

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 1159 Education
SPONSOR(S): Education & Employment Committee, Busatta Cabrera
TIED BILLS: IDEN./SIM. **BILLS:** CS/CS/SB 934

FINAL HOUSE FLOOR ACTION: 114 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 1159 passed the House on April 22, 2021. The bill was amended in the Senate on April 26, 2021, and was returned to the House. The House concurred in the Senate amendments and subsequently passed the bill as amended on April 29, 2021. Part of the bill also passed the House and Senate in CS/CS/SB 1028 on April 28, 2021.

The bill creates additional pathways for teachers to obtain certification. The bill permits applicants for certification to satisfy the mastery of general knowledge requirement through receipt of a master's degree or higher from an institution the Department of Education (DOE) has identified as a quality program. Additionally, applicants may satisfy the professional education competence requirement through completion of a DOE approved Educator Preparation Institute (EPI) and receipt of a highly effective rating on their performance evaluation.

The core curricula for teacher preparation programs and EPI competency-based certification programs must include instruction on the early identification of students in crisis as well as the use of technology in education and distance learning. EPIs may provide instruction and professional development for nondegreed teachers in career programs.

The bill authorizes an organization of private schools or a consortium of charter schools to develop an alternative preparation program for certified teachers for submission to the DOE for approval.

The bill expands the William Cecil Golden Professional Development Program for School Leaders (PD Program) to provide supports to additional school administrators and leaders while focusing on data- and evidence-based training and supports.

The bill authorizes a parent to retain their K-5 public school student for the 2021-2022 school year, provided that such request is made for academic reasons. Principals must discuss the impacts of retention with parents. In lieu of retention, the principal, teachers, and parent or guardian may collaborate to develop a customized one-year education plan for the student with the intent of helping the student return to grade level readiness by the end of the next academic year. The bill requires that the parent has the final decision regarding retention and requires the parent sign a form acknowledging they received the required information from the principal and decided to proceed with retention.

The bill requires the Commissioner of Education to release student learning gains data, based on student performance, to school districts annually by July 31.

The bill has an indeterminate positive impact on local government and the private sector and an indeterminate impact on state expenditures. See Fiscal Comments.

The bill was approved by the Governor on June 29, 2021, ch. 2021-228, L.O.F., and will become effective on July 1, 2021.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Teacher Preparation Programs

Present Situation

Teacher preparation programs are accountable for producing individuals with the competencies and skills necessary to achieve the state education goals.¹ State-approved teacher preparation programs are offered by Florida public and private postsecondary institutions, public school districts, and private providers by which candidates for educator certification can, depending on the type of program, demonstrate mastery of general knowledge, professional preparation and education competence, and subject area knowledge for purposes of attaining an educator certificate.²

As part of the initial approval requirements³ for a teacher preparation program, the program must require its students to meet, at a minimum, the following prerequisites for admission into the program:⁴

- Have at least a 2.5 GPA for the general education component of undergraduate studies or have completed the requirements for a baccalaureate degree with a minimum of a 2.5 GPA from any college or university.⁵
- Demonstrate mastery of general knowledge, including the ability to read, write, and perform in mathematics, by passing the General Knowledge Test (GKT) of the Florida Teacher Certification Examination⁶ (FTCE) or, for a graduate level program, obtain a baccalaureate degree from an institution.⁷

Teacher preparation programs may waive these admissions requirements for up to 10 percent of admitted students. Programs must implement strategies to ensure these students receive assistance to meet the professional certificate requirements and must annually report their status to the DOE.⁸

The State Board of Education (SBE) must adopt rules to establish uniform core curricula for each state-approved teacher preparation program.⁹ These rules must include, at a minimum, the following:¹⁰

- The Florida Educator Accomplished Practices.¹¹
- The state-adopted content standards.
- Scientifically researched and evidence-based reading instructional strategies that improve reading performance for all students, including explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and multisensory intervention strategies.
- Content literacy and mathematics practices.

¹ Section 1004.04(1)(b), F.S.

² See Florida Department of Education, *Professional Development in Florida*, <http://www.fldoe.org/teaching/professional-dev/> (last visited May 5, 2021). See also rule 6A-5.066, F.A.C.; ss. 1004.04(3)(a) and 1004.85(1), F.S.

³ Section 1004.04(3)(a)-(c), F.S.

⁴ Section 1004.04(3)(b)1.-2., F.S.

⁵ See rule 6A-4.003(1), F.A.C. The college or university must be accredited by a regional accrediting association as defined by the State Board of Education (SBE) rule or any college or university otherwise approved by the SBE.

⁶ See s. 1012.56(3)(a), F.S. and rule 6A-4.0021, F.A.C.

⁷ See rule 6A-4.003(1), F.A.C. The institution must be accredited or approved by the SBE.

⁸ Section 1004.04(1), F.S.

⁹ Section 1004.04(2)(a), F.S.

¹⁰ Section 1004.04(2)(b)1-7, F.S.

¹¹ Florida Department of Education, *The Florida Educator Accomplished Practices (FEAPs)*, <http://www.fldoe.org/teaching/professional-dev/the-fl-educator-accomplished-practices.shtml> (last visited May 5, 2021). The Florida Educator Accomplished Practices (FEAPs) are Florida's core standards for effective educators and provide valuable guidance to Florida's public school educators and educator preparation programs throughout the state on what educators are expected to know and be able to do.

- Strategies appropriate for the instruction of English language learners.
- Strategies appropriate for the instruction of students with disabilities.
- Strategies to differentiate instruction based on student needs.
- The use of character-based classroom management.

Each teacher-candidate must be instructed and assessed on the uniform core curricula in his or her program concentration area during course work and field experiences. Additionally, each candidate must participate in field experience and pass the FTCE.¹²

EPIs are offered by Florida postsecondary institutions or qualified private providers to provide instruction for baccalaureate or higher degree holders who did not earn an education-related degree, resulting in qualification for a temporary teaching certificate.¹³ EPIs are designed for baccalaureate degree holders to become certified teachers.¹⁴

EPIs are permitted to provide any or all of the following:¹⁵

- Professional development to assist teachers in improving classroom instruction and in meeting certification or recertification requirements.
- Instruction to assist potential and existing substitute teachers in performing their duties.
- Instruction, through a competency-based certification program, for baccalaureate degree holders, from noneducation majors, to become certified teachers.

EPIs may be approved to offer competency-based certification programs for noneducation major baccalaureate degree holders to permit participants to meet teacher certification requirements.¹⁶ In order to be approved by the DOE, the EPI must submit evidence of its ability to provide students with instruction in the statutorily mandated minimum core curricula of teacher preparation programs described above.¹⁷

Effect of the Bill

The bill requires that the core curricula of teacher preparation programs and EPI competency-based certification programs address:

- Strategies for the early identification of students in crisis or experiencing a mental health challenge and the referral of such students to a mental health professional for support.
- Strategies to support the use of technology in education and distance learning.

The bill removes the requirement that an applicant for a teacher preparation program pass the GKT prior to admission. Participants in teacher preparation programs must now complete the GKT requirement prior to graduation from the program. Accordingly, the bill removes the authority for teacher preparation programs to waive admission requirements.

The bill adds a new area of instruction that an EPI may provide, namely, instruction and professional development for part-time or full-time nondegree teachers of career programs.

Teacher Certification

Present Situation

¹² Section 1004.04(2)(c)-(d), F.S.

¹³ Section 1004.85, F.S.

¹⁴ Section 1004.85(3), F.S.

¹⁵ Section 1004.85(2), F.S.

¹⁶ Section 1004.85(3), F.S.

¹⁷ Section 1004.85(3)(a), F.S.

Florida is similarly situated to many other states with respect to the examination component of the professional teacher certification process. Specifically, 27 other states and the District of Columbia require passage of a test for baseline, core academic skills like the GKT.¹⁸

Florida has three types of teaching certificates: a professional certificate; a temporary certificate; and an adjunct certificate.¹⁹ For all three, teacher-candidates must submit an application, satisfy general eligibility requirements²⁰ and certificate-specific requirements included in the chart below.

<u>Temporary Certificate Requirements²¹</u>	<u>Professional Certificate Requirements²²</u>	<u>Adjunct Certificate Requirements²³</u>
<p>All general eligibility criteria, plus:</p> <ul style="list-style-type: none"> • Demonstrate mastery of subject area knowledge • Obtain full-time employment in a position for which a Florida educators' certificate is required in a Florida public, state supported, or a nonpublic school which has an approved system for documenting the demonstration of required professional education competence 	<p>All general eligibility criteria, plus:</p> <ul style="list-style-type: none"> • Demonstration of general knowledge • Demonstration of subject area knowledge • Demonstration of professional preparation and education competence 	<p>All general eligibility criteria , plus:</p> <ul style="list-style-type: none"> • Does not require passage of the GKT or mastery of general knowledge • Demonstration of expertise in the area to be taught by passing a subject-area test. <p>Adjunct certificate-holders may be employed as part-time instructional staff. The adjunct certificate is valid for only one year and may be reissued if the individual receives a rating of "effective" or "highly effective."</p>

A temporary certificate is nonrenewable, valid for three school years, and allows a teacher-candidate to be employed full-time while completing the outstanding requirements for a professional teaching certificate.²⁴ Demonstration of the mastery of general knowledge must be satisfied within one year of the date of employment under the temporary certificate.²⁵

In addition to achieving a passing score on the GKT, there are four additional ways to satisfy the mastery of general knowledge requirement. They are:²⁶

- Documentation of a valid professional standard teaching certificate issued by another state;
- Documentation of a valid certificate issued by the National Board for Professional Teaching Standards or other credentialing board approved by the State Board of Education (SBE);
- Documentation of two semesters of teaching in a postsecondary institution identified by the DOE as having a quality program; or
- Achievement of passing scores on national or international examinations that test comparable content and relevant standards including, the Graduate Record Examination (GRE).

¹⁸ Praxis, *State Requirements*, <https://www.ets.org/praxis/states> (last visited May 5, 2021).

¹⁹ Rule 6A-4.004(4), F.A.C., provides for an "athletic" certificate. This certificate is distinct from those referenced above in that it is limited to athletic coaches who do not have responsibility for subject matter instruction.

²⁰ Section 1012.56(2), F.S.

²¹ Section 1012.56(7)(b), F.S.

²² Section 1012.56(7)(a), F.S.

²³ Section 1012.57, F.S.

²⁴ Florida Department of Education, *Certificate Types and Requirements*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/> (last visited May 5, 2021).

²⁵ Section 1012.56(2)(g), F.S.

²⁶ Section 1012.56(3)(a)-(e), F.S.

An applicant for a professional certificate, is considered to have satisfied the demonstration of professional preparation and education competence if they successfully completed a professional preparation and education competence program approved by the DOE and received a highly effective rating on their performance evaluation under s. 1012.34, F.S.

A district school board may design an alternative teacher preparation program to enable certified teachers to add additional coverage to their certificates.²⁷ Any such program must be reviewed and approved by the DOE.²⁸ The program must be designed to assure that persons who complete the program are competent in the necessary areas of subject matter specialization.²⁹ Two or more districts may jointly participate in an alternative preparation program for teachers.³⁰

Effect of the Bill

The bill allows applicants for teacher certification to satisfy the mastery of general knowledge requirement by submitting documentation of receipt of a master's or higher degree from an accredited postsecondary institution identified by the DOE as having a quality program resulting in a baccalaureate degree or higher.

The bill exempts an applicant that completes an EPI program approved by the DOE and is rated highly effective in their performance evaluation from the requirement to take or achieve a passing score on the professional education competency examination before awarded a professional certificate.

The bill authorizes an organization of private schools or a consortium of charter schools to develop an alternative preparation program for certified teachers. Programs developed by these entities must be reviewed and approved by the DOE in the same manner as a program developed by a district school board.

School District Employment of Certain Instructional Personnel

Present Situation

Each school district is required to establish minimum qualifications for substitute teachers, part-time and full-time teachers in adult education programs and part-time or full-time nondegreed teachers of career programs.³¹ The minimum requirements for substitute teachers must provide:³²

- The filing of fingerprints in the same manner as other school district personnel.
- Documentation of minimum education level of high school diploma or equivalent.
- Completion of an initial orientation and training program provided by the school district.³³

Part-time or full-time teachers in adult education programs are required to submit fingerprints in the same manner as other school district personnel.³⁴ Such teachers employed solely to provide postsecondary instruction may be exempt from this requirement.³⁵

The school district must establish minimum qualifications for part-time or full-time nondegreed teachers in career programs based primarily on successful occupational experience rather than academic

²⁷ Section 1012.575, F.S.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ Section 1012.39, F.S.

³² Section 1012.39(1)(a), F.S.

³³ *Id.* The required orientation and training must address district policies and procedures on school safety and security, education liability laws, professional responsibilities, and ethics.

³⁴ Section 1012.39(1)(b), F.S.

³⁵ *Id.*

training.³⁶ The minimum qualifications must require the submission of fingerprints in the same manner as other school district personnel, unless the teacher provides only postsecondary instruction,³⁷ and documentation of the following:³⁸

- A high school diploma or the equivalent.
- Completion of 6 years full-time successful occupational experience or the equivalent part-time experience providing occupational instruction in the field.
- Completion of career education training through the school district's inservice master plan.
- For full-time teachers, completion of professional education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students.³⁹
- Demonstration of successful teaching performance.
- Documentation of industry certification, when such certification is available and applicable.

Effect of the Bill

The bill permits the career education training required for nondegreed teachers in career program to be satisfied by the completion of an EPI program approved by the DOE.

Professional Development

Present Situation

Each school district professional development system is required to provide inservice activities and support targeted to the individual needs of teachers.⁴⁰ Each school district's professional development system must provide for training to reading coaches, classroom teachers, and school administrators in:

- effective methods of identifying characteristics of conditions such as dyslexia and other causes of diminished phonological processing skills;
- incorporating instructional techniques into the general education setting which are proven to improve reading performance for all students; and
- using predictive and other data to make instructional decisions based on individual student needs.⁴¹

All elementary grades instructional personnel must be provided access to sufficient training so they can meet certification or endorsement requirements established by the SBE with respect to reading instruction and intervention.⁴²

The PD Program is a collaborative network of state and national professional leadership organizations for school principals. The program 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 Florida Principal Leadership Standards and other school leadership standards.⁴³

Effect of the Bill

³⁶ Section 1012.39(1)(c), F.S.

³⁷ Section 1012.39(1)(c)1., F.S.

³⁸ Section 1012.39(1)(c)2.a.-f., F.S.

³⁹ The required training must be completed at an accredited or approved institution or through an approved school district teacher education program.

⁴⁰ Section 1012.98(4)(b)4., F.S.

⁴¹ Section 1012.98(4)(b)11., F.S.

⁴² *Id.*

⁴³ Section 1012.986(1)-(2), F.S.

For the purposes of the PD Program, the bill defines “educational leader” to mean teacher leaders, assistant principals, principals, or school district leaders. The bill expands the scope of the PD Program to provide high-quality standards and training for educational leaders. Additionally, the bill requires that the PD Program consist of school districts, state-approved educational leadership programs, regional consortia, and charter management organizations along with the current state and national professional leadership organizations. The PD Program must support the needs of educational leaders using the framework of leadership standards adopted by the SBE.

The bill amends the goals of the PD program to include supporting and enhancing the roles of all educational leaders, increasing the quality and capacity of educational leadership development programs, and supporting evidence-based leadership practices. The PD program must seek to maintain a clearinghouse and disseminate data-supported information related to:

- student achievement and learning;
- civic education;
- coaching and mentoring;
- mental health awareness;
- technology in education;
- distance learning; and
- school safety.

The bill permits the PD Program to coordinate delivery of PD Program components through state university and local educational leadership academies.

Student Progression and the Impact of COVID-19

Present Situation

District school boards are required to establish a comprehensive plan for student progression from one grade to another based on the student’s mastery of the Next Generation Sunshine State Standards (NGSSS), which establish the core content knowledge and skills that K-12 public school students are expected to acquire.⁴⁴ Among other requirements, the progression plan must:⁴⁵

- Emphasize student reading proficiency in grades K-3 and provide targeted instructional support for students with identified deficiencies in English Language Arts (ELA), math, science, and social studies.
- Use the results of statewide, standardized assessments and end-of-course assessments to advise high school students of any identified deficiencies and to provide appropriate preparatory instruction.
- Provide for the timely delivery of student evaluation results to a student’s teachers and parents for progress monitoring in grades K-12.
- Provide requirements and notification procedures for student participation in whole-grade promotion, midyear promotion,⁴⁶ or subject-matter acceleration.

Statewide, Standardized Assessments

The primary purpose of Florida’s student assessment program is to provide student academic achievement and learning gains data to students, parents, and schools.⁴⁷ In addition to providing

⁴⁴ See ss. 1003.41 and 1008.25(2), F.S. In particular, the plan must focus progression on a student’s mastery of English Language Arts, math, science, and social studies standards.

⁴⁵ Section 1008.25(2), F.S.

⁴⁶ Midyear promotion means promotion of a retained student at any time during the year of retention once the student has demonstrated ability to read at grade level. Section 1008.25(5)(c)8., F.S.

⁴⁷ Section 1008.22(1), F.S.

information for school accountability and policy development objectives, the program is also designed to:⁴⁸

- Assess the achievement level and annual learning gains of each student in ELA and mathematics and the achievement level in all other subjects assessed.
- 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.⁴⁹

The statewide, standardized assessment program is designed and implemented by the Commissioner of Education to align with the core curricular content established in the NGSSS.⁵⁰ Each public school student must participate in the statewide, standardized assessment program in grades 3 through 10.⁵¹ Students who do not achieve a Level 3 or above on the statewide, standardized ELA assessment, the statewide, standardized Mathematics assessment, or the Algebra I end-of-course assessment must be evaluated to determine the nature of the student's difficulty, the areas of academic need, and strategies for providing academic supports to improve the student's performance.⁵²

Any student in kindergarten through grade 3 who exhibits a substantial reading deficiency⁵³ must be provided interventions immediately following the identification of the substantial deficiency.⁵⁴ When a student is identified with a substantial reading deficiency, Florida law requires the student's school to notify his or her parent.⁵⁵ The school must provide an explanation of the child's particular difficulty in reading as well as descriptions of the services available and proposed interventions designed to address the child's reading deficiency.⁵⁶ Additionally, the parent must be informed that if the student's substantial reading deficiency is not remediated by grade 3, the student must be retained unless a good cause exemption from retention⁵⁷ applies.⁵⁸

Students with Individual Education Plans

All students who are between the ages of 3 to 21 and have a disability⁵⁹ have the right to a free, appropriate public education (FAPE).⁶⁰ For each eligible student or child with a disability served by a school district, an individual education plan (IEP) or individual family support plan must be developed, reviewed, and revised.⁶¹ The IEP is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a Florida student with a disability.⁶²

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Section 1008.22(3), F.S.

⁵¹ Sections 1008.22(3)(a) and 1008.25(4)(a), F.S.

⁵² Section 1008.25(4)(a), F.S.

⁵³ Identification of a substantial deficiency is based upon screening, diagnostic, progress monitoring, or assessment data; statewide assessments; or teacher observations. Section 1008.25(5)(a), F.S. *See* Rule 6A-6.053(12), F.A.C.

⁵⁴ Section 1008.25(5)(a), F.S.

⁵⁵ Section 1008.25(5)(c), F.S.

⁵⁶ Section 1008.25(5)(c)1.-3., F.S.

⁵⁷ *See infra* text accompanying notes 28-30.

⁵⁸ Section 1008.25(5)(c)4., F.S.

⁵⁹ Disabilities that qualify a student as an exceptional student include an intellectual disability; an autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; an other health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; deafness, hard of hearing, or dual sensory impairment; or developmental delays from birth through 5 years old or if the student is hospitalized or homebound. Section 1003.01(3)(a), F.S.

⁶⁰ 20 U.S.C. s. 1412(a)(1); Section 1003.5716, F.S.

⁶¹ Rule 6A-6.03028(3), F.A.C.

⁶² Florida Department of Education, *Developing Quality Individual Education Plans* (2015), at 9, available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>.

In developing an IEP, the student's parent participates in the planning process with a multidisciplinary team⁶³ of school and district staff and other experts to consider a student's strengths and the unique academic, developmental, and functional needs of the child.⁶⁴ To facilitate the student's successful progression through school, a student's IEP includes statements of:⁶⁵

- the student's academic and functional levels of performance;
- the goals, objectives, or benchmarks for the student;
- specially designed instruction and related services, including accommodations, modifications, or supports for the student to appropriately advance toward attaining annual goals; and
- how the student's progress toward meeting annual goals will be measured and how periodic progress reports will be provided.

Students with disabilities must be reevaluated at least once every three years to determine their continuing eligibility for special education and related services.⁶⁶ In addition, a student's parent or teacher may request an IEP team meeting or a reevaluation at any time.⁶⁷ There is no requirement that gifted students be reevaluated.⁶⁸

Student Retention

Florida law specifies that no student may be assigned to a grade level based solely on age or other factors that constitute social promotion.⁶⁹

For promotion to grade 4, a student must score a Level 2 or higher on the statewide, standardized ELA assessment required for grade 3. The student must be retained if the student's reading deficiency is not remedied by the end of grade 3, which is demonstrated by scoring a Level 2 or higher on the statewide, standardized ELA assessment required for grade 3.⁷⁰

The district school board may exempt students from mandatory retention in grade 3 only for good cause.⁷¹ Good cause exemptions are limited to students in grade 3 and may apply to students with limited English proficiency; students with disabilities; students who demonstrate an acceptable level of performance on an alternative assessment approved by the SBE or through a student portfolio; and students previously retained in grades K-3.⁷² Any student who is promoted to grade 4 with a good cause exemption must be provided intensive reading instruction and intervention, including specialized diagnostic information and specific reading strategies for the particular student's needs.⁷³

In the 2018-2019 school year, 28,178 students were promoted to grade 4 based on a good cause exemption.⁷⁴

⁶³ The IEP team is comprised of the student's parent(s), at least 1 regular education teacher of the student (if the student is or may be participating in the regular education environment), at least 1 special education teacher of the student, a representative of the local education agency, an individual who can interpret instructional implications of evaluation results (may be the teacher or agency representative), other individuals who have knowledge or special expertise of the student at the discretion of the parent or agency, and the student when appropriate. 20 U.S.C. s. 1414(d)(1)(B).

⁶⁴ See 20 U.S.C. s. 1414(d)(3)(A) and (B); Section 1003.5716, F.S.; Rule 6A-6.03028(3)(g), F.A.C.

⁶⁵ Rules 6A-6.03028(3)(h) and 6A-6.0331(9), F.A.C.

⁶⁶ Rule 6A-6.0331(7), F.A.C.

⁶⁷ Rule 6A-6.03028, F.A.C.

⁶⁸ See rule 6A-6.0331, F.A.C.

⁶⁹ Section 1008.25(6)(a), F.S.

⁷⁰ Section 1008.25(5)(b), F.S.

⁷¹ Section 1008.25(6)(b), F.S.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Florida Department of Education, *3rd Grade Promotions: Good Cause Exemption 2018-19*, Excel Report, available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/students.html> (last visited May 5, 2021) (scroll to "Retentions and Non-Promotions" at the bottom of the page). Pursuant to the Florida Department of Education's Emergency Order No. 2020-EO-01, spring K-12 statewide assessment test administrations—including the grade 3 ELA assessment—for the 2019-20 school year were canceled. Therefore, grade 3 good cause exemption promotion data is not available for

Based on data from the DOE,⁷⁵ there was an overall 57 percent reduction in statewide K-5 student retention rates for the 2019-20 school year compared to the previous 5-year average. Students in grade 3 had the most significant reduction in retention rates, with a 77 percent reduction in the 2019-20 school year compared to the previous 5-year average.⁷⁶

The retention of a student may impact the student's eligibility for participation in interscholastic athletics in high school. The Florida High School Athletic Association (FHSAA), the statutorily designated governing nonprofit for interscholastic athletics in Florida's public schools,⁷⁷ is authorized to determine student-athlete eligibility requirements.⁷⁸ In January 2021, in response to eligibility issues caused by student retention, the FHSAA amended its bylaw governing high school ineligibility based on age.⁷⁹ Beginning with the 2021-2022 school year, students who turn age 19 prior to July 1 are ineligible to participate in high school interscholastic athletics.⁸⁰

COVID-19 Public Health Emergency

In response to the COVID-19 emergency, the DOE issued an Emergency Order canceling the remaining K-12 state assessments for the 2019-2020 school year.⁸¹ The order also authorized school districts and other educational entities to evaluate students for promotion, graduation, and final course grades for the 2019-2020 school year without consideration of the assessments that were canceled.⁸²

Given the cancellation of the statewide, standardized ELA assessment, the DOE advised that grade 3 student promotion decisions for the 2019-2020 school year should be made in consultation with parents, teachers, and school leaders based on the student's classroom performance and progress monitoring data.⁸³ Recognizing the important role parents play in planning their students' educations, the DOE guidance also specified that parents should have the ability to request retention of their child in the current grade for the 2020-2021 year.⁸⁴ The guidance provided that the decision about retention should be made in consultation by parents, teachers, and school leaders about what is in the best interest of the child.⁸⁵

Effect of the Bill

the 2019-20 school year. *See* Florida Department of Education, *Emergency Order No. 2020-EO-01* (March 23, 2020) available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>.

⁷⁵ House staff analysis of the DOE's retention data. Florida Department of Education, *Retention Rates by District 2019-20*, Excel Report, available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/students.stml> (last visited May 5, 2021); Florida Department of Education, *Retention Rates by District 2014-15 to 2018-19*, Excel Reports, available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/archive.stml> (last visited May 5, 2021) (retention reports for the following school years: 2014-15; 2015-16; 2016-17; 2017-18; and 2018-19).

⁷⁶ *Id.*

⁷⁷ Section 1006.20(1), F.S.

⁷⁸ Sections 1006.20(2)(a) and (7), F.S.

⁷⁹ J.C. Camahan, *FHSAA adjusts cutoff date for high school athletes turning 19*, Orlando Sentinel, Jan. 25, 2021, <https://www.orlandosentinel.com/sports/highschool/os-sp-hs-fhsaa-sports-20210125-ufhfskrgzbgfxotj6krvdmwlm-story.html>

(FHSAA's Representative Assembly voted to amend the bylaws and relax the birthday cut off from September 1 to July 1).

⁸⁰ *Id.* Students may appeal an eligibility determination by the FHSAA, including determinations made based on age. *See* FHSAA, Bylaw 10.6, available at https://fhsaa.com/documents/2020/10/1/2021_handbook_website_1001.pdf?id=292.

⁸¹ Florida Department of Education, *Emergency Order No. 2020-EO-01* (March 23, 2020), at 3-4, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>.

⁸² *See id.* at 3; *see also* Florida Department of Education, *Coronavirus (COVID-19): K-12 Public, Private & Charter Schools, Assessments, Accountability and Promotion*, <http://www.fldoe.org/em-response/schools.stml> (last visited May 5, 2021).

⁸³ Florida Department of Education, *Q&A Guidance*, at Question 4, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FDOE-COVID-QA1.pdf>.

⁸⁴ *Id.* at Question 5.

⁸⁵ *Id.*

The bill authorizes parents to request that their K-5 public school student be retained in the grade level to which the student was assigned at the beginning of the 2020-2021 school year for the 2021-2022 school year. The authority of a parent to request retention under the bill is limited to requests for the 2021-2022 school year.

The bill requires that the retention request must specify the academic reasons for retention and be submitted in writing to the school principal. The principal must consider any request received by June 30, 2021. If a request is received after the deadline, it is within the principal's discretion whether to consider the request.

When considering a retention request, the school principal is required to inform the student's teachers, collaboratively discuss any basis for agreement or disagreement with the student's parent, and maintain documentation of the discussions. Parents must be informed that retention may impact a student's eligibility for participation in high school athletic activities due to age restrictions. Ultimately, after discussion of the retention request, the parent's decision will determine whether the student is retained, but the parent is required to sign a form acknowledging the academic and athletic ramifications of retention.

As an alternative to retention, the principal, teachers, and parent may develop a customized one-year education plan designed to help a student return to grade level readiness by the end of the following school year. The plan may include supplemental educational support, services, and interventions; summer education; promotion in some courses; and midyear promotion.

If a retained student has an IEP in effect, the student's IEP team must meet to review and revise the student's IEP, as appropriate.

The bill requires school districts to report the number of students retained by parental request for all or part of the 2021-2022 school year to the DOE by June 30, 2022.

Evaluation of Instructional Personnel and School Improvement

Present Situation

Florida law requires each district school superintendent to establish procedures to evaluate the job performance of district instructional personnel.⁸⁶ The DOE must approve each school district's performance evaluation system, which must:

- be designed to support effective instruction and student learning growth and be used when developing district and school level improvement plans;
- provide appropriate instruments, procedures, timely feedback, and criteria for improving the quality of instruction and be used when identifying professional development;
- include opportunities for parental input;⁸⁷
- identify teaching fields where special evaluation procedures and criteria are necessary;
- differentiate among four levels of performance; and
- provide training and monitoring for the proper use of the evaluation criteria and procedures.⁸⁸

The four levels of performance a school district's performance evaluation system must differentiate are:

- Highly Effective.
- Effective.

⁸⁶ Section 1012.34(1)(a), F.S.

⁸⁷ Section 1012.34(2)(c), F.S. The evaluation system must include a mechanism to examine performance data from multiple sources, including opportunities for parents to provide input into employee performance evaluations when appropriate.

⁸⁸ Section 1012.34(1)(b), (2), and (3)(a), F.S. *See* Rule 6A-5.030, F.A.C. (establishing process for submitting district evaluation system plans to the DOE for approval).

- Needs Improvements or, for instructional personnel in the first 3 years of employment who need improvement, Developing.
- Unsatisfactory.⁸⁹

Instructional personnel must be evaluated annually,⁹⁰ except that newly hired classroom teachers must be evaluated at least twice in their first year of teaching in the school district.⁹¹ Newly hired classroom teachers include first-time teachers new to the profession as well as veteran teachers new to the school district.⁹²

The performance evaluation must be based upon sound educational principles and contemporary research in effective educational practices.⁹³ The criteria used to evaluate instructional personnel are student performance, instructional practice, and other indicators identified by the district school board.⁹⁴ At least one third of an instructional personnel evaluation must be based upon student performance and at least another one third based on instructional practice.⁹⁵

Measuring Student Performance for Evaluation

The student performance component of the evaluation must include student learning growth or achievement data of the teacher's students over the course of at least 3 years.⁹⁶ If less than 3 years of data are available, the years for which data are available must be used.⁹⁷ The proportion of growth or achievement data may be determined by instructional assignment (i.e., what courses or subjects are taught by the teacher).⁹⁸ Each school district must measure student performance using a methodology determined by the district, including through the use of statewide, standardized assessments and district-selected or -developed assessments.⁹⁹

A district may also select, but is not required to use, the state-approved formula to measure individual student learning growth on the statewide, standardized assessments in ELA and mathematics.¹⁰⁰ Florida's current formula, the Value-Added Model (VAM), was developed with the recommendations of a stakeholder committee of Florida educators.¹⁰¹ The VAM measures the average amount of learning growth of a teacher's students above or below the expected learning growth of similar students in the state, resulting in a value-added score.¹⁰² Because the model requires prior student assessment data, VAM results are produced only for teachers who teach the following:

- ELA in grades 4-10;
- Mathematics in grades 4-8; and
- Algebra 1 in grades 8 and 9.¹⁰³

⁸⁹ Section 1012.34(2)(e), F.S.

⁹⁰ The DOE suspended the requirement to conduct annual evaluations for teachers and administrators for the 2019-2020 school year in response to COVID-19. Florida Department of Education, Order No. 2020-EO-02 (May 13, 2020), at 5, *available at* <https://www.fldoe.org/core/fileparse.php/19861/urlt/DOEEmergencyOrder2020-EO-02.pdf>.

⁹¹ Section 1012.334(3)(a), F.S.

⁹² Rule 6A-5.030(2)(g), F.A.C.

⁹³ Section 1012.34(3)(a), F.S.

⁹⁴ Section 1012.34(3)(a)1., 2., and 4., F.S.

⁹⁵ Section 1012.34(3)(a)1., F.S.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.* See Rule 6A-5.030(3)(e)3.a., F.A.C.

¹⁰⁰ Section 1012.34(7)(a), F.A.C.

¹⁰¹ Florida Department of Education, Division of Public Schools, Presentation to the PreK-12 Innovation Subcommittee (Oct. 16, 2019), at 26, *available at*

<https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3017&Session=2020&DocumentType=Meeting%20Packets&FileName=pki%2010-16-19.pdf>.

¹⁰² *Id.* at 27.

¹⁰³ *Id.* at 26.

About one-third of teachers receive VAM scores, which are also differentiated by the DOE into the four categories of performance: Highly Effective, Effective, Needs Improvement (Developing), and Unsatisfactory.¹⁰⁴

School Improvement

School improvement is the component of Florida's statewide accountability system that provides support and interventions to low-performing schools.¹⁰⁵ The supports and interventions are designed to improve and sustain performance of all student subgroups and hold districts accountable for improving the academic achievement of all students and turning around low-performing schools.¹⁰⁶

A public school that earns a "D" or "F" under Florida's school grading system or that produces a graduation rate of 67 percent or less is identified as a school improvement school for the purpose of receiving DOE support and interventions.¹⁰⁷

A school that earns two consecutive grades of "D" or a single grade of "F" is required to develop a turnaround plan for approval by the SBE.¹⁰⁸ The turnaround plan must be designed to improve the school's grade to a "C" or better within 2 school years.¹⁰⁹ The turnaround options available to a school district include:

- District-managed - the school district manages the 2 year turnaround plan at the school;
- Reassignment and Closure - the school district closes the school, reassigns the school's students to a "C" or higher graded school(s) and monitors the progress of those students;
- Charter School - the school district contracts with a charter school with a record of effectiveness to operate the school; or
- External Operator/Outside Entity - the school district contracts with an outside entity that has a record of effectiveness to operate the school.¹¹⁰

Because it is significantly more likely that instructional personnel with a VAM rating of "Effective" or higher maintain their rating than it is to improve an "Unsatisfactory" or "Needs Improvement" rating, state board rule limits the number of instructional personnel with low VAM ratings who may be assigned to schools in turnaround status.¹¹¹

State board rule provides the following limitations for assigning instructional personnel at schools in turnaround status:

- A district-managed turnaround plan must ensure that the percentage of instructional personnel at the school with a rating of "Unsatisfactory" or "Needs Improvement," based on the most recent 3 year aggregated state VAM, is less than the district VAM average if the district has more than 5 schools.¹¹² The district-managed turnaround plan must also ensure that instructional personnel who do not have a state VAM rating and who do not show evidence of increasing student achievement are not rehired at the school.¹¹³
- A reassignment and closure turnaround plan must ensure that instructional personnel from the closed school who are rated as "Unsatisfactory" or "Needs Improvement," based upon the 3

¹⁰⁴ *Id.* at 26 and 30.

¹⁰⁵ Section 1008.33, F.S.; Rule 6A-1.099811(2)(w), F.A.C.

¹⁰⁶ *Id.*

¹⁰⁷ Section 1008.33(3)(b), F.S.; Rule 6A-1.099811(2)(z), F.A.C.

¹⁰⁸ Rule 6A-1.099811(6)(a), F.A.C.

¹⁰⁹ *Id.*

¹¹⁰ Rule 6A-1.099811(6)(b)1.-4., F.A.C.

¹¹¹ Florida Department of Education, *supra* note 15, at 33-35. See Rule 6A-1.099811(8), (9), (10), and (11), F.A.C.

¹¹² Rule 6A-1.099811(8)(a)h., F.A.C. If the district has 5 or fewer schools, the district must ensure that the percentage of instructional personnel assigned to the school with either a rating of "Unsatisfactory" or "Needs Improvement," based upon the most recent 3 year aggregated state VAM average, is less than the state VAM average.

¹¹³ Rule 6A-1.099811(8)(a)i., F.A.C.

year aggregated state VAM ratings, are not reassigned to other school improvement schools within the district.¹¹⁴

- A charter school or external operator/outside entity turnaround plan must ensure that instructional personnel rated as “Unsatisfactory” or “Needs Improvement,” based upon both the 3 year aggregated state VAM rating, if applicable, and the district evaluation system, are not staffed at the school for the upcoming school year.¹¹⁵

To assist school districts with support and intervention for school improvement schools, the DOE must:

- prior to the start of each school year, publish a list when school grades are released to notify school districts of any school improvement schools in the district;
- provide notice of the level of support or intervention for school improvement schools;
- provide districts with state VAM data on instructional personnel in August of each year; and
- provide districts with student assessment, school grade, and graduation rate data annually.¹¹⁶

Current law requires school districts to begin the school year no earlier than August 10 each year.¹¹⁷ However, VAM data is often released immediately before or after the start of the school year making it difficult for school districts with schools in turnaround status to make instructional assignments in compliance with state board rule.

Effect of the Bill

To assist school districts in timely assigning instructional personnel before the start of the school year, the bill requires the Commissioner of Education to release VAM data to school districts annually by July 31, rather than in August.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill has an indeterminate positive impact on state colleges and universities. Changes to teacher preparation program entry requirements could lead to a rise in enrollments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

¹¹⁴ Rule 6A-1.099811(9)(a)5., F.A.C.

¹¹⁵ Rule 6A-1.099811(10)(b)4. and (11)(a)3., F.A.C.

¹¹⁶ Rule 6A-1.099811(4)(a)-(d), F.A.C.

¹¹⁷ Section 1001.42(4)(f), F.S.

The bill has an indeterminate positive impact on the private sector by offering part-time and full-time nondegree educators of career programs another route to obtain instruction and professional development, there is the potential for these educators to increase their personal revenue by securing higher paying employment.

D. FISCAL COMMENTS:

The bill has no impact on state revenues or expenditures for fiscal year 2021-2022. However, to the extent the bill increases student retention, it could affect the number of full-time equivalent student enrollment projected for funding as students may remain in the public K-12 system longer.