

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 719 Education Personnel

SPONSOR(S): Education Appropriations Subcommittee, K-12 Subcommittee, Spano and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 894

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	12 Y, 0 N, As CS	Brink	Fudge
2) Education Appropriations Subcommittee	13 Y, 0 N, As CS	Seifert	Heflin
3) Education Committee	14 Y, 1 N	Brink	Mizereck

SUMMARY ANALYSIS

The bill revises several provisions related to education personnel. With respect to educator discipline, the bill:

- Revises the membership of the Education Practices Commission to include membership opportunities for school administrators employed by virtual schools; former charter school governing board members; and former district school superintendents, assistant superintendents, or deputy superintendents.
- Requires all commission members to be Florida residents and authorizes the appointment of emeritus members.
- Authorizes the Commissioner of Education to issue a letter of guidance to a certified educator upon finding that probable cause to prosecute a complaint does not exist.
- Authorizes the Department of Children and Families to disclose child abandonment, abuse, or neglect records to Department of Education (DOE) employees who investigate or prosecute misconduct by certified educators.

In addition, the bill eliminates the July 1, 2016, expiration date for the educator liability insurance program, which provides liability coverage for all full-time public school instructional personnel. The bill also prohibits postsecondary educational institutions and school districts from requiring a student participating in a clinical field experience to purchase liability insurance as a condition of participation.

With respect to teacher recruitment, the bill authorizes, rather than requires, DOE to sponsor a centrally located job fair to help match educators with teaching opportunities in the state. The bill requires DOE to coordinate a best practice community to help school districts recruit and perform other human resources functions with up-to-date knowledge. The bill also deletes obsolete State Board of Education rulemaking authority regarding certain teacher assignment requirements.

The bill promotes effective school leadership by providing standards for approval of school leader preparation programs.

The bill has no fiscal impact. See FISCAL IMPACT ON STATE GOVERNMENT, *infra*.

The bill takes effect on July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Education Practices Commission

Present Situation

The Education Practices Commission (EPC) is a panel that is responsible for adjudicating complaints of misconduct committed by certified educators. The EPC is authorized to suspend or revoke an educator's certificate and may impose other sanctions.¹ The EPC consists of 25 members, including:

- Eight teachers;
- Five administrators, at least one of whom must represent a private school;
- Seven lay citizens, five of whom must be parents of public school students with no family relation to a public school employee and two of whom must be former district school board members; and
- Five sworn law enforcement officials.

EPC members are appointed by the State Board of Education based upon nominations by the Commissioner of Education and subject to Senate confirmation. Teacher, school administrator, and lay members of the EPC must be Florida residents. Residency is not required of law enforcement members.²

The Department of Education (DOE) is required to investigate complaints of misconduct committed by certified educators to determine if probable cause exists to refer the matter for prosecution by the EPC.³ DOE investigative staff must advise the Commissioner of Education regarding the findings of the investigation. DOE's legal department must review the investigation and advise the commissioner as to whether probable cause exists to prosecute the complaint. Unless the complaint involves a felony or crime of moral turpitude, the commissioner may enter into a deferred prosecution agreement with the certified educator in lieu of finding probable cause. The commissioner must dismiss a complaint if probable cause does not exist to commence prosecution.⁴

Florida law provides that records held by the Department of Children and Families (DCF) regarding reports of child abandonment, abuse, or neglect are confidential and exempt from public records disclosure requirements. The law authorizes disclosure of these records to a limited list of individuals, e.g., state or local government, law enforcement, or court officials who investigate or adjudicate alleged child abuse or provide supportive services to child abuse victims.⁵ The law does not authorize disclosure of child abuse records to DOE employees who are responsible for investigating or prosecuting misconduct by certified educators.

Effect of Proposed Changes

The bill revises the membership of the EPC as follows:

- The number of teacher members is increased from eight to 10.
- The one school administrator slot currently reserved for a private school administrator may also be filled by a virtual school administrator.
- The number of parent members is reduced from five to four.

¹ Section 1012.795(1), F.S.

² Section 1012.79(1), F.S.

³ Section 1012.796(1), F.S.

⁴ Section 1012.796(3), F.S.

⁵ Section 39.202(1)-(2), F.S.

- The two membership slots currently reserved for former district school board members remain, but are no longer classified as “lay citizen” slots and may also be filled by a former charter school governing board member or former district school superintendent, assistant superintendent, or deputy superintendent.
- The number of sworn law enforcement officials is reduced from five to four.
- The Commissioner of Education, upon request or recommendation from the EPC, is authorized to appoint up to five emeritus members to serve one-year terms. Emeritus members may serve up to five one-year terms, are voting members for discipline hearings, and are nonvoting members for other matters. Such members are not subject to Senate confirmation.
- All members of the EPC must be Florida residents.

Additionally, the bill authorizes DCF to disclose child abandonment, abuse, or neglect records, including information in the DCF central abuse hotline,⁶ to DOE employees who investigate or prosecute misconduct by certified educators.

Currently, the commissioner must dismiss a complaint if probable cause does not exist to commence prosecution. The bill also authorizes the commissioner to issue a letter of guidance to a certified educator if the complaint is dismissed because no probable cause is found.

Educator Liability Insurance Program

Present Situation

Legislation passed in 2015 requires DOE to administer a liability insurance program to protect public school educators from liability for claims arising from incidents occurring while performing job responsibilities.⁷ The program must provide coverage amounting to \$2 million to all full-time instructional personnel.⁸ Part-time instructional personnel, administrative personnel, and student teachers participating in clinical field experience through a state-approved teacher preparation program may opt to receive liability coverage, at cost.⁹

The law required DOE, by August 1, 2015, to notify eligible personnel of the pending procurement for liability coverage. In addition, the law required each school district, by September 1, 2015, to notify eligible personnel of the liability coverage using a postcard which included:

- The amount of the coverage;
- A general description of the nature of the coverage; and
- The contact information for coverage and claims questions.¹⁰

The law required each district school board to certify to DOE by September 15, 2015, that the district had provided the notification to the eligible personnel.¹¹

DOE must consult with the Department of Financial Services to select the “most economically prudent and cost-effective means of implementing the program through self-insurance, a risk management program, or competitive procurement.”¹²

The law establishing the educator liability insurance program will expire on July 1, 2016.¹³

Effect of Proposed Changes

⁶ Section 39.201, F.S.

⁷ See s. 1012.75(3), F.S., as amended by s. 10, ch. 2015-222, L.O.F.

⁸ Section 1012.75(3)(a), F.S.

⁹ *Id.*

¹⁰ Section 1012.75(3)(b), F.S.

¹¹ *Id.*

¹² Section 1012.75(3)(c), F.S.

¹³ Section 1012.75(3)(d), F.S.

The bill saves the educator liability insurance program from repeal by eliminating the July 1, 2016, statutory expiration date. The bill requires DOE and each school district to provide annual notification of the insurance coverage to eligible personnel. District school boards must annually certify to DOE that the notification has been provided.

In addition, the bill requires a district school board providing clinical field experience to students in teacher preparation programs to notify the student electronically or in writing of the availability of educator liability insurance. Postsecondary educational institutions and district school boards are prohibited from requiring a student in a teacher preparation program to purchase liability insurance as a condition of participation in any clinical field experience or related activity on the premises of an elementary or secondary school.

School Leader Preparation Programs

Present Situation

School leaders include school administrators, school principals, school directors, career center directors, and assistant principals. School principals or school directors serve as the administrative head of a school and are responsible for coordinating and administering the instructional and noninstructional activities of the school. Assistant principals are staff members who assist the administrative head of the school regarding curricular and administrative matters.¹⁴

Florida Principal Leadership Standards

The Florida Principal Leadership Standards (FPLS) are Florida's core expectations for effective school administrators. The FPLS are research-based; represent necessary knowledge, skills, and abilities for effective school leadership; and are the basis for school administrator preparation programs, certification competencies, certification examinations, performance evaluations, and professional development systems. The FPLS emphasize ability to improve student learning results; development and retention of quality classroom teachers; and school management practices.¹⁵

Performance Evaluation

The job performance of school administrators must be evaluated annually.¹⁶ The criteria used to measure school administrator performance are student performance, instructional leadership, and professional and job responsibilities.¹⁷ At least one-third of a school administrator's evaluation must be based upon student performance.¹⁸ Based upon these criteria, an administrator is assigned a performance rating of highly effective, effective, needs improvement, or unsatisfactory.¹⁹

Professional Development

The William Cecil Golden Professional Development Program for School Leaders is a professional development program for school principals. The program was established in collaboration with state and national professional leadership organizations. It is designed to respond to Florida's needs for quality school leadership and support the efforts of school leaders in improving instruction and student achievement and developing and retaining quality teachers. Professional development provided through the program must be based upon the FPLS and other school leadership standards.²⁰

¹⁴ See s. 1012.01(3), F.S. Administrative personnel are K-12 personnel who perform management activities such as developing and executing broad policies for the school district. Administrative personnel include district-based instructional and non-instructional administrators, as well as school administrators who perform administrative duties at the school level. *Id.*

¹⁵ Rule 6A-5.080(1)-(2), F.A.C.

¹⁶ See s. 1012.34(3)(a), F.S.

¹⁷ Section 1012.34(3)(a)1., 3., and 4., F.S.

¹⁸ Section 1012.34(3)(a)1., F.S.

¹⁹ Section 1012.34(2)(e), F.S.

²⁰ Section 1012.986(1)-(2), F.S.

Certification

The law requires school leaders to be certified and directs the State Board of Education to classify school services, designate certification subject areas, establish competencies for certification, and certification requirements for all school-based personnel.²¹ The state board has established two classes of certification for school administrators – educational leadership and school principal. Certification in educational leadership qualifies one for any position falling under the classification “school administrator.”²² In order to advance to certification as a school principal, one must first be certified in educational leadership.²³

In Florida, aspiring school administrators must complete a school leader preparation program approved by DOE. State board rule authorizes DOE to approve two types of school leader preparation programs. Level I programs may be offered by school districts and postsecondary institutions and lead to initial certification in educational leadership for the purpose of preparing individuals to serve as school administrators. Level II programs may be offered by school districts, build upon Level I training, and lead to certification as a school principal.²⁴

State board rule specifies criteria for initial and continued approval of Level I and Level II school leader preparation programs. Among other things, initial approval of Level I programs offered by Florida postsecondary institutions and school districts is based upon evidence that the institution or district:

- Incorporates into the program objectives that are responsive to state and school district needs for school leaders.
- Has established a comprehensive program that:
 - Leads to initial certification in educational leadership.
 - Is aligned with the FPLS and the William Cecil Golden Program for School Leaders.
 - Provides for field experiences in K-12 schools designed in collaboration with Florida public schools or school districts.
 - Endorses as program completers based upon mastery of the FPLS for initial certification and earn passing scores on the Florida Educational Leadership Examination (FELE).
- Employs faculty who are qualified to teach courses required in the program, and who document annual onsite participation or research in K-12 school settings.
- Has a means for collecting performance data on certification candidates and program completers.²⁵

Generally speaking, a Level I program offered by a postsecondary institution leads to a master’s or higher degree in educational leadership and prepares one for certification. Such institutions may offer a modified program for individuals who already hold a master’s or higher degree. School district programs may only serve school district employees who already hold a master’s or higher degree.²⁶

Continued approval of a Level I program is based upon data regarding:

- Candidate admission and enrollment, program completion rates, passage rates on the FELE, and performance during field experiences.
- Program completers’ and employers’ satisfaction with the completer’s preparedness to serve in a school-based leadership position.

Postsecondary institutions and school districts must annually submit to DOE a program evaluation plan containing this data. DOE reviews these plans annually during the approval cycle, which is five years.

²¹ Section 1012.55(1)(a)-(b), F.S.

²² Rule 6A-4.0081, F.A.C.

²³ Rule 6A-4.0083, F.A.C.

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²⁵ Rule 6A-5.081(1)(b)-(c), F.A.C.

²⁶ Rule 6A-5.081(1)(b)1. and 7 and (c)1. and 3.a., F.A.C.

Under the rule, personnel evaluation results and student learning growth data of program completers are not factors currently considered in determining continued program approval.²⁷

Among other things, initial approval of Level II programs offered by school districts is based upon evidence that the district:

- Admits only candidates who hold certification in educational leadership, are employed in a public school within the district in a leadership position.
- Delivers a competency-based developmental program that:
 - Bases instruction on the individual's needs using a customized learning plan that is derived from data gathered from self-assessment, selection, and appraisal instruments aligned to program competencies.
 - Is aligned to the FPLS and the William Cecil Golden School Professional Development Program for School Leaders.
 - Integrates on-going professional development and the district's personnel evaluation into program experiences.
- Has the means of collecting continued approval data.
- Has an endorsement of program completion by the superintendent for all program participants.²⁸

Continued approval of Level II programs is based upon data regarding:

- Candidate admission and enrollment, inservice hours completed by participants, and program completion rates.
- Program completers' and employers' satisfaction with the completer's preparedness to serve in a school-based leadership position.
- The effectiveness of the professional development provided by program.
- Placement rates, rehire rates, retention rates, and performance of program completers, including student achievement and other indicators of success at their assigned school.

In the last year of the approval cycle, the school district must submit a summary of this data to DOE for review. DOE must review the data and provide written verification of continued approval to the school district.²⁹

Effect of Proposed Changes

The bill establishes in law provisions regulating school leader preparation programs. Specifically, the bill requires DOE to establish a process for the approval of school leader preparation programs for purposes specified in the bill. The bill requires the department to establish an initial and continued approval process for Level I and Level II programs through which participants can become certified. Under the bill, Level I programs may be offered by school districts and other postsecondary institutions and Level II programs may be offered by school districts.

The bill provides for five-year initial and continued approval terms for Level I and Level II programs and establishes approval criteria as follows:

Level I Programs

To receive **Initial Approval**, a Level I program must:

- Provide competency-based training aligned to the FPLS.
- If the program is provided by a postsecondary institution, partner with at least one school district.
- Describe the qualifications that will be used to determine program admission standards, including a candidate's instructional expertise and leadership potential.

²⁷ Rule 6A-5.081(1)(e), F.A.C.

²⁸ Rule 6A-5.081(2)(a), F.A.C.

²⁹ Rule 6A-5.081(2)(d), F.A.C.

- Describe how the training provided through the program will be aligned to personnel evaluation criteria.

The Criteria for **Continued Approval** of a Level I program are:

- The percentage of personnel who complete the program and are placed in school leadership positions in public schools within the state.
- Results from the personnel evaluations for personnel who complete the program.
- The passage rate of personnel who complete the program on the FELE.
- The impact personnel who complete the program have on student learning as measured by the formulas developed by the commissioner (i.e., value-added model (VAM) data).
- Strategies for continuous improvement of the program.
- Strategies for involving personnel who complete the program, other school personnel, community agencies, business representatives, and other stakeholders in the program evaluation process.
- Additional data included at the discretion of the program.

The bill requires Level I programs to submit to DOE an institutional program evaluation plan that incorporates the criteria for continued approval.

Level II Programs

To receive **Initial or Continued Approval**, a Level II program must:

- Demonstrate that personnel accepted into the Level II program have:
 - Obtained their certificate in educational leadership.
 - Earned a highly effective or effective rating on their performance evaluation.
 - Satisfactorily performed instructional leadership responsibilities as measured by the school district's evaluation system.
- Demonstrate that the Level II program:
 - Provides competency-based training aligned to the FPLS.
 - Provides training aligned to the personnel evaluation criteria and the William Cecil Golden Professional Development Program for School Leaders.
 - Provides individualized instruction using a customized learning plan for each person enrolled in the program that is based on data from self-assessment, selection, and appraisal instruments.
 - Conducts program evaluations and implements program improvements using input from program completers and employers and using the same data points as is required for the continued approval of Level I programs.
- Gather and monitor the same data as is required for the continued approval of Level I programs.

The bill also requires a Level I program to guarantee the quality of its completers. Completers who earn an evaluation lower than "effective" in the first two years after completing the program or receiving their certificate must be provided additional training by the program and receive an individualized plan that includes specific learning outcomes. The bill provides that Level I programs are not responsible for a completer's employment contract with his or her employer.

The bill requires the state board to adopt rules for the approval process.

Teacher Recruitment, Retention, and Assignment

Present Situation

The law requires DOE to sponsor a job fair each year to match in- and out-of-state educators and potential educators with teaching opportunities in Florida. The job fair must be held in a central part of the state and must be sponsored in cooperation with district personnel offices. DOE may collect a registration fee of no more than \$20 from participants and a booth fee of no more than \$250 per school district or other participating organization.³⁰

Currently, there is no best practices community coordinated by DOE to help districts recruit educators and perform other human resources functions with updated knowledge.

Current law prohibits a school district from assigning to schools graded “D” or “F” a higher percentage than the school district average of temporarily certified teachers, teachers in need of improvement, and out-of-field teachers.³¹ Although the State Board of Education has rulemaking authority related to these teacher assignment provisions, it has not adopted any rules pursuant to its authority because districts are already implementing the requirements.

Effect of Proposed Changes

The bill allows, rather than requires, DOE to sponsor the centrally located job fair. In addition, the bill requires DOE to coordinate a best practice community to help school district personnel responsible for teacher recruitment and other human resources functions operate with the most up-to-date knowledge in these areas. The bill also deletes the state board’s obsolete rulemaking authority related to teacher assignment.

B. SECTION DIRECTORY:

Section 1. Amends s. 39.202, F.S.; authorizing certain employees or agents of the Department of Education to have access to certain reports and records.

Section 2. Amends s. 1012.05, F.S.; authorizing rather than requiring the Department of Education to sponsor a job fair meeting certain criteria; requiring the department to coordinate a best practice community.

Section 3. Amends s. 1012.2315, F.S.; repealing State Board of Education rulemaking authority related to teacher assignment.

Section 4. Amends s. 1012.39, F.S.; providing requirements regarding liability insurance for students performing clinical field experience.

Section 5. Creates s. 1012.562, F.S.; requiring the department to approve school leader preparation programs; providing for approval; providing program requirements; providing for rulemaking.

Section 6. Amends s. 1012.75, F.S.; requiring annual notification of liability insurance to specified personnel; abrogating the scheduled expiration of the educator liability insurance program.

Section 7. Amends s. 1012.79, F.S.; revising membership of the Education Practices Commission; authorizing the Commissioner of Education to appoint emeritus members to the commission.

Section 8. Amends s. 1012.796, F.S.; authorizing the commissioner to issue a letter of guidance in response to a complaint against a certified teacher or administrator.

Section 9. Provides an effective date of July 1, 2016.

³⁰ Section 1012.05(4), F.S. Fee revenue must be used to promote and operate the fair and may be used to purchase promotional items such as mementos, awards, and plaques.

³¹ Section 1012.2315(2), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Funds may be saved if DOE elects not to hold the job fair in favor of other, more efficient recruitment activities.

Funding for the educator liability insurance program is subject to appropriation in the General Appropriations Act (GAA). For 2015-16, \$1.2 million was included in the GAA to fund the educator professional liability insurance program.

DOE estimates \$4,750 in annual travel expenses for emeritus members appointed to the EPC.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See FISCAL IMPACT ON STATE GOVERNMENT, *supra*.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules relating to school leader preparation programs and deletes obsolete rulemaking authority related to teacher assignment.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2016, the K-12 Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The first amendment provides the Department of Education access to information reported to the Central Abuse Hotline when investigating allegations against certified educators. The second amendment eliminates obsolete State Board of Education rulemaking authority related to teacher assignment.

The bill analysis is drafted to the committee substitute as reported favorably by the K-12 Subcommittee.

On January 28, 2016, the Education Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The first amendment removes the exemption for the Educator Certification and Service Trust Fund from the 8 percent General Revenue service charge. The second amendment restores the \$2 million cap of coverage for the educator liability insurance program.

The bill analysis is drafted to the committee substitute as reported favorably by the Education Appropriations Subcommittee.