



## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Teacher Quality

###### **Overview**

Experts agree that teacher quality is the most important school-level variable influencing student achievement. A study that examined the cumulative and residual effects of teacher quality on student performance found that standardized mathematics assessment scores for students who were taught by a low-performing teacher for three consecutive years were 53 percentile points lower than those of students who were taught by a high-performing teacher for three consecutive years. Further, the study showed that being taught by a low-performing teacher for even one year had a negative impact on long-term student achievement.<sup>1</sup>

With this in mind, the National Council on Teacher Quality (NCTQ), a nonpartisan research and advocacy group, publishes an annual State Teacher Policy Yearbook grading every state on how the state prepares, recruits, and evaluates teachers, as well as how the state uses such evaluation to retain effective teachers and exit ineffective teachers.<sup>2</sup> In 2009, the NCTQ gave Florida an overall grade of "C." Florida received the highest mark (B-) for how the state expands the pool of teachers, particularly with regard to offering alternative routes to certification for non-traditional teaching candidates. The state received the lowest mark (C-) for identifying effective teachers. The report commended Florida's longitudinal data system, but lamented the state's policy of awarding tenure<sup>3</sup> "virtually automatically."

According to the NCTQ, Florida's failure to use annual performance evaluations or any measure of classroom effectiveness as a consideration for making tenure decisions provides a major setback to improving teacher quality. While Florida teachers are subject to annual performance evaluations in which student performance is the "primary" factor,<sup>4</sup> no evidence of teacher effectiveness is required to

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<sup>1</sup> Sanders and Rivers, *Cumulative and Residual Effects of Teachers on Future Student Achievement* (1996), available at <http://www.mccsc.edu/~curriculum/cumulative%20and%20residual%20effects%20of%20teachers.pdf>.

<sup>2</sup> National Council on Teacher Quality, 2009 State Teacher Policy Yearbook: National Report (2009), available at [http://www.nctq.org/stpy09/reports/stpy\\_national.pdf](http://www.nctq.org/stpy09/reports/stpy_national.pdf).

<sup>3</sup> Although Florida law does not explicitly use the term "tenure" for K-12 teachers, state law allows a teacher to receive an automatically renewing "professional service contract" after three annual contracts. See text accompanying *infra* notes 28-30.

<sup>4</sup> The meaning of the term "primary" varies among school districts as does the weight assigned to student performance when evaluating teachers.

earn tenure. According to the NCTQ, classroom effectiveness, not years of experience, should be the primary factor in awarding tenure.<sup>5</sup>

The report recommends a number of reforms, including extending the probationary period and requiring a meaningful evaluation of teacher effectiveness before awarding tenure, tying certification requirements to demonstrated classroom effectiveness, and providing performance pay.<sup>6</sup>

Other national research has echoed similar recommendations. A 2006 policy brief by the Hamilton Project, which is housed at the Brookings Institution, made specific recommendations for improving teacher quality. The recommendations included reducing the barriers to entry into teaching for those without traditional teacher certification, making it harder to promote the least effective teachers to tenured positions, and providing bonuses to highly effective teachers willing to teach in schools with a high proportion of low-income students.<sup>7</sup>

A 2009 report by the Center for American Progress emphasized many of the same ideas. The report recommended supporting alternative teacher certification pathways, reforming teacher pay to reward teachers who improve student achievement, and empowering principals to fire ineffective teachers. The report gave Florida a grade of “F” for its policies related to removing ineffective teachers, based largely on the obstacle of tenure and the length of time and burdensome documentation required.<sup>8</sup>

## **Performance Assessment**

### ***Current Law***

Florida law requires each district school superintendent to establish procedures to assess the job performance of district instructional, administrative, and supervisory personnel.<sup>9</sup> The Department of Education (DOE) must approve each school district’s performance assessment system.<sup>10</sup> The following conditions must be considered in the design of the performance assessment system:

- The system must be designed to support district- and school-level improvement plans.
- The system must provide appropriate instruments, procedures, and criteria for continuous quality improvement of the professional skills of instructional personnel.
- The system must include a mechanism to give parents an opportunity to provide input into employee performance assessments, when appropriate.
- In addition to addressing generic teaching competencies, districts must determine those teaching fields for which special procedures and criteria will be developed.
- District school boards may establish a peer assistance process, a mechanism for assisting persons placed on probation, and offer assistance to employees who request it.
- District school boards must provide training programs that are based upon guidelines provided by the DOE to ensure that all individuals with evaluation responsibilities understand the proper use of the assessment criteria and procedures.<sup>11</sup>

A performance assessment must be conducted at least once per year for all instructional personnel<sup>12</sup> and school administrators.<sup>13</sup> The annual performance assessment must be based upon sound

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<sup>5</sup> National Council on Teacher Quality, 2009 State Teacher Policy Yearbook: Florida, 78-80 (2009) available at [http://www.nctq.org/stpy09/reports/stpy\\_florida.pdf](http://www.nctq.org/stpy09/reports/stpy_florida.pdf).

<sup>6</sup> *Id.*

<sup>7</sup> The Brookings Institution, *Identifying Effective Teachers Using Performance on the Job* (April 2006), available at [http://www.brookings.edu/~media/Files/rc/papers/2006/04education\\_gordon/200604hamilton\\_1.pdf](http://www.brookings.edu/~media/Files/rc/papers/2006/04education_gordon/200604hamilton_1.pdf).

<sup>8</sup> Center for American Progress, *Leaders and Laggards: A State-by-State Report Card on Educational Innovation* (November 2009), available at [http://www.americanprogress.org/issues/2009/11/pdf/leaders\\_and\\_laggards.pdf](http://www.americanprogress.org/issues/2009/11/pdf/leaders_and_laggards.pdf).

<sup>9</sup> “Supervisory personnel” is not defined in ch. 1012, F.S.

<sup>10</sup> Section 1012.34(1), F.S.

<sup>11</sup> Section 1012.34(2), F.S.

<sup>12</sup> Instructional personnel provide direct instructional services or direct instructional support to students in grades K-12. Instructional personnel include classroom teachers; staff who provide student personnel 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

educational principles and contemporary research in effective educational practices.<sup>14</sup> The performance assessment criteria must include, but are not limited to, indicators related to the following:

- Performance of students.
- Ability to maintain appropriate discipline.
- Knowledge of subject matter.
- Ability to plan and deliver instruction and the use of technology in the classroom.
- Ability to evaluate instructional needs.
- Ability to establish and maintain a positive collaborative relationship with students' families to increase student achievement.
- Other professional competencies, responsibilities, and requirements established by the State Board of Education (SBE) and policies of the district school board.<sup>15</sup>

Since 1999, the assessment procedure for instructional personnel and school administrators has been statutorily required to be primarily based on the performance of students assigned to their classrooms or schools, as appropriate. Such student performance must be measured by statewide assessments and by local assessments for subjects and grade levels not measured by the statewide assessment program.<sup>16</sup> The term "primarily based" is not defined in statute or rule. Thus, the weight assigned to student performance varies among school districts.<sup>17</sup>

SBE rule establishes three performance designations for instructional personnel and school administrators: unsatisfactory, satisfactory, and outstanding.<sup>18</sup> While student performance is the primary factor considered in assessing performance, a school district may charge an employee with unsatisfactory performance for reasons other than poor student performance.<sup>19</sup>

During the 2008-2009 school year, 237,868 teachers were evaluated in 77 school districts (includes lab schools). Districts reported that 99.74 percent of teachers received satisfactory (or higher) ratings.<sup>20</sup> More than half of the districts reported that 100 percent of teachers received satisfactory ratings.<sup>21</sup>

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education paraprofessionals. Classroom teachers provide classroom instruction to students, including basic instruction, exceptional student education, career education, and adult education. Section 1012.01(2), F.S.

<sup>13</sup> Administrative personnel 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. School administrators include school principals, school directors, career center directors, and assistant principals. Section 1012.01(3), F.S.

<sup>14</sup> Section 1012.34(3), F.S.

<sup>15</sup> Section 1012.34(3)(a), F.S. The Educator Accomplished Practices are adopted in rule and include include several competencies and skills that are essential to effective teaching. Rule 6A-5.065, F.A.C. Likewise, the Florida Principal Leadership Standards provide the essential competencies and skills for school administrators. Rule 6A-5.080, F.A.C.

<sup>16</sup> Section 58, ch. 99-398, L.O.F., *codified at* s.1012.34(3), F.S. The state's assessment program for public schools is the Florida Comprehensive Assessment Test. *See* § 1008.22, F.S.

<sup>17</sup> Florida Department of Education, *Legislative Bill Analysis for SB 6* (2010).

<sup>18</sup> Rule 6B-4.010(1)(c)2., F.A.C.

<sup>19</sup> Section 1012.34(3), F.S. In 2004, the Legislature amended this section to clarify that an employee may be charged with unsatisfactory performance based on performance deficiencies other than student performance (e.g., failure to maintain appropriate discipline, failure to plan instruction, failure to teach assigned subject matter, etc.). Section 11, ch. 2004-295, L.O.F. Prior to this clarification, some Florida courts construed this section to require the charge of unsatisfactory performance to be based solely on student performance. *See Sherrod v. Palm Beach County School Board*, 963 So. 2d 251 (4<sup>th</sup> D.C.A. 2006) and *Young v. Palm Beach County School Board*, 968 So. 2d 38 (4<sup>th</sup> D.C.A. 2006).

<sup>20</sup> Districts report data by instructional staff member as to satisfactory/unsatisfactory evaluations to the Automated Staff Information Database. Email from Department of Education staff (March 4, 2010).

<sup>21</sup> Presentation by Florida Department of Education, House PreK-12 Policy Committee meeting (March 3, 2010). A total of 39 districts reported 100 percent of teachers receiving satisfactory ratings. Those districts are (total number of teachers): Baker (586), Bay (1,671), Bradford (251), Broward (26,476), Calhoun (311), Clay (3,179), DeSoto (421), Escambia (3,827), Flagler (1,280), Franklin (169), Gadsden (589), Gilchrist (306), Glades (131), Gulf (226), Hendry (420), Hillsborough (19,599), Holmes (363), Jackson (773), Jefferson (146), Madison (282), Marion (2,966), Miami-Dade (31,616), Nassau (1,004), Pasco (6,937), Santa Rosa (2,376), Sarasota (4,086), Seminole (5,631), Suwannee (542), Taylor (344), Volusia (1,636), Wakulla (457), Walton (974), Washington (438), Florida School for the Deaf and the Blind (123), Arthur G. Dozier School for Boys (46), Florida Virtual School (993), Florida A&M University Lab School (49), Florida Connections Academy (21), and Florida Virtual Academy (13).

Given that no school district had more than 68 percent of its students make learning gains in reading in 2008-2009,<sup>22</sup> it is questionable how 100 percent of teachers in *any* district are rated as satisfactory.

### ***Effect of Proposed Changes***

The bill requires school districts to evaluate beginning teachers, teachers who hold a valid professional certificate from another state, and teachers with a Florida professional certificate who have not taught in the classroom at any time during the previous five years at least twice in the first year of teaching in a Florida public school. The performance of other employees must be evaluated at least once per year.

Under the bill, each district's performance appraisal system must differentiate among four rating categories: unsatisfactory, needs improvement, effective, and highly effective. The Commissioner of Education (Commissioner) must consult with performance pay experts and classroom teachers in developing the rating categories. Beginning with the 2014-2015 school year and thereafter, instructional personnel and school administrators may not be rated as effective or highly effective if their students fail to demonstrate learning gains.

The bill establishes two categories of performance appraisal criteria for instructional personnel and school administrators. Instructional personnel are evaluated based on student performance and instructional practice. School administrators are evaluated based on student performance and instructional leadership. Instructional practice criteria are based on the Florida Educator Accomplished Practices. Instructional leadership criteria are based on the Florida Principal Leadership Standards. These practices and standards must be adopted by the SBE in rule.

The bill revises the existing performance appraisal criteria to allow for the consideration of advanced degrees held by instructional personnel when evaluating their knowledge of subject area. The bill deletes the performance appraisal criteria pertaining to the "ability to evaluate instructional needs" and replaces it with the ability to use assessment data and other evidence to differentiate instruction to meet student needs for remediation or acceleration.

Like current law, the bill continues to require performance appraisals for instructional personnel and school administrators to be "primarily based" upon student performance, except that the bill deletes the phrase "primarily based" and, instead, specifies that "more than 50 percent" of the appraisal must be based upon student performance. The bill retains current law requiring student performance to be measured by statewide assessments and, for subjects and grade levels not tested by statewide assessments, local assessments. This provision expires July 1, 2014.

Beginning with the 2014-2015 school year, the bill requires more than 50 percent of the performance appraisal for instructional personnel and school administrators to be based upon student learning gains, rather than student performance. The bill authorizes districts to use student assessment results from the preceding three years to measure learning gains.

For classroom teachers, student performance and learning gains will be based on students assigned to their classroom. For school administrators and instructional personnel who are not classroom teachers, student performance and learning gains will be based on students assigned to the school.

Student learning gains will be measured by existing statewide assessments or Advanced Placement (AP), International Baccalaureate (IB), Advanced International Certificate of Education (AICE), and industry certification examinations. For subject areas and grade levels that are not tested by these examinations, districts must develop or acquire valid and reliable end-of-course assessments to measure student learning gains.

Each performance appraisal system must include processes for monitoring the effective and consistent use of the appraisal criteria by supervisors and administrators and for evaluating the overall

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<sup>22</sup> Florida Department of Education, *School Accountability Reports*, <http://schoolgrades.fldoe.org/default.asp> (last visited March 5, 2010).

effectiveness of the system. The bill adds provisions authorizing an employee on annual contract who receives an unsatisfactory performance appraisal to request a review of the appraisal by the district school superintendent. The superintendent is authorized, but not required, to review the appraisal.

The bill requires the DOE to approve each school district's performance appraisal system and appraisal instruments for instructional personnel and school administrators. The DOE must collect from each school district the performance ratings of all instructional personnel and school administrators and report the percentage of each of these employees receiving each rating category by school and by district to the Governor and the Legislature. The SBE must adopt rules establishing the method for calculating rates of student learning tied to the four rating categories.

## **Contracts for Instructional Personnel**

### ***Current Law***

Instructional personnel newly hired on or after July 1, 1984, may earn a professional service contract<sup>23</sup> if the employee completes three years of probationary service in the same school district during a period of not more than five successive years, except for leave duly authorized and granted.<sup>24</sup> The probationary service period may be extended to four years if agreed upon in writing by the district school board and the employee.<sup>25</sup>

During the probationary service period, employees are employed under annual contracts that are not required to be renewed after each year.<sup>26</sup> For instructional personnel employed after June 30, 1997, the first annual contract includes a 97-day period during which the employee's contract may be terminated without cause or the employee may resign without breach of contract.<sup>27</sup>

Upon completion of the probationary period, the employee is eligible to receive a professional service contract if he or she:

- Holds a professional teaching certificate;<sup>28</sup> and
- Is recommended by the district school superintendent for such contract and reappointed by the district school board based on successful performance of duties and demonstration of professional competence.<sup>29</sup>

A professional service contract, unlike an annual contract, must be renewed each year unless the district school superintendent charges the employee with unsatisfactory performance based on his or her annual performance assessment.<sup>30</sup> The law provides extensive due process procedures for holders of professional service contracts who are charged with unsatisfactory performance. The evaluator must notify the employee of unsatisfactory performance in writing and confer with the employee to discuss the performance evaluation.<sup>31</sup> Thereafter, the employee must be placed on performance probation for a period of 90 days. While on performance probation, the employee must be periodically evaluated, given performance feedback, and provided assistance and inservice opportunities targeted to correcting performance deficiencies.<sup>32</sup> After the close of the 90-day period, the evaluator must determine whether the performance deficiencies have been corrected and make a recommendation to the district school superintendent regarding retention or termination of the employee. After considering the evaluator's recommendation, the superintendent must make a final recommendation on retention or termination to the school board. An employee who wishes to contest the superintendent's recommendation is entitled

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<sup>23</sup> See text accompanying *infra* notes 28-34.

<sup>24</sup> Section 1012.33(3)(a)2., F.S.

<sup>25</sup> Section 1012.33(3)(c), F.S.

<sup>26</sup> Section 1012.33(3)(a), F.S.

<sup>27</sup> Section 1012.33(3)(a)4., F.S.

<sup>28</sup> Section 1012.33(3)(a)1., F.S.

<sup>29</sup> Section 1012.33(3)(a)3., F.S.

<sup>30</sup> Sections 1012.33(3)(e) & 1012.34(3)(c) & (d), F.S.

<sup>31</sup> Section 1012.34(3)(d)1., F.S.

<sup>32</sup> Section 1012.34(3)(d)2.a., F.S.

to a hearing. The school board may choose to conduct its own hearing or provide for a hearing before an administrative law judge.<sup>33</sup> The employee may appeal an adverse hearing result in state appellate court.<sup>34</sup>

All contracts must contain provisions for dismissal during the term of the contract only for just cause. Just cause includes immorality, misconduct in office, incompetency, gross insubordination, willful neglect of duty, being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude, as defined by SBE rule.<sup>35</sup>

Each employee with a written contract must serve the full term of the contract unless released from the contract by the district school board. An employee who breaches this requirement is subject to discipline by the Education Practices Commission.<sup>36</sup>

If a district school board, when making staff reductions, must choose between retaining employees who hold continuing contracts or those holding professional service contracts, such decision must be made in accordance with a collectively bargained agreement or, in the absence of such an agreement, district school board rule.<sup>37</sup>

During the 2008-2009 school year, 11,620 teachers left teaching positions in Florida, with 3,554 resigning involuntarily. Of the teachers who resigned involuntarily, 214 were released by the end of the 97-day probationary period, 348 were terminated for performance-related reasons, 570 had professional service or continuing contracts terminated as a result of workforce reduction, and 2,422 did not have annual contracts renewed and were not reappointed.<sup>38</sup>

### ***Effect of Proposed Changes***

The bill ends the use of professional service contracts for classroom teachers hired on or after July 1, 2010. Each beginning classroom teacher will receive a one-year probationary contract in his or her first year of teaching, during which time the teacher may be terminated without cause or resign without breach of contract. This extends the current probationary period from 97 days to one year.

Upon expiration of the one-year probationary contract, a classroom teacher may receive up to four annual contracts if the teacher holds a professional certificate and is recommended by the superintendent and approved by the district school board. In order to receive an annual contract in the sixth year of teaching and thereafter, a classroom teacher must meet the aforementioned requirements and document effective or highly effective performance on annual performance appraisals in at least two of the preceding three years.

A classroom teacher hired on or after July 1, 2010, may be suspended or dismissed at any time during the term of an annual contract for "just cause." Like professional service contracts, the bill establishes grounds for "just cause" suspension or termination that include immorality; misconduct in office; incompetency; gross insubordination; willful neglect of duty; and being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication, any crime involving moral turpitude. Unlike professional service contracts, the bill adds poor performance, as demonstrated by a lack of student learning gains, as a "just cause" ground for terminating or suspending an annual contract during its term. The SBE is required to adopt rules defining "just cause."

The district school board must notify in writing a classroom teacher who is charged with "just cause" and may suspend him or her without pay. If the charges are not sustained, the classroom teacher must be immediately reinstated and paid back pay.

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<sup>33</sup> Section 1012.34(3)(d)2.b., F.S.

<sup>34</sup> Section 120.68, F.S.

<sup>35</sup> Section 1012.33(1)(a), F.S.; Rule 6B-4.009, F.A.C.

<sup>36</sup> Section 1012.33(2), F.S.

<sup>37</sup> Section 1012.33(5), F.S.

<sup>38</sup> Presentation by Florida Department of Education, House PreK-12 Policy Committee meeting (March 3, 2010).

The bill requires a district school board, when making staff reductions, to base decisions regarding whether to retain employees who hold continuing contracts<sup>39</sup> or professional service contracts on the employee's performance as determined on annual performance appraisals. This provision applies to contracts that are newly entered into, extended, or readopted on or after July 1, 2010, and to all contracts on or after July 1, 2013.

## **Compensation and Salary Schedules**

### ***Current Law***

Florida law requires district school boards to adopt and use a salary schedule in setting the compensation for district employees. Salary schedules for instructional personnel must partially base each employee's compensation on performance, as measured by annual performance assessments. In addition, the district must consider the prior teaching experience of a person who has been designated state teacher of the year by any state in the United States, and must consider prior professional experience in the field of education gained in positions in addition to district level instructional and administrative positions.<sup>40</sup> In developing a salary schedule, a school district is required to seek input from parents, teachers, and representatives of the business community.<sup>41</sup> Salary schedules for instructional personnel must include differentiated pay based on district-determined factors, including additional responsibilities, school demographics, critical shortage areas, and level of job performance difficulties.<sup>42</sup>

School districts bargain collectively with the certified bargaining agent chosen by their employees regarding wages, hours, and terms and conditions of employment.<sup>43</sup> Salary schedules for instructional personnel are specifically subject to collective bargaining.<sup>44</sup>

In 2008-2009, the statewide average teacher salary was \$45,938, with a statewide average beginning teacher salary of \$34,606. In addition, the state funded over \$272 million in bonus programs.<sup>45</sup>

### ***Effect of Proposed Changes***

Effective July 1, 2014, the bill prohibits the use of years of service or degrees held in setting school district salary schedules for instructional personnel and school administrators. Each district school board must adopt a salary schedule that awards annual salary adjustments to instructional personnel and school administrators based solely upon performance demonstrated on annual performance appraisals. The bill requires each school board to adopt a salary adjustment for differentiated pay for both instructional personnel and school administrators based upon:

- Assignment to a high priority location area;
- Certification and teaching in a critical teacher shortage area; or
- Assignment of additional academic responsibilities.

Continued differentiated pay is contingent upon documentation of performance on annual performance appraisals.

The bill requires each district school board to adopt a separate salary schedule for beginning teachers, teachers who hold a valid professional certificate from another state, and teachers who hold a valid

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<sup>39</sup> Continuing contracts were replaced by professional service contracts effective July 1, 1984. Section 1012.33(3)(d), F.S.

<sup>40</sup> Sections 1011.60(4), 1012.22(1)(c)2. & 1012.27(2), F.S.

<sup>41</sup> Sections 1012.22(1)(c)3. & 1012.27(2), F.S.

<sup>42</sup> Section 1012.22(1)(c)4., F.S.

<sup>43</sup> Sections 447.203(2) & 447.309(1), F.S.; see Florida Public Employees Relations Commission, *Scope of Bargaining* (2d ed. Sept. 2005), available at [http://perc.myflorida.com/pubs/Scope\\_of\\_Bargaining.pdf](http://perc.myflorida.com/pubs/Scope_of_Bargaining.pdf) (Introduction). Section 6, Art. I of the State Constitution establishes the right of employees to collectively bargain: "The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged."

<sup>44</sup> Section 1012.22(1)(c)4., F.S.

<sup>45</sup> Presentation by Florida Department of Education, House PreK-12 Policy Committee meeting (March 3, 2010).



Florida professional certificate, but who have not taught in the classroom at any time during the previous certification period. The bill defines “beginning teacher” as a classroom teacher, excluding a substitute teacher, with no prior K-12 teaching experience. This salary schedule is effective for the first year the teacher provides instruction in Florida public schools.

## **Merit Award Program**

### ***Current Law***

The Merit Award Program (MAP) provides merit-based pay supplements for high-performing school employees in participating school districts.<sup>46</sup> A school district that participates in MAP must be able to administer end-of-course examinations in all grade groupings and subjects for any year in which the district participates in the program.<sup>47</sup> In 2009, the Legislature provided \$20 million for the program.<sup>48</sup> According to the DOE, four school districts and 180 charter schools participated in MAP during the 2008-2009 school year.<sup>49</sup>

### ***Effect of Proposed Changes***

The bill repeals the MAP and related statutory provisions.

## **Charter Schools**

### ***Current Law***

Charter schools are generally exempt from the Florida K-20 Education Code (Chapters 1000-1013, F.S.), except statutes specifically stating that they apply to charter schools and statutes pertaining to: student assessment and school grading; the provision of services to students with disabilities; civil rights; student health, safety, and welfare; public records, public meetings, and public inspection; and criminal and civil penalties. Charter schools are not specifically subject to statutory provisions pertaining to instructional personnel and school administrator performance appraisals and contracts.<sup>50</sup>

### ***Effect of Proposed Changes***

The bill prohibits charter schools from awarding professional service contracts to any classroom teacher hired on or after July 1, 2010. Beginning with the 2014-2015 school year and thereafter, a charter school must adopt a salary schedule that provides annual salary adjustments to instructional personnel and school administrators based solely upon on performance, as demonstrated on annual performance appraisals. Charter schools are prohibited from using years of service or degrees held in setting salary schedules.

Beginning with the 2013-2014 school year, each charter school must administer end-of-course assessments that the school develops or acquires in subjects and grade levels that are not tested by statewide assessments or AP, IB, AICE, or industry certification examinations. Charter schools must maintain the security and integrity of such assessments.

Finally, each charter school must adopt a performance appraisal system for instructional personnel and school administrators in the same manner as school districts.

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<sup>46</sup> Section 1012.225, F.S.

<sup>47</sup> Section 1012.2251, F.S.

<sup>48</sup> Specific Appropriation 76, § 2, ch. 2009-81, L.O.F.

<sup>49</sup> Florida Department of Education, *Legislative Bill Analysis for SB 6* (2010).

<sup>50</sup> Section 1002.33(16), F.S.

## **District End-of-Course Assessments**

### ***Effect of Proposed Changes***

The bill requires school districts to develop or acquire valid and reliable end-of-course assessments to measure student learning gains in subject areas and grade levels that are not tested on existing statewide assessments or AP, IB, AICE, or industry certification examinations. Implementation of the district end-of-course assessments occurs in the 2013-2014 school year. Each district school superintendent is responsible for the security of the assessments and must certify the integrity of the exam process to the Commissioner. The superintendent may be removed if his or her certification is determined to be invalid by an audit by the Auditor General or investigation by the Commissioner. The bill requires the Commissioner to identify methods to support school districts in the development or acquisition of the assessments. Such methods may include developing item banks, facilitating the sharing of assessments among districts, and providing technical assistance.

## **Teacher Quality Accountability**

### ***Effect of Proposed Changes***

Beginning in the 2011-2012 school year, the bill requires the Commissioner to calculate at the time of the second Florida Education Finance Program (FEFP) calculation an amount of state funds equivalent to five percent of the total state, local, and federal funding determined by the FEFP for each school district and charter school. This amount is the district's or charter school's Performance Fund for Instructional Personnel and School-Based Administrators (Performance Fund). The Commissioner must distribute the Performance Fund as part of each district's or charter school's total allocation of operating funds.

The Performance Fund must be used by districts and charter schools for implementing the bill's requirements regarding salary schedules for instructional personnel and school administrators, performance appraisals, and end-of-course assessments. Such funds may not be used to increase the base salaries or salary adjustments of employees rated as unsatisfactory or needs improvement. A salary increase from these funds must be awarded in addition to any general increase or other adjustments to salaries.

The bill establishes procedures for reviewing school district compliance with the bill's salary schedule and end-of course assessment requirements. Beginning with the 2014-2015 fiscal year, each district school board must annually submit its salary schedule to the Commissioner for review. Beginning with the 2013-2014 fiscal year, the Commissioner must annually select a sample of school district end-of-course assessments from multiple districts for review. The Commissioner must notify the district if its salary schedule and end-of-course assessments are not in compliance and certify district noncompliance to the Governor and Legislature.

The bill requires the Auditor General or independent auditor to review district compliance with classroom teacher contract requirements in each school district's annual financial audit. The auditor must select a sample of the district's contracts for classroom teachers hired on or after July 1, 2010. The auditor must document violations of classroom teacher contract requirements to the Commissioner. The Commissioner must report district noncompliance with such requirements to the Governor, Legislature, and the school district.

Each charter school must certify compliance with statutory provisions governing performance appraisals, salary schedules, end-of-course assessments, and contracts for classroom teachers hired on or after July 1, 2010. The Commissioner must annually select a sample of charter schools and determine compliance with these requirements. The Commissioner must notify the charter school's governing board and sponsor of noncompliance and certify such noncompliance to the Governor and Legislature.

Districts that are not in compliance with salary schedule, end-of-course assessment, or classroom teacher contracting requirements are subject to a funding adjustment in an amount equal to the district's Performance Fund. The funding adjustment will be implemented through the withholding of undistributed funds to which the district is otherwise entitled. If undistributed funds are insufficient to cover the funding adjustment, the unsatisfied balance must be withheld from the district's operating funds for the subsequent fiscal year in the form of a prior year adjustment. Charter schools that do not comply with performance appraisal, salary schedule, end-of-course assessment, or classroom teacher contracting requirements are also subject to a funding adjustment in an amount equivalent to five percent of the total state, local, and federal funding determined by the FEFP.

The bill requires the SBE to adopt rules for implementing the Performance Fund. Such rules include documentation requirements; processes and criteria for determining compliance with performance appraisal, salary schedule, and end-of-course assessment requirements; and reporting and monitoring to ensure that Performance Funds are used for authorized purposes.

## **Annual Exemption**

### ***Effect of Proposed Changes***

A school district that received a grant of at least \$75 million from a private foundation<sup>51</sup> for the purpose of improving the effectiveness of teachers within the school district may annually request from the SBE an exemption from bill provisions related to performance pay, performance appraisals, end-of-course assessments, and the Performance Fund. To be granted an exemption, the district must demonstrate that it is implementing:

- A teacher appraisal system that uses student performance as its most significant evaluation factor;
- A teacher compensation system that awards salary increases based on sustained student performance; and
- A teacher contract system that awards contracts based on student performance.

The SBE must adopt rules establishing a procedure for obtaining the exemption.

## **Academically High-Performing School Districts**

### ***Current Law***

Academically high-performing school districts are generally exempt from the Florida K-20 Education Code (chs. 1000-1013, F.S.), except statutes pertaining to: student assessment and school grading; the provision of services to students with disabilities; civil rights; student health, safety, and welfare; election and compensation of school board members; school finance, planning and budgeting; differentiated and performance pay; professional service contracts; educational facilities; and instructional materials. In some cases, specified statutes within these broad categories are eligible for exemption.<sup>52</sup>

### ***Effect of Proposed Changes***

The bill requires academically high-performing school districts to comply with provisions governing contracts for classroom teachers hired on or after July 1, 2010, and performance appraisals for instructional personnel and school administrators.

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<sup>51</sup> On November 19, 2009, the Hillsborough County School District received a \$100 million grant award from the Bill and Melinda Gates Foundation. Funds from this grant will be used to implement reforms for the improvement of teacher effectiveness.

<sup>52</sup> Section 1003.621, F.S.

## Educator Certification

### **Current Law**

Classroom teachers and other instructional personnel must be certified.<sup>53</sup> The purpose of certification is to protect the educational interests of students, parents, and the public at large by assuring that Florida's teachers are professionally qualified.<sup>54</sup>

There are two types of educator certificates issued to instructional personnel: the professional certificate and the temporary certificate.<sup>55</sup> The professional certificate is valid for five years and is renewable.<sup>56</sup> The temporary certificate enables individuals who have not met all of the requirements for professional certification to teach while working towards full certification.<sup>57</sup> It is valid for three years and is nonrenewable.<sup>58</sup>

Florida law specifies several basic requirements that applicants must meet in order to receive either a professional or temporary certificate. Applicants must:

- Be at least 18 years of age;
- Sign an affidavit attesting that the applicant will uphold the U.S. Constitution and the State Constitution;
- Earn a bachelor's or higher degree from an accredited institution of higher learning or from a DOE-approved nonaccredited institution.
- Submit to fingerprinting and background screening and not have a criminal history that requires the applicant's disqualification from certification or employment;
- Be of good moral character; and
- Be competent and capable of performing the duties, functions, and responsibilities of a teacher.<sup>59</sup>

There are additional requirements for each type of certificate. Before a professional certificate may be issued, an applicant must:

- Demonstrate mastery of general knowledge;<sup>60</sup>
- Demonstrate mastery of subject area knowledge;<sup>61</sup> and
- Demonstrate mastery of professional preparation and education competence.<sup>62</sup>

An applicant seeking a temporary certificate must:

- Obtain full-time employment in a position that requires a Florida educator certificate by a school district or private school that has a DOE-approved professional education competence demonstration program,<sup>63</sup> and

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<sup>53</sup> Section 1012.55(1), F.S. In addition, a school supervisor, school principal, library media specialist, school counselor, or athletic coach must be certified. *Id.*

<sup>54</sup> Section 1012.54, F.S.

<sup>55</sup> Section 1012.56(7), F.S. The DOE also issues certificates for athletic coaches and teachers of the speech and language impaired. These certificates differ from standard professional and temporary certificates. There are two types of athletic coaching certificates: one is valid for five years and is renewable, and the other is valid for three years and is nonrenewable. *See* Rule 6A-4.004(4), F.A.C. The athletic coaching certificate covers full-time and part-time employment as a public school's athletic coach. Section 1012.55(2), F.S. The DOE also issues a nonrenewable two-year temporary certificate and a nonrenewable five-year professional certificate that allows an applicant with a bachelor's degree in the area of speech-language impairment to complete a master's degree in speech-language impairment. Section 1012.56(7)(c), F.S.; Rule 6A-4.004(3), F.A.C.

<sup>56</sup> Section 1012.56(7)(a), F.S.; *see* Rule 6A-4.0051(3)(c), F.A.C.

<sup>57</sup> *See* Rule 6A-4.004(1)(a), F.A.C.

<sup>58</sup> Section 1012.56(7), F.S.; Rule 6A-4.004(1)(a), F.A.C.

<sup>59</sup> Section 1012.56(2)(a)-(f), F.S.

<sup>60</sup> Section 1012.56(2)(g) & (3), F.S.

<sup>61</sup> Section 1012.56(2)(h) & (5), F.S.

<sup>62</sup> Section 1012.56(2)(i) & (6), F.S.

- Do one of the following:
  - Demonstrate mastery of subject area knowledge; or
  - Complete the required degree or content courses specified in SBE rule for subject area specialization.<sup>64</sup>

Within one calendar year after employment under a temporary certificate, an educator must demonstrate mastery of general knowledge in order to remain employed in a position that requires a certificate.<sup>65</sup>

Reciprocity is granted to teachers who hold a valid professional standard teaching certificate for a subject area issued by another state,<sup>66</sup> the National Board of Professional Teaching Standards (NBPTS),<sup>67</sup> or an SBE-approved national educator credentialing board.<sup>68</sup> These individuals are deemed to have met the requirements for Florida professional certification, including mastery of general knowledge, subject area knowledge, and professional preparation and education competence.<sup>69</sup>

In the case of a teaching certificate issued by another state, the certificate must be comparable to a Florida Professional Certificate, cover a subject area that is comparable to a Florida certification subject, and require the same or higher level of training as the Florida subject area certification.<sup>70</sup>

In 2008-2009, Florida issued approximately 24 percent of initial certificates based on reciprocity. This includes teachers with teaching certificates from out of state (2,501), teachers who completed an out-of-state teacher preparation program (814), and teachers with certificates issued by the NBPTS (8) and the American Board for Certification of Teacher Excellence (162).<sup>71</sup>

### ***Effect of Proposed Changes***

The bill revises several requirements related to initial educator certification. Currently, completion of a bachelor's or higher degree from an accredited institution of higher learning or from a DOE-approved nonaccredited institution is a basic requirement for certification. The bill adds provisions authorizing the SBE to adopt rules allowing college course credits recommended by the American Council on Education (ACE)<sup>72</sup> to satisfy this requirement.

<sup>63</sup> Section 1012.56(1)(b), F.S.; Rule 6A-4.004(1)(a)2., F.A.C. Each school district must, and a state-supported public or private school may, establish a professional education competence demonstration program that allows the district's or school's instructional staff to demonstrate mastery of professional preparation and education competence through a performance evaluation plan, which documents the staff's classroom application and instructional performance. Section 1012.56(8), F.S. In addition to a professional education competence demonstration program, an educator may attend an Educator Preparation Institute to demonstrate mastery of professional preparation and education competence. Section 1004.85(3)(d), F.S.

<sup>64</sup> Section 1012.56(7)(b), F.S. The degree and content requirements are established in ch. 6A-4, F.A.C.

<sup>65</sup> Section 1012.56(7), F.S. (flush-left provisions at end of subsection). If the educator is employed under contract, the calendar year deadline for demonstrating mastery of general knowledge may be extended through the end of the school year. *Id.*

<sup>66</sup> Section 1012.56(5)(e), F.S.; see Rules 6A-4.002(1)(i)1.-2. & 6A-4.003, F.A.C. (flush-left provisions following Rule 6A-4.003(2)(e), F.A.C).

<sup>67</sup> Section 1012.56(5)(f), F.S. According to the DOE, 31 NBPTS certification subject area coverages currently align with Florida coverages. Florida Department of Education, *NBPTS Certification Subject Areas*, <http://www.fldoe.org/edcert/nbpts-chart.asp> (last visited Feb. 26, 2010).

<sup>68</sup> Section 1012.56(5)(f), F.S. The American Board for Certification of Teacher Excellence is a national educator credentialing board that has been approved by the SBE. See Florida Department of Education, *Bureau of Educator Certification Partnership Manual*, 17-24 (Oct. 16, 2009).

<sup>69</sup> Section 1012.56(3)(c)-(d), (5)(e)-(f), and (6)(c)-(d), F.S.; Rule 6A-4.002(1)(i)1. & (j), F.A.C. An out-of-state or national certificate is not accepted in Florida at face value. Such individuals must apply for, and obtain, a Florida professional certificate to teach in this state. Rule 6A-4.002(1)(i), F.A.C.; Florida Department of Education, *Reciprocity for Out-of-State Teachers and Administrators*, <http://www.fldoe.org/edcert/level1.asp> (last visited Feb. 26, 2010).

<sup>70</sup> Rule 6A-4.002(1)(i), F.A.C.

<sup>71</sup> Presentation by Florida Department of Education, House PreK-12 Policy Committee meeting (March 3, 2010).

<sup>72</sup> ACE provides various services related to higher education public policy advocacy, accreditation, and research. ACE provides a credit equivalency service that higher education institutions may use to determine transfer credit and equivalent courses. American Council on Education, ACE Credit, <http://www.acenet.edu/AM/Template.cfm?Section=Orgs&Template=/CM/HTMLDisplay.cfm&ContentID=6103> (last visited Mar. 23, 2010).

The bill adds successful completion of a professional training program provided by Teach for America<sup>73</sup> and achievement of a passing score on the professional education competency examination as a method for demonstrating mastery of professional preparation and education competence.

Under the bill, a temporary certificate holder must pass a subject area examination within one calendar year of employment. This requirement may be extended to two years under extenuating circumstances such as illness or injury.

The bill adds a requirement that teachers who hold valid professional teaching certificates from other states must demonstrate mastery of subject area knowledge to obtain a Florida professional certificate. This may be accomplished by passing a subject area examination or by demonstrating subject area mastery by a method provided in SBE rules.

The bill requires the SBE to review the current subject area examinations required for educator certification. The review must ascertain whether the passing scores and rigor of reading instruction required for certification match the expectations for teacher competency in the subject area. If necessary, the SBE may revise passing scores to meet these expectations.

## **Certification Renewal**

### ***Current Law***

A professional certificate must be renewed every five years.<sup>74</sup> The renewal period may be extended to 10 years to enable educators who are certified in three or more subject areas to fulfill the renewal requirements for all subjects.<sup>75</sup> In general, individual school districts process renewals for their certified employees and the DOE processes renewal applications for other certificate holders, including individuals with expired professional certificates. In 2008-2009 school year, 32,378 certificate holders renewed through their school districts, 5,598 certificate holders renewed through the DOE, and 350 individuals reinstated an expired professional certificate.<sup>76</sup>

Renewal or reinstatement of professional certification is not currently linked to effectiveness on annual performance appraisals. Currently, an educator must submit an application,<sup>77</sup> pay a fee,<sup>78</sup> and earn at least six college credits or 120 inservice points to renew professional certification.<sup>79</sup> At least three college credits or 60 inservice points must be in the educator's subject area. Credits or inservice points may also be earned in courses in clinical educator training, literacy and computational skills acquisition, exceptional student education, child development, drug abuse, child abuse, limited English proficiency, dropout prevention, and other topics.<sup>80</sup> College credits must be earned at an accredited or SBE-approved institution. Inservice points must be earned via participation in SBE-approved school district inservice activities.<sup>81</sup>

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<sup>73</sup> The Teach for America program recruits recent college graduates from various fields to commit to teach for two years in urban and rural public schools. Teach for America teachers receive ongoing teacher training while participating program. Teach for America, *Mission and Approach*, [http://www.teachforamerica.org/mission/mission\\_and\\_approach.htm](http://www.teachforamerica.org/mission/mission_and_approach.htm) (last visited Mar. 23, 2010).

<sup>74</sup> Section 1012.585(2)(a), F.S.

<sup>75</sup> Section 1012.585(c), F.S.; Rule 6A-4.0051, F.A.C. Out of 289,863 academic certificate holders, 101,513 are certified in one subject area, 98,786 are certified in two subject areas, and 89,564 are certified in three or more subject areas. Email from Legislative Affairs staff, Florida Department of Education (March 1, 2010, 4:08 PM EST).

<sup>76</sup> Presentation by Florida Department of Education, House PreK-12 Policy Committee meeting (March 3, 2010).

<sup>77</sup> Rule 6A-4.0051(3)(b), F.A.C. Initial certification applications are generally submitted to DOE. Section 1012.56(1), F.S. District school boards issue certificates for school district employees for renewal of a professional certificate. Rule 6A-4.0012(5)(a), F.A.C.; *see* § 1012.585(1)(a), F.S.

<sup>78</sup> Rules 6A-4.0012(1)(a)1. & 6A-4.0051(3)(b), F.A.C.

<sup>79</sup> Section 1012.585(3)(a), F.S. Applicants may combine college credits and inservice points to meet this requirement. One semester hour of college credit is equivalent to 20 inservice points. Rule 6A-4.0051(1)(a)2., F.A.C.

<sup>80</sup> Section 1012.585(3)(a), F.S.

<sup>81</sup> Rule 6A-4.0051(1)(a), F.A.C.; *see* Rule 6A-4.003(1) & (2), F.A.C. (list of approved accrediting agencies and guidelines for nonaccredited approved institutions).

Certification in subject areas may also be renewed by earning a passing score on the corresponding subject area test.<sup>82</sup> NBPTS certification is deemed to meet certification renewal requirements for the life of the certificate, in the corresponding certification subject area.<sup>83</sup>

An expired professional certificate may be reinstated if the applicant:

- Submits an application for reinstatement;
- Submits to fingerprinting and background screening; and
- In the five years immediately preceding the application for reinstatement, completes the college credit and inservice point requirements for renewal and passes the subject area test for each certification area to be reinstated.<sup>84</sup>

If the applicant cannot meet the requirements for reinstatement of an expired professional certificate, he or she may be issued, if qualified, a three-year nonrenewable temporary certificate.<sup>85</sup>

### ***Effect of Proposed Changes***

Effective July 1, 2014, the bill eliminates lifetime renewal of professional certification for NBPTS-certified educators. Beginning with the 2014-2015 school year, all applicants for renewal of a professional certificate must document effective or highly effective performance on annual performance appraisals in at least four out of the preceding five years. The bill requires the SBE to adopt rules defining the process for documenting effective performance and for establishing equivalent options for individuals who have not been evaluated during the previous certification period.

The bill provides that an applicant's professional certificate will expire if he or she is unable to document effective performance. Such individuals may apply for reinstatement of the certificate.

## **Education Practices Commission**

### ***Current Law***

The Education Practices Commission (Commission) is authorized to investigate complaints of educator misconduct and may take action to suspend or revoke an educator's certificate if the complaint is substantiated.<sup>86</sup> Among other things, the DOE provides personnel to support the purposes of the Commission.<sup>87</sup> Employees or agents of the DOE who investigate or prosecute misconduct by certified educators are not currently allowed access to child abandonment, abuse, or neglect reports held by the Department of Children and Families (DCF).<sup>88</sup>

The Commission is comprised of 25 members. Eight members must be teachers, each with at least five years of teaching experience in the state of Florida; five members must be administrators, one of whom must represent a private school; seven lay citizens, five of whom must be parents and two of whom must be former district school board members; and five sworn law enforcement officials. Commission members are appointed by the SBE.<sup>89</sup>

### ***Effect of Proposed Changes***

The bill grants access to child abandonment, abuse, or neglect reports held by the DCF to employees or agents of the DOE who investigate or prosecute misconduct by certified educators. The bill revises

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<sup>82</sup> Section 1012.585(3)(b), F.S. For the purposes of renewing a professional certificate, passage of a subject area examination is equivalent to three semester hours of college credit. Rule 6A-4.0051(1)(b), F.A.C.

<sup>83</sup> Section 1012.585(2)(b), F.S.; Rule 6A-4.0051(1)(c), F.A.C.

<sup>84</sup> Section 1012.585(5), F.S.; Rule 6A-4.0051(3) & (6), F.A.C.

<sup>85</sup> Rule 6A-4.004(7), F.A.C.

<sup>86</sup> Sections 1012.795 & 1012.796(1), F.S.

<sup>87</sup> Section 1012.79(6), F.S.

<sup>88</sup> Section 39.202(2), F.S.

<sup>89</sup> Section 1012.79(1), F.S.

the membership requirements for the Commission. Under the bill, the Commission must be comprised of 11 teachers, rather than eight. Teacher members must have at least 10 years of experience with at least five years of teaching in the state of Florida. The bill reduces the number of lay citizen members from seven to five, three of whom must be parents of public school students. The bill reduces the number of law enforcement members from five to four. The bill makes the school administrator from a private school an optional, rather than required, member of the Commission.

## **Initial Teacher Preparation Programs**

### ***Current Law***

Initial teacher preparation programs are offered by a Florida public or nonpublic postsecondary institution, terminate in a bachelor's degree or higher, and enable students to satisfy all requirements for a professional certificate upon program completion. Initial teacher preparation programs must be approved by the DOE.<sup>90</sup> Florida law establishes a two-tiered system for approving initial teacher preparation programs: initial approval and continued approval. Each approval period is seven years.<sup>91</sup> Florida currently has 469 initial teacher preparation programs.<sup>92</sup>

Among other requirements for initial approval, an initial teacher preparation program must require students seeking admission to:

- Achieve a grade point average (GPA) of 2.5 on a 4.0 scale in the general education component of undergraduate studies or complete a baccalaureate degree with a GPA of 2.5 on a 4.0 scale from a college or university accredited by a regional accrediting association defined in SBE rule or a college or university that is approved pursuant to SBE rule;<sup>93</sup> and
- Demonstrate mastery of general knowledge by passing the General Knowledge Test of the Florida Teacher Certification Examination (FTCE), the College Level Academic Skills Test, or similar test approved pursuant to SBE rule.<sup>94</sup>

An initial teacher preparation program may waive these requirements for up to 10 percent of students who seek admission into the program. Students who receive this waiver must be provided with assistance in acquiring the competencies required to successfully obtain educator certification.<sup>95</sup>

Continued approval of initial teacher preparation programs is based on an institutional program evaluation plan (IPEP). An IPEP must be annually reported to the DOE and published for the general public.<sup>96</sup> The IPEP must document:

- Compliance with student admission requirements;
- Student demonstration of teaching competencies;
- Passage of the FTCE by at least 90 percent of program graduates annually;
- Graduate satisfaction with their preparedness in the first year of teaching; and
- Employer satisfaction with program graduates.<sup>97</sup>

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<sup>90</sup> Section 1004.04, F.S.; Rule 6A-5.066(1)(a)

<sup>91</sup> Rule 6A-5.066(1)(a), F.A.C.

<sup>92</sup> Presentation by Florida Department of Education, House PreK-12 Policy Committee meeting (March 3, 2010).

<sup>93</sup> Section 1004.04(4)(b)1., F.S. SBE rule recognizes the following accrediting associations: the Southern Association of Colleges and Schools, the Middle States Association of Colleges and Secondary Schools, the New England Association of Colleges and Secondary Schools, the North Central Association of Colleges and Secondary Schools, the Northwest Association of Secondary and Higher Schools, the Western Association of Colleges and Schools, and accrediting agencies approved by the United States Department of Education. Rule 6A-4.003(1), F.A.C.

<sup>94</sup> Section 1004.04(4)(b)2., F.S. Candidates for graduate level programs may use a score earned on the Graduate Record Exam to demonstrate mastery of general knowledge. Rule 6A-5.066(1)(c)2.a., F.A.C.

<sup>95</sup> Section 1004.04(4), F.S. (flush-left provisions at end of paragraph).

<sup>96</sup> Section 1004.04(5)(c), F.S.; Rule 6A-5.066(1)(d)1., F.A.C.

<sup>97</sup> Section 1004.04(5)(a)-(e), F.S.; Rule 6A-5.066(1)(d)1., F.A.C. Employer satisfaction is based on an annual employer survey.

Employers must rate each graduate's ability to write, speak, recognize and address student learning difficulties in reading and math,



Initial teacher preparation programs must guarantee the quality of program graduates during the first two years of teaching or following initial certification, whichever occurs first. If an employer survey indicates dissatisfaction with the graduate, the graduate must be provided remedial training by the initial teacher preparation program.<sup>98</sup>

Initial teacher preparation programs must annually report the percent of graduates that obtain full-time teaching employment in the first year after graduation, graduate average length of stay in full-time teaching positions, and employer satisfaction ratings to the state and general public. A public or private postsecondary institution that provides training for school readiness-related professions must annually report graduate average length of stay and employer satisfaction ratings to the state and general public.<sup>99</sup>

Florida law authorizes state universities and community colleges to establish preteacher and teacher education pilot programs to encourage minority students to pursue careers in education.<sup>100</sup> Likewise, colleges and universities with DOE-approved teacher preparation programs may establish pilot programs to encourage high-achieving students to pursue a career in education.<sup>101</sup> According to the DOE, these programs are currently inactive.<sup>102</sup>

Of the 5,770 individuals who completed an initial teacher preparation program in 2007-2008, only 3,092 individuals were employed in instructional positions in Florida in 2008-2009.<sup>103</sup>

### ***Effect of Proposed Changes***

The bill eliminates employer satisfaction with program graduates as a condition for continued approval of initial teacher preparation programs. Instead, the bill provides that continued approval for initial teacher preparation programs is contingent upon a determination that public school students taught by program graduates achieved learning gains, as measured by statewide assessments. The bill eliminates reporting of employer satisfaction ratings. Instead, initial teacher preparation programs must annually report to the DOE the percentage of graduates whose public school students achieved learning gains. Institutions that provide training for school readiness related professions must annually report to the DOE the percentage of graduates who obtain full-time teaching employment within the first year after graduation.

Current law requires an initial teacher preparation program to provide additional training, at no cost to the graduate or employer, to any program graduate whose employer expresses dissatisfaction with the graduate's teaching skills in the first two years of teaching. The bill provides that such training must be provided if the students taught by the graduate fail to make learning gains in the first two years of teaching. To ensure that teacher candidates are prepared to enter the field, the bill eliminates provisions authorizing an initial teacher preparation program to waive the GPA and mastery of general knowledge requirements for up to 10 percent of students admitted into the program.

The bill repeals the preteacher and teacher education pilot program and pilot programs that DOE states are currently inactive.

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use technology, demonstrate knowledge of state academic standards, and maintain classroom organization and behavioral management. Section 1004.04(5)(e), F.S.

<sup>98</sup> Section 1004.04(5)(e), F.S.

<sup>99</sup> Section 1004.04(5)(f), F.S.

<sup>100</sup> Section 1004.04(11), F.S.

<sup>101</sup> Section 1004.04(12), F.S.

<sup>102</sup> Florida Department of Education, *Legislative Bill Analysis for SB 6* (2010).

<sup>103</sup> Presentation by Florida Department of Education, House PreK-12 Policy Committee meeting (March 3, 2010).

## **Educator Preparation Institutes**

### ***Current Law***

An Educator Preparation Institute (EPI) is a DOE-approved teacher training program conducted by an eligible postsecondary institution.<sup>104</sup> Thirty Florida postsecondary institutions currently operate an EPI. Twenty-five EPIs are operated by community colleges and five are operated by state universities.<sup>105</sup>

Among other things, an EPI may offer programs designed to enable baccalaureate degree holders and career changers to obtain training in teaching practices and subject area content, participate in field experiences, and become certified to teach.<sup>106</sup> Program participants must:

- Obtain a statement of status eligibility<sup>107</sup> and meet the basic requirements for educator certification;<sup>108</sup>
- Participate in field experiences;
- Demonstrate ability to teach the subject area for which certification is sought and pass the professional education competency examination prior to completion of the program.<sup>109</sup>

Instructors at an EPI must hold a master's degree in education or a related field and document teaching experience.<sup>110</sup>

Each EPI must submit to the DOE an annual performance evaluation documenting program completer's FTCE pass rate, employment rates, longitudinal retention rates, and employer satisfaction surveys. These performance evaluations are used by the DOE to determine continued program approval.<sup>111</sup>

Of the 1,374 individuals who completed an EPI program in 2007-2008, only 755 were employed in instructional positions in Florida in 2008-2009.<sup>112</sup>

### ***Effect of Proposed Changes***

The bill requires participants in EPIs to obtain a statement of status eligibility indicating eligibility for a temporary certificate prior to admission into the program. Prior to completing the program, participants must complete field experiences, demonstrate mastery of general knowledge, and pass a subject area examination. The bill adds a requirement that the annual program performance evaluation submitted to the DOE include evidence that public school students taught by program graduates made learning gains, as measured by statewide assessments.

Currently, instructors at an EPI must hold a master's degree in education or a related field and document teaching experience. The bill provides that instructors at EPIs must meet the same qualifications as instructors at teacher preparation programs who supervise preservice field experiences. Thus, an EPI instructor must have training in clinical supervision, a valid professional teaching certificate, or at least three years of successful teaching experience.

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<sup>104</sup> Section 1004.85(1), F.S.

<sup>105</sup> Florida Department of Education, *Educator Preparation Institutes*,

<http://www.teachinflorida.com/Preparation/EducatorPreparationInstitutes/tabid/187/Default.aspx> (last visited March 4, 2010).

<sup>106</sup> Section 1004.85(2)(d), F.S.

<sup>107</sup> The DOE provides a statement of status eligibility to each educator certification applicant who does not meet the requirements for a professional certificate. This includes individuals who qualify for a temporary certificate, but not a professional certificate, and individuals who do not qualify for either certificate. The statement of status eligibility must advise the applicant of any requirements that must be met in order to be issued a professional certificate. Section 1012.56(1), F.S.

<sup>108</sup> See *supra* text accompanying note 29.

<sup>109</sup> Section 1004.85(3)(b), F.S.

<sup>110</sup> Section 1004.85(5), F.S.

<sup>111</sup> Section 1004.85(4), F.S.

<sup>112</sup> Presentation by Florida Department of Education, House PreK-12 Policy Committee meeting (March 3, 2010).

## **Review of Teacher Preparation Programs**

### ***Effect of Proposed Changes***

The bill requires the DOE, in collaboration with the Board of Governors, to develop a methodology to determine the cost-effectiveness of initial teacher preparation programs, EPIs, and school district professional education competence demonstration programs. On or before December 1, 2011, the DOE must submit a report to the Governor and the Legislature which provides a methodology for evaluating the cost-effectiveness of teacher preparation programs based on program costs and program outcomes such as completion rates, placement rates in teaching jobs, teacher retention rates, and the academic performance of students taught by program graduates. The report must use this methodology to evaluate the cost-effectiveness of the state's teacher preparation programs and make recommendations to the Legislature regarding program productivity and the allocation of funding.

The Office of Program Policy Analysis and Government Accountability must review the current standards for the continued approval of teacher preparation programs and make recommendations to the Legislature on or before January 1, 2012. The recommendations must include proposed changes to the allocation of state funds to teacher preparation programs.

### **Preservice Field Experiences**

#### ***Current Law***

Preservice field experiences are a required component of teacher preparation programs offered by initial teacher preparation programs and EPIs. Like an internship, these experiences enable students to obtain classroom teaching experience.<sup>113</sup> Instructors who supervise preservice field experiences must have training in clinical supervision, a valid professional teaching certificate, or at least three years of successful teaching experience. Teacher preparation programs must select school sites for preservice field experiences that represent diverse demographics.<sup>114</sup>

#### ***Effect of Proposed Changes***

The bill requires preservice field experience programs to provide continuous participation in K-12 classroom settings. The selection of school sites for preservice field experience programs must be based on the instructional skills of the instructor or supervisor with whom the teacher candidate will be placed. Under the bill, this determination is based on the instructor's or supervisor's track record of producing student learning gains.

### **Teacher Recruitment**

#### ***Current Law***

Florida law authorizes several activities aimed at identifying and fulfilling the state's needs for high-quality teachers. The DOE is required to sponsor a job fair in a central part of the state for prospective educators and employers. The DOE may charge participants a fee not exceeding \$20 per person and may expend funds on mementos, awards, and plaques.<sup>115</sup>

Florida law specifies that mathematics, science, and career education are critical teacher shortage areas and requires the SBE to annually identify additional shortage areas.<sup>116</sup> For the 2009-2010 school year, the board identified the following critical teacher shortage areas:

- Middle and high school level mathematics, science, and English/language arts;

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<sup>113</sup> Section 1004.04(6), F.S.

<sup>114</sup> Section 1004.04(6), F.S.

<sup>115</sup> Section 1012.05(4), F.S.

<sup>116</sup> Section 1012.07(1), F.S.; *see also* s. 1009.57(1), F.S.

- Reading;
- Exceptional Student Education (ESE) programs;
- English for Speakers of Other Languages (ESOL);
- Foreign languages; and
- Technology education/industrial arts.<sup>117</sup>

The SBE may also identify a high-priority location area as a critical teacher shortage area. These areas may include low socio-economic status urban and rural schools with high levels of faculty attrition, economically disadvantaged students, and students receiving free and reduced price lunches. Teacher characteristics such as ethnic background, race, and gender may also be considered in designating critical shortage areas.<sup>118</sup>

A tuition reimbursement program and a student loan forgiveness program have been established to address the need for additional teachers in these critical teacher shortage areas.<sup>119</sup> The Critical Teacher Shortage Tuition Reimbursement Program provides tuition reimbursement for college courses in limited teacher shortage areas taken by a full-time public school employee or a laboratory school employee certified to teach in Florida.<sup>120</sup> The Critical Teacher Shortage Loan Forgiveness Program provides for repayment of the borrowed principal of college student loans to a first-time teacher earning certification in a critical teacher shortage area.<sup>121</sup> The Florida Teacher Scholarship and Forgivable Loan Program provides scholarship assistance to lower-division undergraduate students and loan assistance to upper-division undergraduate and graduate students. The purpose of the program is to attract liberal arts students to the teaching profession, attract teachers to critical teacher shortage areas, and provide opportunities for career changers to pursue a career in teaching.<sup>122</sup> As of November 2009, 4,716 educators were participating in these programs.<sup>123</sup> In 2009, the Legislature appropriated \$2.5 million dollars for these programs.<sup>124</sup>

### ***Effect of Proposed Changes***

The bill authorizes the DOE to sponsor virtual job fairs. Currently, the DOE is required to sponsor a face-to-face job fair in a central part of the state. The bill eliminates authorization for the DOE to charge participants a fee and expend funds on mementos, awards, and plaques.

The bill revises the definition of critical teacher shortage area to include high need content areas and high priority location areas identified by the SBE. The bill eliminates specific reference to mathematics, science, and career education as critical shortage areas and provisions authorizing the SBE to consider teacher characteristics in determining a critical teacher shortage area.

Under the bill, a high priority location area includes low socio-economic status urban and rural schools and schools identified under Florida law as the lowest performing schools. Provisions stating that high priority location areas include schools with high numbers of economically disadvantaged students, students receiving free and reduced price lunches, and high faculty attrition rates are removed.

<sup>117</sup> Florida Department of Education, *Critical Teacher Shortage Areas 2009-2010*, 1 (Dec. 2008), available at <http://www.fldoe.org/evaluation/pdf/crit1200.pdf>; see Rule 6A-20.0131, F.A.C.

<sup>118</sup> Section 1012.07(1), F.S.

<sup>119</sup> Sections 1009.54, 1009.57, 1009.58, and 1009.59, F.S.

<sup>120</sup> Section 1009.58, F.S.; see also Florida Department of Education, Office of Student Financial Assistance, *2009-2010 Critical Teacher Shortage Tuition Reimbursement Program Fact Sheet*, <http://www.floridastudentfinancialaid.org/SSFAD/factsheets/CTS-TR.htm> (last visited March 4, 2010).

<sup>121</sup> Section 1009.59, F.S.; see also Florida Department of Education, Office of Student Financial Assistance, *2008-2009 Critical Teacher Shortage Loan Forgiveness Program Fact Sheet*, <http://www.floridastudentfinancialaid.org/SSFAD/factsheets/CTS-LF.htm> (last visited Jan. 10, 2009).

<sup>122</sup> Section 1009.57, F.S.

<sup>123</sup> See Education Estimating Conference, *Student Financial Aid Enrollment Conference Results, Executive Summary*, (Office of Economic and Demographic Research, Nov. 20, 2009), available at [http://edr.state.fl.us/conferences/financialaid/sfa112009\\_Summary.pdf](http://edr.state.fl.us/conferences/financialaid/sfa112009_Summary.pdf).

<sup>124</sup> Specific Appropriation 67, § 2, ch. 2009-81, L.O.F.

The SBE must consider current and emerging educational requirements and workforce demands in determining critical teacher shortage areas. Critical teacher shortage areas submitted by school districts must also be aligned to such educational requirements and workforce demands.

The bill repeals the Critical Teacher Shortage Tuition Reimbursement Program, the Critical Teacher Shortage Loan Forgiveness Program, and the Florida Teacher Scholarship and Forgivable Loan Program.

### **The Dale Hickam Excellent Teaching Program**

#### ***Current Law***

The Dale Hickam Excellent Teaching Program provides incentives to classroom teachers who pursue national certification through the National Board for Professional Teaching Standards (NBPTS).<sup>125</sup> NBPTS certified teachers may receive an annual bonus of 10 percent of the prior fiscal year's statewide average teacher salary for up to one 10-year period. If funds are available, NBPTS certified teachers who provide 12 workdays of mentoring and related services to Florida public school teachers who are not NBPTS certified may receive an additional bonus of 10 percent of the prior fiscal year's statewide average teacher salary.<sup>126</sup>

#### ***Effect of Proposed Changes***

The bill provides that teachers who are continuously employed by public schools and the Florida School for the Deaf and the Blind who are NBPTS certified on or before July 1, 2010, may receive bonuses under the Dale Hickam Excellent Teaching Program for up to 10 years. Teachers who obtain NBPTS certification after this date are not eligible to receive bonuses under the program.

### **Teachers Out-of-Field**

#### ***Current Law***

District school boards must adopt a plan for assisting teachers who teach out-of-field. Such teachers must be given priority for professional development opportunities. A school board must require out-of-field teachers to participate in training designed to enable them to acquire necessary competencies. A board must notify in writing the parents of students assigned to a class taught by an out-of-field teacher.<sup>127</sup>

#### ***Effect of Proposed Changes***

Beginning with the 2010-2011 school year, district school boards are prohibited from assigning any beginning teacher to teach mathematics, science, or reading who is not certified in the specific subject area.

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<sup>125</sup> NBPTS offers 25 certificates that cover a variety of subject areas and student development levels. The certification process takes one to three years to complete. Candidates must complete a portfolio review and two-part assessment. The portfolio review includes student work, peer reviews, and video taping of the teacher's classroom practice. National Board for Professional Teaching Standards, *Become a Candidate* [http://www.nbpts.org/become\\_a\\_candidate](http://www.nbpts.org/become_a_candidate) (last visited March 5, 2010).

<sup>126</sup> Section 1012.72, F.S. Recent DOE data indicates that students taught by NBPTS certified teachers achieved learning gains in reading and mathematics at a slightly higher rate than non-NBPTS certified teachers. However, this data also indicates that NBPTS certified teachers tended to have more years of experience and served lower percentages of students with disabilities and students who were performing below grade-level than non-NBPTS certified teachers. According to the DOE, "additional statistical analysis [indicates] that being a [NBPTS] certified teacher [has] no independent statistically significant impact on student learning gains, when years of experience, percent of already proficient students in the classroom, percent of students with disabilities in the classroom, and percent of English Language Learners in the classroom are accounted for." Email from Bureau of Research and Evaluation staff, Florida Department of Education (Mar. 25, 2010 10:55 AM EST).

<sup>127</sup> Section 1012.42, F.S.

## **Obsolete Statutes**

### ***Current Law***

An academic performance-based charter school district is a district that has entered into a performance contract with the SBE, which exempts the district from specified rules and statutes in exchange for its agreement to comply with stated performance goals.<sup>128</sup> Four school districts (Hillsborough, Orange, Palm Beach, and Volusia Counties) are currently designated as Academic Performance-Based Charter School Districts.<sup>129</sup> Statutory authority for such status will expire July 1, 2010.<sup>130</sup>

The deregulated public schools pilot program was authorized by the Legislature in 1998 to give public schools the same flexibility and accountability afforded charter schools.<sup>131</sup> Palm Beach, Pinellas, Seminole, Lee, Leon, Walton, and Citrus were authorized to participate in the pilot program. The pilot program ended after the 2003-2004 school year and was not reauthorized by the Legislature.

### ***Effect of Proposed Changes***

The bill repeals the Academic Performance-Based Charter School Districts and Deregulated Public Schools programs.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amending s. 39.202, F.S.; authorizing the release of child abuse records to certain employees and agents of the DOE.

**Section 2:** Repealing s. 447.403(2)(c), F.S.; relating to resolution of collective bargaining disputes concerning the Merit Award Program.

**Section 3:** Amending s. 1002.33, F.S.; requiring charter schools to adopt a performance appraisal system, administer certain end-of-course assessments, and adopt salary schedules; prohibiting charter schools from awarding professional service contracts to certain classroom teachers; requiring charter schools to certify compliance; providing for a funding adjustment.

**Section 4:** Amending s. 1003.52, F.S.; deleting a cross-reference.

**Section 5:** Repealing s. 1003.62, F.S.; relating to academic performance-based charter school districts.

**Section 6:** Amending s. 1003.621, F.S.; requiring academically high-performing school districts to comply with performance appraisal and classroom teacher contract requirements.

**Section 7:** Repealing s. 1003.63, F.S.; relating to the deregulated public schools pilot program.

**Section 8:** Amending s. 1004.04, F.S.; revising the conditions for continued approval of teacher preparation programs; requiring such programs to provide additional training to certain graduates; requiring reporting; amending the requirements for preservice field experiences.

**Section 9:** Repealing s. 1004.04(11) & (12); F.S.; relating to teacher education pilot projects.

**Section 10:** Amending s. 1004.85, F.S.; requiring participants in EPIs to satisfy certain requirements; requiring EPIs to demonstrate that program graduates produce student learning gains; requiring instructors to meet certain requirements.

**Section 11:** Creating s. 1008.222, F.S.; requiring school districts to develop end-of-course assessments for certain subjects and grade levels; requiring superintendents to certify compliance; requiring the Commissioner to identify methods for assisting districts.

**Section 12:** Amending s. 1009.40, F.S.; deleting cross-references.

**Section 13:** Repealing s. 1009.54, F.S.; relating to the Critical Teacher Shortage Program.

**Section 14:** Repealing s. 1009.57, F.S.; relating to the Florida Teacher Scholarship Forgivable Loan Program.

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<sup>128</sup> Section 1003.62, F.S.

<sup>129</sup> Staff of Senate Comm. on Education Pre-K - 12, *Legislative Bill Analysis for CS/SB 2092* (2007).

<sup>130</sup> Section 24, ch. 2003-391, L.O.F.; *see also* § 8, ch. 2007-234, L.O.F.

<sup>131</sup> Section 23, ch. 98-281, L.O.F.; § 1003.63, F.S.

**Section 15:** Repealing s. 1009.58, F.S.; relating to the Critical Teacher Shortage Tuition Reimbursement Program.

**Section 16:** Repealing s. 1009.59, F.S.; relating to the Critical Teacher Shortage Student Loan Forgiveness Program.

**Section 17:** Amending s. 1009.94, F.S.; deleting cross-references.

**Section 18:** Creating s. 1011.626, F.S.; establishing a Performance Fund for Instructional Personnel and School-Based Administrators; providing legislative intent; providing findings; requiring the Commissioner to calculate a funding amount; providing conditions for use of funds; requiring review of compliance with salary schedule, end-of-course assessment, and classroom teacher contracting requirements; requiring a funding adjustment for noncompliance; requiring rulemaking.

**Section 19:** Amending s. 1011.69, F.S.; making technical changes.

**Section 20:** Amending s. 1012.05, F.S.; revising the requirements for DOE-sponsored job fairs.

**Section 21:** Amending s. 1012.07, F.S.; revising the requirements for critical teacher shortage areas.

**Section 22:** Amending s. 1012.22, F.S.; revising the requirements for school district-adopted salary schedules.

**Section 23:** Repealing s. 1012.225, F.S.; relating to the Merit Award Program.

**Section 24:** Repealing s. 1012.2251, F.S.; relating to assessments for awarding merit pay under the Merit Award Program.

**Section 25:** Amending s. 1012.33, F.S.; requiring school districts to base certain staffing decisions on performance.

**Section 26:** Creating s. 1012.335, F.S.; establishing contracting requirements for classroom teachers hired on or after July 1, 2010.

**Section 27:** Amending s. 1012.34, F.S.; revising the requirements for instructional personnel and school administrator performance appraisals; establishing performance rating categories; revising the performance appraisal criteria; requiring the DOE to approve performance appraisal instruments; requiring the DOE to collect annual performance ratings.

**Section 28:** Amending s. 1012.42, F.S.; prohibiting the assignment of certain teachers.

**Section 29:** Repealing s. 1012.52, F.S.; relating to teacher quality.

**Section 30:** Amending s. 1012.56, F.S.; revising the requirements for educator certification; requiring the SBE to review subject area examinations.

**Section 31:** Amending s. 1012.585, F.S.; revising the requirements for renewal of a professional certificate.

**Section 32:** Amending s. 1012.72, F.S.; relating to the Dale Hickam Excellent Teaching Program for NBPTS certified teachers.

**Section 33:** Amending s. 1012.79, F.S.; revising the composition of the Education Practices Commission.

**Section 34:** Amending s. 1012.795, F.S.; authorizing the Education Practices Commission to take action for breach of contract.

**Section 35:** Providing for a review of teacher preparation program funding and continued approval.

**Section 36:** Providing an exemption for certain school districts.

**Section 37:** Providing a severability clause.

**Section 38:** Providing that the amendments made to s. 1012.33, F.S., apply to contracts newly entered into, extended, or readopted on or after July 1, 2010, and all contracts on or after July 1, 2013.

**Section 39:** Providing an effective date of July 1, 2010, unless otherwise expressly provided.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not appear to have a fiscal impact on state expenditures.

## 2. Expenditures:

The bill repeals the Merit Award Program, which was funded in the FEFP for \$20 million in 2009-2010.<sup>132</sup> The bill also repeals the Critical Teacher Shortage Program, the Florida Teacher Scholarship and Forgivable Loan Program, the Critical Teacher Shortage Tuition Reimbursement Program, and the Critical Teacher Shortage Student Loan Forgiveness Program, which received a total of \$2.5 million appropriated from General Revenue in 2009-2010.<sup>133</sup> State expenditures for these programs will be eliminated.

The bill phases out the Dale Hickam Excellent Teaching Program by ending bonuses teachers who obtain NBPTS certification after July 1, 2010. This program was funded with \$46.9 million from federal stimulus funds in 2009-2010.<sup>134</sup> State expenditures for this program will be reduced in subsequent years.

The bill requires the DOE to monitor school district and charter school compliance with bill requirements for end-of-course assessments, salary schedules, and contracts for classroom teachers hired on or after July 1, 2010. The DOE indicates that additional resources will be necessary to meet these requirements.<sup>135</sup>

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

The bill does not appear to have a fiscal impact on local revenues.

### 2. Expenditures:

See Fiscal Comments.

## C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have a direct economic impact on the private sector.

## D. FISCAL COMMENTS:

The Performance Fund is established within the FEFP, beginning in 2011-2012. At the time of the second FEFP calculation, the Commissioner must calculate an amount for the fund equal to five percent of the total state, local, and federal FEFP funds. Based on the 2009-2010 FEFP, the fund would be approximately \$900 million.

The Commissioner must distribute performance funds to districts and charter schools for use in implementing the bill's provisions related to the development and acquisition of end-of-course exams, development of a performance appraisal system, and development and implementation of salary schedules that include performance pay and differentiated pay.<sup>136</sup>

School districts will incur additional costs associated with the development or acquisition of end-of-course assessments for each subject area and grade level that is not tested by statewide assessments or AP, IB, AICE, or industry certification examinations. However, the fiscal impact of these activities is indeterminate.

The Course Code Directory is comprised of hundreds of courses. According to the DOE, districts that offer a large number of courses may need to use local funds to provide end-of-course assessments for all courses offered that are not otherwise tested by statewide assessments or AP, IB, AICE, or industry certification examinations. Districts that are participating in the state's Race to the Top program may be

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<sup>132</sup> Specific Appropriations 5A & 76, § 2, ch. 2009-81, L.O.F.

<sup>133</sup> Specific Appropriation 67, § 2, ch. 2009-81, L.O.F.

<sup>134</sup> Specific Appropriation 82, § 2, ch. 2009-81, L.O.F.

<sup>135</sup> Florida Department of Education, *Legislative Bill Analysis for SB 6* (2010).

<sup>136</sup> Staff of the Florida Senate, *Legislative Bill Analysis for SB 6* (2010).



able to use federal funds to offset the cost of developing end-of-course assessments if the state receives a grant award during the second phase of the competition.<sup>137</sup>

The bill requires the Commissioner to identify methods to support school districts in the development or acquisition of end-of-course assessments such as developing item banks and facilitating the sharing of assessments among districts. These activities, if implemented, may reduce the fiscal impact that end-of-course examination development or acquisition has on school districts.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The bill requires the SBE to adopt rules:

- Implementing the Performance Fund. Such rules include documentation requirements; processes and criteria for determining compliance with performance appraisal, salary schedule, and end-of-course assessment requirements; and reporting and monitoring to ensure that Performance Funds are used for authorized purposes.
- Defining “just cause” grounds for suspension or termination of classroom teachers hired on or after July 1, 2010.
- Establishing methods for calculating rates of student learning tied to the four performance appraisal rating categories.
- Defining the process for documenting effective performance of applicants for renewal of professional certification who did not receive annual performance evaluations during the term of the professional certificate to be renewed.
- Establishing a procedure for granting an annual exemption from bill provisions related to performance pay, performance appraisals, end-of-course assessments, and the Performance Fund.

The SBE is authorized to adopt rules regarding the acceptance of college course credits recommended by ACE in satisfying basic educator certification requirements.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

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<sup>137</sup> Florida Department of Education, *Legislative Bill Analysis for SB 6 (2010)*.