S. A “nonjoint organization” means an apprenticeship sponsor who does not participate in a collective bargaining agreement. *Id.* at (1)(b).

CAPE Digital Tool Certificates

The DOE annually identifies CAPE Digital Tool certificates²⁴ available to school districts to use in their programs for public elementary and middle school students to attain digital skills needed for academic work and future employment.²⁵ The skills may include, but are not limited to:²⁶

- Word processing;
- Spreadsheets;
- Presentations;
- Digital arts;
- Cybersecurity; and
- Coding.

The certificates are identified on the CAPE Industry Certification Funding List²⁷ (list) and solely updated by the Chancellor of Career and Adult Education.²⁸ Currently, the list includes 15 CAPE Digital Tool certificates, the maximum number allowed.²⁹ In the 2014-2015 school year, 3,666 students earned a total of 3,953 CAPE Digital Tool certificates in 26 school districts.³⁰ A student who earns a CAPE Digital Tool certificate generates additional full-time equivalent student membership for purposes of school district funding under the Florida Education Finance Program.³¹

²⁴ A certificate is earned through coursework with a specific focus and learning objectives, attainment of which demonstrates knowledge of course content. Certification results from an assessment process demonstrating mastery or competency of a set of standards. American Council for Accredited Certification, National Organization for Competency Assurance (NOCA) Standard 1100: “Certificate” vs. “Certification” available at <http://www.acac.org/forms/otherpdfs/NOCA%20Article%203-09.pdf>.

²⁵ Section 1003.4203(3), F.S.

²⁶ *Id.*

²⁷ All items on the list must include written exams that are third-party developed, scored by the certifying agency, and given in a proctored testing environment. Rule 6A-6.0573, F.A.C.

²⁸ *Id.* To earn an industry certification, a student is assessed by an independent, third-party certifying entity using predetermined standards for knowledge, skills, and competencies, resulting in the award of a credential that is nationally recognized and must be: (1) within an industry that addresses a critical local or statewide economic need; (2) linked to an occupation that is included in the workforce system’s targeted occupation list; or (3) linked to an occupation that is identified as emerging. Section 1003.492(2), F.S. See also, Florida Department of Education, Industry Certification <http://www.fldoe.org/academics/career-adult-edu/industry-certification> (last visited January 19, 2016). The DOE must also identify other certificates, certifications, and courses on the CAPE Industry Certification Funding List (e.g., CAPE ESE Digital Tool certificates, CAPE Innovation Courses, and CAPE Acceleration Industry Certifications). Section 1008.44(1), F.S.

²⁹ Section 1008.44(1)(b), F.S. Florida Department of Education, 2015-2016 CAPE Industry Certification Funding List, at 6, available at <http://www.fldoe.org/core/fileparse.php/8904/urlt/1516icfl.pdf>. A more detailed list is available at <http://www.fldoe.org/academics/career-adult-edu/cape-secondary/cape-industry-cert-funding-list-current.stml> (last visited January 11, 2016).

³⁰ Florida Department of Education, Email, January 7, 2016.

³¹ Section 1008.44(1)(b), F.S. Additional full-time equivalent (FTE) student membership is based on successful completion of a career-themed course, or courses with embedded CAPE industry certifications or CAPE Digital Tool certificates, and issuance of industry certification identified on the CAPE Industry Certification Funding List. Section 1011.62(1)(o), F.S. An additional 0.025 FTE shall be calculated for CAPE Digital Tool certificates earned by students in elementary and middle school grades. *Id.*

Career and Technical Education Programs

Florida law states that “[t]he purpose of career education is to enable students who complete career programs to attain and sustain employment and realize economic self-sufficiency.”³²

Public school districts and FCS institutions are responsible for ensuring adherence to accountability standards for career education programs, including, but not limited to:³³

- Student demonstration of the academic skills necessary to enter an occupation.
- Student preparation to enter an occupation in an entry-level position or continue postsecondary study.
- Student completion, placement, and retention rates.³⁴

The DOE is responsible for, among other things, providing timely, accurate technical assistance to schools districts and FCS institutions and developing program standards and industry-driven benchmarks for career, adult, and community education programs.³⁵

The president of each state university or FCS institution is responsible for establishing procedures for appeals to redress student grievances related to the award or administration of financial aid at the university or institution.³⁶ Although Florida law does not expressly require career and technical centers to establish such procedures, federal law does. As student financial aid granting institutions in accordance with Title IV of the Higher Education Act of 1965, career and technical centers must establish and maintain financial aid appeal procedures.³⁷

III. Effect of Proposed Changes:

SB 1060 updates terminology and expands opportunities and requirements related to career and adult education. Specifically, the bill:

- Updates, revises, and expands terminology and criteria to align statutory law to federal guidelines and regulations regarding apprenticeship programs.
- Increases the number of CAPE Digital Tool certificates that can be earned by elementary and middle school students and approved annually on the CAPE Industry Certification Funding List.
- Requires school district career centers and charter technical career centers to establish financial aid appeal procedures for students seeking redress of grievances.

³² Section 1004.92(1), F.S.

³³ *Id.* at (2)(a).

³⁴ The DOE must develop a system of performance measures in order to evaluate the career education programs which measure program enrollment, completion rates, placement rates, and amount of earnings at the time of placement. Placement and employment information, where applicable, shall contain data relevant to job retention, including retention rates. The State Board of Education must adopt by rule the specific measures and any definitions needed to establish the system of performance measures. Section 1008.43(1)(a), F.S.; Rule 6A-10.0342, F.A.C.

³⁵ *Id.* at (2)(b).

³⁶ Section 1009.42(2), F.S.

³⁷ 20 U.S.C. s. 1018, *et seq.* (1965), as amended. According to DOE, career and technical centers currently have student financial aid appeal procedures in place. Florida Department of Education, via conference call, January 7, 2016.

Apprenticeships

Definitions

The bill changes the term “journeyman” to “journeyworker.” Also, the bill clarifies and expands the definition of the term journeyworker as a worker who has mastered the skills and competencies required for a specific trade or occupation through a formal apprenticeship, attainment of a nationally recognized industry certification, or practical on-the-job experience or formal training. The revised definition aligns the state definition with federal law and recognizes the importance of industry certifications as nationally recognized credentials that demonstrate competency of the student’s knowledge in a specific trade or occupation.

The bill redefines “related instruction” by specifying that such instruction may be given in occupational or industrial courses taught inside or outside the classroom through correspondence courses, electronic media, or other forms of self-study approved by the Department of Education (DOE). The bill expands the definition to broaden the types of courses and options for receiving instruction for such courses, which may benefit preapprentices and apprentices who would not otherwise have the opportunity to receive the instruction in a traditional classroom setting.

Apprenticeable Occupations

The bill expands the criteria for an apprenticeable occupation as a clearly identified, skilled trade which may be associated with a nationally recognized industry certification and involves skills and knowledge in accordance with the applicable industry standards. By revising the criteria for an apprenticeable occupation, the bill recognizes the importance of industry certifications as nationally recognized credentials that demonstrate competency of the student’s knowledge in a specific trade or occupation.

State Apprenticeship Advisory Council Membership

The bill authorizes the Governor to appoint two public members to the State Apprenticeship Advisory Council (council) who are independent of, rather than recommended by, joint or nonjoint organizations affiliated with apprenticeship sponsors, which meets the intent of federal law. The bill may provide the Governor more autonomy when appointing council members.

Apprenticeship Agreements

The bill prohibits apprenticeship programs or agreements from discriminating against or invalidating special provisions for veterans, minority persons, or women. In effect, the bill ensures that such individuals are protected and special provisions are honored in apprenticeship agreements.

CAPE Digital Tool Certificates

The bill increases from 15 to 30 the maximum number of CAPE Digital Tool certificates available for school districts to use in their programs and provides students more options for acquiring digital skills and attaining industry-approved credentials. Also, the bill removes the requirement that the CAPE Digital Tool certificates be updated solely by the Chancellor of

Career and Adult Education which may provide the DOE with more flexibility to review, recommend, and update the CAPE Certification Funding List with regard to such certificates.

Career and Technical Center Financial Aid Appeals

The bill requires, consistent with federal law, each district school board operating a career center and each governing board of a charter technical career center to establish procedures for student appeals relating to financial aid grievances. In effect, the bill ensures that students enrolled in career and technical education programs are afforded the same rights relating to student financial aid as students enrolled in state universities and Florida College System institutions.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The increase in the number of CAPE Digital Tool certificates made available on the CAPE Industry Certification Funding List may result in an increase in the number of students eligible to generate additional full-time equivalent (FTE) funding to school districts.³⁸ Each CAPE Digital Tool certificate generates 0.025 FTE, which would generate approximately \$104 in additional funding for each certificate earned in the 2015-2016 fiscal year.³⁹

³⁸ Florida Department of Education, *2016 Agency Legislative Bill Analysis* (SB 1060), at 5, *r'cvd* December 23, 2015 (on file with the staff of the Committee on Education Pre-K – 12).

³⁹ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 446.021, 446.032, 446.045, 446.081, 446.091, 446.092, 1008.44, and 1009.42.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.