

SB 6 Education Personnel by Thrasher

Summary: This bill makes significant changes to existing policies and programs relating to the appraisal, salary, and contracts for instructional personnel and school based administrators. Among several controversial provisions, the bill specifies that any school district that does not comply with the provisions of the bill would be required to levy additional millage.

Personnel Appraisal Procedures and Criteria

The bill amends s. 1012.34 to provide that, for the purpose of increasing student achievement by improving the quality of instructional, administrative, and supervisory services, the superintendent must establish procedures for evaluating their performance of duties and responsibilities. The bill provides that DOE must approve each district's instructional personnel and school based administrator appraisal systems and appraisal instruments. The appraisal system must differentiate among four levels of performance: unsatisfactory, needs improvement, effective, and highly effective. An appraisal must be conducted for each employee at least once a year, except an appraisal for a beginning teacher must be conducted at least twice a year. Appraisal criteria must include, but are not limited to, indicators that relate to:

- Performance of students. For the classroom teacher, the learning gains of students assigned to the teacher must comprise more than 50 percent of the determination of the classroom teacher's performance. For instructional personnel, who are not classroom teachers, the learning gains of students assigned to the school must comprise more than 50 percent of the determination of the individual's performance. Student learning gains are measured by state assessments, examinations in AP, IB, AICE, or a national industry certification, or district assessments for subject areas and grade levels not covered by other assessments.
- Instructional practice. For instructional personnel, performance criteria must be based on the Florida Educator Accomplished Practices adopted by the State Board by rule.
- Instructional leadership performance. For a school-based administrator, the learning gains of students assigned to the school must comprise more than 50 percent of the determination of the school based administrator's performance. Student learning gains are measured by state assessments, examinations in AP, IB, AICE, or a national industry certification, or district assessments for subject areas and grade levels not covered by other assessments.
- Instructional leadership practice. For a school-based administrator, performance criteria must be based on the Florida Principal Leadership Standards adopted by the State Board.

If the employee holds an annual contract and receives an unsatisfactory performance appraisal the employee may request a review of the appraisal by the district school superintendent or his or her designee. The district school superintendent may review the employee's appraisal. The bill also provides that, beginning with the 2014-2015 school year and thereafter, instructional personnel and school based administrators may not be rated as effective or highly effective if their students fail to demonstrate learning gains.

The bill provides that DOE must collect from each school district the annual performance ratings of all instructional and school-based administrative personnel and report the percentage of each of these employees receiving each rating category by school and by district. The State Board must adopt rules relating to the appraisal system that include the method of calculating rates of student learning tied to differentiated levels of performance and criteria for evaluating professional performance.

Personnel Contracts

The bill creates s. 1012.335 relating to contracts with **classroom teachers hired on or after July 1, 2010**. The bill defines “annual contract” to mean a contract for a period of no longer than 1 school year in which the district school board may choose to renew or not renew without cause. The bill defines “probationary contract” to mean a contract for a period of no longer than 1 school year during which a classroom teacher may be dismissed without cause or may resign from the contractual position without breach of contract. The bill defines “classroom teacher” to mean a classroom teacher as defined in s. 1012.01(2)(a), excluding substitute teachers (*Note: this definition also excludes student personnel services, librarians/media specialists, other instructional staff, and education para-professionals*).

The bill provides that, beginning July 1, 2010, each person newly hired as a classroom teacher by a school district must receive a probationary contract. Classroom teachers may receive up to five annual contracts in a school district in this state. However, in order to obtain an annual contract for the 6th year of teaching and thereafter, a classroom teacher must hold a professional certificate, must have been recommended by the district school superintendent for the contract and approved by the district school board, and must have received an effective or highly effective designation on his or her appraisal. The bill provides that a classroom teacher who has an annual contract may be suspended or dismissed at any time for just cause. The State Board must adopt rules to define the term “just cause” but the bill stipulates that “just cause” includes, but is not limited to 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, and poor performance as demonstrated by a lack of student learning gains. The district school board must notify a classroom teacher in writing whenever charges are made against the classroom teacher, and the district school board may suspend him or her without pay. However, if the charges are not sustained, the classroom teacher must be immediately reinstated and his or her back pay must be paid.

The bill also amends s. 1012.33 relating to contracts with instructional staff, supervisors, and school principals to provide that, if a district school board must choose from among its personnel who are on continuing contracts or professional service contracts as to which should be retained, such decisions must be based primarily upon the employee’s performance as provided in s. 1012.34. (**Note:** this amendment deletes the provision that would base the decision on the terms of a collectively bargained agreement, when one exists, or, if agreement exists, based on the district school board rules relating to reductions in workforce).

Compensation and Salary Schedules

The bill amends s. 1012.22 relating to the compensation and salary schedules for public school personnel to provide that the district school board must adopt a salary schedule for instructional personnel and school-based administrators that bases more than 50 percent of each employee’s compensation on student learning gains and the remainder of these employee’s compensation must be based on performance as set forth in s. 1012.34 described above. The salary schedule for instructional personnel and school-based administrators must also allow differentiated pay based on:

- Assignment to a school in a high-priority location area, as defined in State Board of Education rule, with continued differentiated pay contingent on documentation of student learning gains;
- Certification and teaching in critical teacher shortage areas, as defined in State Board of Education rule, with continued differentiated pay contingent on documentation of student learning gains; and
- Assignment of additional academic responsibilities, with continued differentiated pay contingent on documentation of student learning gains.

A district school board must adopt a salary schedule for beginning teachers, including a teacher who has no prior K-12 teaching experience, a teacher who holds a certificate issued by another state and who is hired by the district school board, and a teacher who holds a certificate who has not taught in a classroom during the previous certification period. This salary schedule must be in effect for the first year that the beginning teacher provides instruction in a Florida K-12 classroom. Thereafter, the teacher is subject to the salary schedule that bases more than 50 percent of each employee's compensation on student learning gains and the remainder based on performance. The bill specifies that a district school board may not use length of service or degrees held as a factor in setting a salary schedule.

End-of-Course Assessments

The bill creates s. 1008.222 to require each school district to develop or acquire a valid and reliable end-of-course assessment for each subject area and grade level not measured by state assessments or by examinations in AP, IB, AICE, or a national industry certification. The content, knowledge, and skills assessed by end-of-course assessments must be aligned to the Sunshine State Standards. The Commissioner must identify methods to assist and support districts in the development and acquisition of these assessments.

Beginning with the 2013-2014 school year, each school district must require that each school in the district administer the district's standard assessment for each subject area or grade level. The district superintendent must ensure that teachers who provide instruction in the same subject or grade level administer the same end-of-course assessment and each school district must adopt policies to ensure standardized administration and security of the assessments. The superintendent is responsible for implementing assessment security and administration, the reporting of assessment results, and using assessment results to comply with requirements for salary schedule for instructional personnel and school-based administrators. The superintendent must certify to the Commissioner that the security of a standardized assessment is maintained. If a superintendent's certification is determined to be invalid, the superintendent is subject to suspension and removal on the grounds of misfeasance pursuant to s. 7, Art. IV of the State Constitution.

School District Accountability Millage Adjustment

The bill creates s. 1011.626 to establish the School District Accountability Millage Adjustment. The bill provides legislative findings and specifies the intent to provide an additional levy of millage on school districts that fail to comply with the provisions of the bill and to withhold an amount equivalent to the revenue generated by the levy of the additional millage rate from the school district's state funds in the FEFP for the fiscal year in which the millage is levied.

The bill provides that, beginning with the 2013-2014 fiscal year and thereafter, the Commissioner must select a sampling of school district assessments from multiple districts, and school districts must submit for review the requested assessments and supporting documentation by October 1. By December 15, the commissioner must complete a review of each selected assessment, determine compliance, and notify a district school board if the selected assessment are not in compliance. By February 15, the commissioner must certify those school districts that are not in compliance to the Governor and legislative leaders.

Similarly, the bill requires that, beginning with the 2014-2015 fiscal year and thereafter, each district school board must submit the district adopted salary schedule and supporting documentation to the Commissioner for review by October 1. By December 15, the commissioner must complete a review of each salary schedule, determine compliance, and notify a district school board if the district salary schedule is not in compliance. By February 15, the commissioner must certify those school districts that are not in compliance to the Governor and legislative leaders.

The bill also provides that, in its financial audit of each school district, the Auditor General must review a sample of classroom teacher contracts and determine compliance with the requirements of law. By October 1 of the year following the audit, the Auditor General must document violations and provide the documentation to the Commissioner. By December 15, the commissioner must notify the Governor, legislative leaders, and each school district that is not in compliance.

A district school board that is certified by the Commissioner as not in compliance with the requirements for school district assessments, for the adopted salary schedule, and/or for classroom teacher contracts must levy an additional millage sufficient to generate revenue in an amount equal to 5 percent of the salaries for instructional personnel and school-based administrators for that fiscal year. By March 1 of each year, the Commissioner must calculate and certify to the district school board the dollar amount that is equal to 5 percent of the salary of the district's instructional personnel and school-based administrators for the year of noncompliance and certify to each district school board the additional local effort that the board must levy in order to generate the amount of revenue certified. The commissioner must report the calculated amount to the Governor and legislative leaders by March 1 of each year.

For each school district that is certified as being in violation of law and that is required to levy an additional local effort, the Commissioner must withhold an amount equivalent to the revenue generated by the levy of the additional local effort from the school district's state funds in the FEFP for the fiscal year in which the millage is levied. The revenue generated by the levy of the additional millage may be used only to compensate for the loss of state funding caused by the failure of the school district to comply with the law.

The public notice of proposed property taxes and the notice of public hearing to adopt the school district budget must include a statement that the district school board violated the law and failed to adopt a salary schedule that compensates classroom teachers or school-based administrators on the basis of student performance rather than years worked; violated the law and failed to comply with the differentiated pay requirements; violated the law and failed to adopt end-of-course assessments to identify student instructional needs, verify what students have learned, or evaluate the performance of classroom teachers or school-based administrators; or violated the law and failed to comply with contracting requirements for classroom teachers, and that the penalty for noncompliance is to require the district school board to levy an additional property tax millage in order to generate revenues equal to the penalty (*emphasis added by editor*). These notices must also state that the school district's share of state funds from the FEFP will be reduced in an amount equivalent to the additional levy.

The bill directs the State Board to adopt rules to administer these provisions, including rules related to the reporting formats, supporting documentation, and procedures for the review district assessments, salary schedules, and classroom teacher contracts.

Charter Schools

The bill amends s1002.33 relating to charter schools to provide that a charter school may not award a professional service contract or similar contract to a 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 for classroom teachers and school-based administrators which bases more than 50 percent of each employee's compensation on student learning gains as measured by state assessments required, examinations in AP, IB, AICE, or a national industry certification, district assessments for subject areas or grade levels not covered by state assessments, or charter school assessments that meet the requirements of law. The bill specifies that a charter school may not use length of service or degrees held by the classroom teacher or school based administrator as

a factor in setting the salary schedule. Further, a charter school must adopt, acquire, and implement state assessments or end-of-course assessments and meet the requirements of law with respect to district or charter assessments.

By September 15 of each year, each charter school governing board must certify to the Commissioner of Education that its school meets these requirements, The commissioner must verify compliance by selecting a sample of charter schools each year to provide information to determine compliance. By October 1, a selected charter school must submit the requested information to the commissioner. By December 15, the commissioner must complete a review of each selected charter school, determine compliance, and notify each charter school governing board and sponsor if the charter school is not in compliance. The commissioner must certify the charter schools that are not in compliance to the Governor and legislative leaders by February 15. By May 1, each certified charter school must pay a fine to DOE in an amount equal to 5 percent of the salaries of instructional personnel and school-based administrators for the charter school. The fine may not be paid from funds appropriated by the Legislature. DOE must transfer the amount of the fine to the state for deposit into the General Revenue Fund.

Teacher Preparation Programs

The bill amends s. 1004.04 relating to state approval for teacher preparation programs. The initial state program approval, the bill deletes the waiver of admission requirements for up to 10 percent of the students admitted to the program for initial state approval and makes continued state approval contingent upon additional and revised criteria including a determination by DOE of student learning gains, as measured by state assessments and a review of, and response to, the effect of its candidates and graduates on K-12 student learning,

The bill adds to the information that the teacher preparation program must report to the state and general public to include the percentage of graduates whose students achieved learning gains, the percentage of the students taught per graduate who achieved learning gains, and the percent of graduates obtaining full-time teaching employment within the first year of graduation.

The bill also amends s. 1004.85 relating to postsecondary educator preparatory institutes to provide that participants in the alternative certification program must obtain a statement of status of eligibility prior to admission which indicates eligibility for a temporary certificate, must demonstrate mastery of general knowledge prior to completion of the program, and must demonstrate the ability to teach through field experiences and by achieving a passing score on a subject area test prior to completion of the program.

Other Significant Provisions

The bill amends s. 39.202 to provide that confidential records in cases of child abuse may be accessed by employees or agents of the DOE responsible for the investigation or prosecution of misconduct by educators.

The bill amends s 1012.05 relating to teacher recruitment and retention to authorize (rather than require) DOE to sponsor virtual job fairs. The bill deletes the registration fee for individuals, but retains the registration fee for school districts.

The bill amends s.1012.07 relating to critical teacher shortage areas by redefining the term “critical teacher shortage area” to mean high-need content areas and high priority location areas identified by the State Board. School boards may identify and submit other critical teacher shortage areas, but they must be aligned to current and emerging educational requirements and workforce demands in order to be approved by the State Board. The definition of “high priority locations” is expanded to include the lowest performing schools but reference to free lunches and the percentage of the percentage of students under Chapter I of the Education Consolidation and

Improvement Act are removed from the definition. The reference to implementation “only to the extent specifically funded” is also deleted.

The bill amends s. 1012.42 relating to teachers teaching out of field to provide that, beginning in the 2010-2011 school year, a district school board shall not assign any beginning teacher to teach reading, science, or mathematics if he or she is not certified in reading, science, or mathematics.

The bill amends s. 1012.56 relating to educator certification requirements to authorize state board rules that would allow the acceptance certain college course credits to demonstrate completion of certification requirements. The bill revises the acceptable means to demonstrate Mastery of Subject Area Knowledge to include a valid professional standard teaching certificate issued by another state and achievement of a passing score on the subject areas specified in State Board rule or by a full demonstration of mastery of his or her ability to teach the subject area for which he or she is seeking certification, as provided by State Board rule. However, this means to demonstrate mastery must be met within the first semester of the first year of teaching under the temporary certificate. The bill also revises provisions relating to examinations to provide that the State Board must review the current subject area examinations and, if necessary, revise the passing scores and reading instruction required for achieving certification in order to match expectations for teacher competency in each subject area.

The bill amends s. 1012.585 relating to the process for renewal of professional certificates to provide that, beginning with the 2014-2015 school year, the requirements for the renewal of a professional certificate must include documentation of effective or highly effective performance for each year of instructional or administrative performance during the renewal period. The State Board is directed to adopt rules to define the process for documenting effective performance in this situation.

Repeals

The bill repeals:

- s. 1003.62 relating to Academic Performance Based Charter School Districts;
- s. 1003.63 relating to the Deregulated Public Schools Pilot Program;
- s. 1004.04(11) relating to the Preteacher and Teacher Education Pilot Program;
- s. 1004.04(12) relating to the Pilot Program for High Achieving Students;
- s. 1009.54 relating to the Critical Teacher Shortage Program;
- s. 1009.57 relating to the Florida Teacher Scholarship and Forgivable Loan Program;
- s 1009.58 relating to the Critical Teacher Shortage Tuition Reimbursement Program;
- s. 1009.59 relating to the Critical Teacher Shortage Student Loan Forgiveness Program;
- s. 1012.225 which established the Merit Award Program;
- s. 1012.2251 relating to end-of-course exams in districts participating in the MAP;
- s. 447.403(2)(c) relating to the special impasse procedures for MAP impasse;
- s. 1012.52 relating to legislative finding relating to teacher quality; and
- s. 1012.72 relating to the Dale Hickam Excellent Teaching Program.

Note: This bill is linked to [SB 2470](#) which provides a public records exemption for specified instructional assessments.