

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 373 Education
SPONSOR(S): Grant
TIED BILLS: None **IDEN./SIM. BILLS:** SB 856

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	9 Y, 5 N	Dehmer	Healy
2) Education Committee			

SUMMARY ANALYSIS

Currently, school districts may award annual contracts to educational instructional personnel (those that provide direct instructional services or support to K-12 students) who have successfully completed a one year probationary contract and have met other specified criteria.

The bill clarifies that the district must issue contracts on an annual basis and may not:

- award an annual contract to instructional personnel based on a contingency or condition that is not expressed in s. 1012.335, F.S.; or
- alter or limit its authority to award or not award an annual contract to instructional personnel as provided in s. 1012.335, F.S.

The bill provides that the provision prohibiting a school board from awarding, or altering its authority to award, an annual contract not expressed in s. 1012.335, F.S., only applies to collective bargaining agreements entered into or renewed by a district school board on or after this law is enacted.

This bill shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Instructional personnel provide direct instructional services or direct instructional support to K-12 students. Instructional personnel include classroom teachers;¹ staff who provide student personal services, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists and education paraprofessionals under the direct supervision of instructional personnel.²

Three types of contracts are used to employ instructional personnel in Florida – continuing contracts, professional service contracts and annual contracts. Holding a continuing contract or professional service contract is often referred to as having tenured status.³

An annual contract is an employment contract for a period of no longer than one school year that a district school board may choose to award or not award without cause.⁴ As of July 1, 2011, instructional personnel under an annual contract and personnel hired thereafter may only be employed on an annual contract basis. The first annual contract for newly hired instructional personnel is a one-year probationary contract, which may be terminated without cause or from which the employee may resign without breach of contract. “Newly hired instructional personnel” include employees new to the profession or employees with experience who are new to the school district.⁵

Upon successful completion of the one-year probationary contract, district school boards may award subsequent annual contracts if the employee:

- is certified;
- has been recommended by the superintendent based upon his or her performance evaluation, and approved by the district school board; and
- has not received two consecutive unsatisfactory evaluations, two unsatisfactory evaluations within a three-year period or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory.⁶

Effect of Proposed Changes

The bill clarifies that the district must issue contracts on an annual basis and may not:

- award an annual contract to instructional personnel based on a contingency or condition that is not expressed in s. 1012.335, F.S.; or

¹ Classroom teachers include substitute teachers. Section 1012.01(2)(a), F.S.

² Section 1012.01(2), F.S.

³ See s. 1012.33(3)(d), F.S. (2010). Tenure is an employment policy which limits a public school district’s ability to terminate the employment of instructional personnel. See 67B Am. Jur. 2d Schools s. 195; see also s. 1012.33(3), F.S. Tenure usually takes the form of a continuous or automatically renewing employment contract. Tenured instructional personnel may only be dismissed for specified reasons after statutorily required hearings. See *Board of Regents v. Roth*, 408 U.S. 564 (1972); 67B Am. Jur. 2d Schools s. 211.

⁴ Section 1012.335(1)(a), F.S.

⁵ Section 1012.335(1)-(2), F.S. For the purpose of awarding annual contracts, the term “instructional personnel” does not include substitute teachers. Section 1012.335(1)(b), F.S.

⁶ Section 1012.335(2)(c), F.S.

- alter or limit its authority to award or not award an annual contract to instructional personnel as provided in s. 1012.335, F.S.

These provisions only apply to collective bargaining agreements entered into or renewed by a district school board on or after this law is enacted.

B. SECTION DIRECTORY:

Section 1. Amends s. 1012.335, F.S., relating to contracts with educational instructional personnel hired on or after July 1, 2011.

Section 2. Directs the Division of Law Revision and Information to replace the phrase “the effective date of this act” as it occurs in section 1 with the date this act takes effect.

Section 3. Provides that the bill shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.