HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7141 PCB KTS 13-04 Public School Personnel
SPONSOR(S): K-12 Subcommittee, Adkins
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 980

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-12 Subcommittee	12 Y, 0 N	Beagle	Ahearn
1) Education Committee		Beagle	Mizereck

SUMMARY ANALYSIS

Currently, at least 50 percent of instructional personnel and school administrator performance evaluations must be based upon student performance. The percentage of an instructional personnel's or school administrator's performance evaluation that is based upon student performance may be reduced from 50 percent to 40 percent if less than three years of student data are available. Student learning growth, with certain exceptions, must be used to determine student performance. Learning growth must be measured by statewide assessments and, for subjects and grade levels not tested by statewide assessments, school district assessments. If approved by the Department of Education, student performance on a school district assessment may be measured by a student achievement measure, a combination of student learning growth and achievement, or a combination of student learning growth on a school district assessment and on FCAT Reading or Mathematics.

Until July 1, 2015, if a school district has not implemented an assessment and student learning growth formula for a course, two alternative growth measures may be used -- student learning growth on statewide assessments or measurable learning targets. Learning targets must be identified by the school principal based upon the goals of the school improvement plan. Additionally, a district school superintendent may assign student learning growth on statewide assessments to an instructional team. Some school districts have identified all instructional personnel at the school as an instructional team, resulting in teachers being evaluated on students or subjects they never taught.

Student learning growth for students assigned to nonclassroom instructional personnel is measured by statewide assessments; however, a combination of growth data and measurable student outcomes unique to the personnel assignment may be used, provided that growth data accounts for at least 30 percent of the evaluation.

The bill requires that a classroom teacher's performance evaluation be based only upon the performance of students he or she actually teaches and reiterates that a school administrator's evaluation is based upon students attending the school he or she oversees. All classroom teachers and school administrators must be evaluated using either a learning growth or student achievement measure. Student achievement measures may only be used for courses associated with statewide assessments if a statewide growth formula has not been approved for that assessment. For courses associated with a school district assessment, student achievement may only be used if it is demonstrated to be a more appropriate measure of performance than student learning growth. The bill reiterates existing law authorizing the percentage of an instructional personnel's or school administrator's performance evaluation that is based upon student performance to be reduced from 50 percent to 40 percent if less than three years of student data are available.

In evaluating nonclassroom instructional personnel, the bill requires school districts to use student outcome data that reflects the employee's actual contribution to the performance of students in his or her area of responsibility.

In addition, the bill reiterates that the student assessment data used in the performance evaluation must be from statewide assessments or school district assessments in the subject areas taught in order for an employee to be included in the performance salary schedule.

The bill does not have a fiscal impact on state or local governments.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Educator Performance Evaluations

Background

In August 2010, Florida was one of 11 states and the District of Columbia awarded federal Race to the Top grant funds.[1] The Florida Department of Education (DOE) received $700 million to implement various education reforms, including reforms to instructional personnel[2] and school administrator[3] performance evaluations.[4] Sixty-two of 67 school districts, 209 charter schools in 27 of the participating districts, and three university lab schools are participating in Race to the Top.[5] Fifty local teachers unions agreed to collaborate with their school districts in implementing these reforms.[6] The Legislature enacted the Student Success Act in May 2011, which, among other things, codified Florida's Race to the Top performance evaluation reforms into state law.[7]

Among other things, the Student Success Act required school district performance evaluation systems to differentiate among four levels of performance:

- Highly effective;
- Effective;
- Needs improvement, or for instructional personnel in their first three years of employment who need improvement, developing; and
- Unsatisfactory.[8]

At least 50 percent of each instructional personnel's and school administrator's performance evaluation must be based upon student performance. Student learning growth, with certain exceptions, is the primary measure of student performance used to evaluate these employees. Learning growth must be measured by statewide assessments and, for subjects and grade levels not tested by statewide assessments, school district assessments.[9]

School district assessments must be implemented no later than the 2014-15 school year. School districts may use nationally recognized standardized assessments, industry certification examinations,

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[1] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009); Press Release, U.S. Department of Education, *Nine States and the District of Columbia Win Second Round Race to the Top Grants* (Aug. 24, 2010), http://www.ed.gov/news/press-releases/nine-states-and-district-columbia-win-second-round-race-top-grants (last visited Feb. 5, 2013).

[2] Instructional personnel include classroom teachers; student services personnel, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel. Section 1012.01(2), F.S. Although substitute teachers are classified as classroom teachers, the law specifically excludes them from performance evaluation requirements. Section 1012.34(3)(a), F.S.

[3] Section 1012.34(1)(a), F.S. School administrators include school principals, school directors, career center directors, and assistant principals. Section 1012.01(3), F.S.

[4] U.S. Department of Education, *Race to the Top Funding Status*, http://www2.ed.gov/programs/racetothetop/funding.html (last visited Feb. 5, 2013); Florida Department of Education, *Florida's Race to the Top: hearing before the House Education Comm.* (Jan. 13, 2011).

[5] Participating lab schools are the Florida Atlantic University, Florida A & M University, and University of Florida lab schools. The Baker, Dixie, Hamilton, Palm Beach, and Suwannee County school districts are not participating in the grant. Email, Florida Department of Education, Legislative Affairs Director (Nov. 16, 2012).

[6] Florida Department of Education, *Florida's Race to the Top Memorandum of Understanding: hearing before the House K-20 Competitiveness Subcomm.* (Feb. 23, 2011).

[7] Section 2, ch. 2011-1, L.O.F., *codified at* s. 1012.34, F.S. (2011); *see* Florida Department of Education, *Florida's Race to the Top Memorandum of Understanding for Phase 2*, at 10-13 (May 3, 2010), *available at* http://www.fldoe.org/arra/pdf/phase2mou.pdf.

[8] Section 1012.34(2)(e), F.S.

[9] Sections 1012.34(3)(a)1. and 1008.22(8), F.S.

and district-developed assessments.[10] DOE has provided technical assistance and used Race to the Top funds for the development of test item banks, a test platform, and grants to school districts for developing assessments for hard-to-measure courses that can be shared across the state.[11]

Student Learning Growth Measures

Student learning growth formulas tied to statewide or school district assessments must be used to determine the amount of learning growth a student makes in the year he or she is assigned to the instructional personnel.[12] The Commissioner of Education was required to adopt a student learning growth formula for the Florida Comprehensive Assessment Test (FCAT), which he did for Reading and Mathematics in June 2011.[13] The commissioner must select additional formulas as appropriate for the remainder of the statewide assessments, i.e., FCAT Science, FCAT Writing, and statewide, standardized end-of-course assessments in Algebra I, Geometry, and Biology I; however, formulas for these assessments have not been adopted.[14]

Measurement of student learning growth must be based upon at least three school years of student data. If less than three years of data is available for an employee, the school district must include available data and may reduce the weight attributed to student learning growth from 50 percent to not less than 40 percent for classroom teachers and school administrators and not less than 20 percent for nonclassroom instructional personnel.[15]

Classroom Teachers

Measurement of student learning growth for classroom teacher evaluations varies according to the subjects and grades taught by the teacher, as follows:[16]

- For classroom teachers of courses tested by a statewide assessment, student learning growth on such assessments must be used.[17]

- For classroom teachers of courses measured by a school district assessment, student learning growth on such assessments must be used; however, school districts may request DOE-approval to use:
    - A student achievement measure or a combination of student learning growth and achievement; or[18]

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[10] Sections 1008.22(8) and 1012.34(7)(b), F.S. The Commissioner of Education must identify methods to support school districts in the development or acquisition of assessments. Such methods include developing test item banks, facilitating the sharing of assessments among districts, acquiring assessments from state and national curriculum-area organizations, and technical assistance. Section 1008.22(8)(c), F.S.

[11] Florida Department of Education, *American Recovery and Reinvestment Act, Procurements*, http://www.fldoe.org/arra/procurements.asp (last visited Feb. 5, 2013). DOE awarded Race to the Top grants to fund seven projects by four Florida school districts to develop assessments for hard-to-measure courses. These projects include assessments of Physical Education and Health Education, Grades K – 8: Miami-Dade County; Physical Education and Health Education, Grades 9 – 12: Hillsborough County; Performing Arts: Chorus and Drama: Polk County; Performing Arts: Band and Instrumental: Polk County; Visual Arts: Miami-Dade County; World Languages (other than Spanish): Duval County; and Career and Technical Education-Hillsborough County. Florida Department of Education, *Race to the Top Assessments Information Sheet*, at 1 (June 2011), *available at* http://www.fldoe.org/arra/racetothetop/assessments/pdf/InfoSheet-RTTT.pdf. Field testing of these assessments will begin in Spring 2013-14. Florida Department of Education, *Race to the Top Assessments Timeline* (Aug. 2011), *available at* http://www.fldoe.org/arra/racetothetop/assessments/pdf/Timeline-RTTT.pdf.

[12] Section 1012.34(7)(a)-(b), F.S.

[13] *Id.*, Letter from Commissioner Smith to Student Learning Growth Implementation Committee (June 1, 2011), *available at* http://www.fldoe.org/committees/pdf/CommissionerSmithCommittee.pdf.

[14] Section 1012.34(7)(a), F.S.

[15] Section 1012.34(3)(a)1.a.-c., F.S.

[16] School districts must implement assessments for subjects not tested by statewide assessments by the 2014-15 school year. *See* s. 1008.22(8), F.S.

[17] Section 1012.34(7)(a)-(b), F.S.

[18] Section 1012.34(7)(c), F.S.

- A combination of student learning growth on a school district assessment and on FCAT Reading or FCAT Mathematics, as long as learning growth on the district assessment is given greater weight.[19]

Until July 1, 2015, if a school district, for courses not tested on statewide assessments, has not implemented an assessment or a student learning growth formula for that assessment, the district may use two alternative growth measures -- student learning growth on statewide assessments or measurable learning targets. Learning targets must be identified by the school principal based upon the goals of the school improvement plan. Additionally, a district school superintendent may assign student learning growth on statewide assessments to an instructional team, i.e., classroom teachers who serve a common group of students.[20]

Some school districts have used school-wide or instructional team student performance data on FCAT Reading and Mathematics to evaluate classroom teachers of courses for which a district assessment has not been implemented or courses tested by a statewide assessment for which no student learning growth formula has been adopted. This has resulted in teachers being evaluated based upon students or subjects they never taught.[21]

Nonclassroom Instructional Personnel

Nonclassroom instructional personnel include student services personnel, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel.[22] Student learning growth for students assigned to nonclassroom instructional personnel is measured by statewide assessments; however, a combination of growth data and measurable student outcomes unique to the personnel assignment may be used, provided that growth data accounts for at least 30 percent of the evaluation.[23]

Performance Salary Schedule

The Student Success Act requires each school district to adopt a performance salary schedule for instructional personnel and school administrators by July 1, 2014. Instructional personnel and school administrators hired on or after July 1, 2014, and instructional personnel on annual contracts as of July 1, 2014, must be placed on the performance salary schedule.[24] Under the performance salary schedule, annual salary adjustments may only be given to employees rated highly effective or effective on annual performance evaluations.[25]

Effect of Proposed Changes

The bill notwithstands any provision to the contrary in ss. 1012.22 and 1012.34, F.S., regarding the performance salary schedule and personnel evaluation procedures and criteria.

The bill requires that a classroom teacher's performance evaluation be based only upon the performance of students he or she actually teaches and reiterates that a school administrator's evaluation is based upon students attending the school he or she oversees. This change, in effect, eliminates the use of instructional team or school-wide student performance data in evaluating

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[19] Section 1012.34(7)(d), F.S.
[20] Section 1012.34(7)(e), F.S.
[21] *See, e.g.*, Leon County Public Schools, *Leon Educator Assessment and Development System*, at 193-195 (Oct. 2011), *available at* http://www.leonschools.net/docs/LCS_LEADS_BOOKLET_01_17_12.pdf; *see, e.g.*, Pinellas County Schools, *Pinellas County Teacher Evaluation System*, at 13-16 (Dec. 2011), *available at* https://www.pcsb.org/images/stories/PCS_Teacher_Evaluation_System.pdf .
[22] Section 1012.01(2), F.S.
[23] Section 1012.34(3)(a)1.b., F.S.
[24] Section 1012.22(1)(c)4. and 5., F.S.
[25] Section 1012.22(1)(c)5.b., F.S.

classroom teachers. Accordingly, classroom teachers should only be evaluated based upon the students they teach.

All classroom teachers and school administrators must be evaluated using either a learning growth or student achievement measure. Student achievement measures may only be used for courses associated with statewide assessments if a statewide growth formula has not been approved for that assessment. For courses associated with a school district assessment, student achievement may only be used if it is demonstrated to be a more appropriate measure of performance than student learning growth. Unlike existing law, this change allows school districts to use student achievement measures to evaluate classroom teachers of courses tested by a statewide assessment for which no student learning growth formula has been adopted, e.g., Algebra I, Geometry, and Biology I.

The bill reiterates existing law authorizing the percentage of an instructional personnel's or school administrator's performance evaluation that is based upon student performance to be reduced from 50 percent to 40 percent if less than three years of student data are available.

In evaluating nonclassroom instructional personnel, the bill requires school districts to use student outcome data that reflects the employee's actual contribution to the performance of students in his or her area of responsibility. This enables school districts to cease using student learning growth data on statewide assessments to evaluate these employees, if such data does not reflect his or her contribution to student performance. Thus, districts may devise student performance measures that more accurately reflect the roles and responsibilities of these employees.

The bill reiterates that the student assessment data in the performance evaluation must be from statewide assessments or school district assessments, as applicable, in the subject areas taught, in order for an employee to be included in the performance salary schedule.

B. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law; specifies requirements regarding measurement of student performance for performance evaluation and performance-pay purposes.

Section 2. Provides that the bill takes effect July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 27, 2013, the K-12 Subcommittee adopted one amendment to PCB KTS 13-04. The amendment:

- Clarifies that classroom teachers must be evaluated only on students they actually taught and adds provisions reiterating that school administrator evaluations are based upon students attending the school.
- Adds provisions reiterating current law allowing the percentage of an instructional personnel's or school administrator's performance evaluation that is based upon student performance to be reduced from 50 percent to 40 percent if less than three years of student data are available. Such reduction was not addressed by the original PCB.