

2010 BILL ANALYSIS

BILL #: SB 0006

BILL TITLE: Education Personnel

SPONSOR(S): Thrasher; (CO-INTRODUCERS) Gaetz; Detert; Wise; Constantine; Richter; Peaden; Storms

SIMILAR BILL: HB 7037

SPONSORS(S): Representative Coley; Education Policy Council

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS: 3/03/10

EFFECTIVE DATE: 7/1/10

Division/BUREAU: Public Schools/ARM/Research and Evaluation

POLICY ANALYST: Kathy Hebda, Edward Croft, Martha Miller,

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COMMITTEES OF REFERENCE

- 1) Education PreK-12
- 2) Policy and Steering Committee on Ways and Means
- 3)
- 4)
- 5)

BILL SUMMARY

This is a comprehensive bill addressing requirements for personnel in charter schools, teacher compensation, teacher preparation programs, evaluation of postsecondary teacher-preparation programs, compensation of administrators and other employees of Florida school districts, and other personnel-related issues in the public school system.

- Amends s. 39.202, F.S. - Allows the Department of Education (DOE) access to child abuse records for investigation or prosecution of educator misconduct.
- Amends s. 200.065, F.S. - Specifies requirements for the tax notice related to s. 1011.626, as addressed in the bill.
- Amends s. 1002.33, F.S. –
 - Provides that the professional service contract prohibition applies to charter schools.
 - Requires pay schedule beginning in 2014-2015.
 - Requires assessments in 2013-2014.
 - Provides that the penalty for noncompliance is an amount equal to 5 percent of instructional personnel and school-based administrators' salaries.
 - Prohibits the penalty for noncompliance from being paid out of Legislative appropriations.
- Amends s. 1003.621, F.S. - Requires high-performing school districts to comply with the pay schedule, assessments, and prohibition on professional service contracts.
- Amends s. 1004.04, F.S. -
 - Eliminates admissions waiver for up to 10 percent of students admitted to the program.
 - Requires continued approval of programs contingent upon learning gains, as measured by state assessments

- Requires approved programs to report the percentage of graduates whose students achieved learning gains.
- Requires pre-service field experiences for student teachers to be supervised by instructors with documented evidence of student learning gains.
- Requires approved programs to provide students with continuous participation in supervised classroom settings.
- Repeals defunct pilot programs: Pre-teacher and Teacher Education Pilot Programs and Teacher Education Pilot Programs for High-Achieving Students.
- Amends s. 1004.85, F.S. –
 - Requires participants to have evidence of eligibility for a temporary certificate prior to program admission
 - Requires participants to complete field experiences, mastery of general knowledge, and subject area testing prior to completion of the program.
 - Requires a program to submit to the DOE the learning gains of the students taught by program completers as part of continued approval requirements.
 - Requires instructors to meet same requirements as instructors in teacher preparation programs approved under s. 1004.04, F.S.
- Creates new section, s. 1008.222, F.S. –
 - Requires districts to develop or acquire valid and reliable end-of-course assessments for grade levels and subjects not assessed on the FCAT, exams for a College Board Advanced Placement (AP) course, International Baccalaureate (IB) course, or Advanced International Certificate of Education (AICE) course, or on industry-approved exams that lead to national industry certification.
 - Establishes district-wide implementation of assessments by 2013-2014.
 - Provides that the district school-superintendent is responsible for security of assessments and must certify the integrity of the exam process. If certification is invalid, this is grounds for removal of the superintendent.
 - Requires the Commissioner of Education (Commissioner) to identify methods to support districts in the development or acquisition of assessments, including item banks.
 - Requires the Commissioner to review district assessments on a sample basis for compliance.
- Creates new section, s. 1011.626, F.S. -
 - Requires ad valorem tax penalty for districts that violate the law on professional service contracts, assessments, and performance pay.
 - Requires the Commissioner to review evidence of a district's compliance with the assessment and salary schedule requirements.
 - Provides that compliance with classroom teacher contract requirements would be determined by the Auditor General, based on a sample of contracts reviewed during a district's financial audit.
 - Requires the additional millage to generate revenue that is equal to five percent of the district's salaries for instructional and school-based administrators.
 - Establishes a statutory procedure to determine the additional required local effort.
 - Requires the additional effort to be certified and levied at the same time as the required local effort.
 - Provides that the additional required local effort is exempt from the 90 percent local effort cap for a district's FEFP calculation.
 - Requires the Commissioner to withhold an amount equal to the revenue generated by the levy from the districts share of state funds in the FEFP for the fiscal year in which the levy occurred.
 - Provides that the revenue generated by the levy may only be used to compensate for this loss of state funds.
 - Provides a schedule of all auditing and reporting activities.
- Amends s. 1012.05, F.S. - Allows the DOE and school districts to sponsor virtual job fairs to recruit potential teachers and eliminates the authorization to charge a registration fee to a candidate attending the job fair.
- Amends s. 1012.07, F.S. - Clarifies the definition of critical teaching shortage areas to align with workforce demands.
- Amends s. 1012.22 –
 - Provides that greater than 50 percent of each instructional personnel and school-based administrator's

- salary would be based on student learning gains. The remainder would be based on specified components of the performance appraisal authorized under s. 1012.34, F.S.
- Provides for differentiated pay based on high-priority locations, critical teacher shortage areas, or additional academic responsibilities with continued awards contingent upon student learning gains.
 - Provides for a salary schedule for beginning teachers, teachers from out-of-state and teachers who have not taught in the last five years that is in effect for the first year that the teacher provides instruction in a Florida K-12 classroom.
 - Prohibits districts from using time-served or degrees-held in setting pay schedules.
 - Provides that the State Board of Education would define student learning gains in rule.
- Amends s. 1012.33, F.S. - When a district undergoes a reduction in force for continuing contract or professional service contract holders, requires that the decision should be based primarily on employee performance as demonstrated under s. 1012.34, F.S.
 - Creates new section, s.1012.335, F.S. –
 - Provides that classroom teachers hired on or after July 1, 2010 would receive contracts as described in this section.
 - Provides for a probationary contract for up to 1 year.
 - Provides for annual contracts with a 6th annual contract contingent upon specific requirements.
 - Provides process and just cause for suspension and dismissal of classroom teachers holding an annual contract.
 - Defines categories included in just cause and requires State Board of Education adoption of rule to define just cause.
 - Amends s. 1012.34, F.S. –
 - Requires the DOE to approve the appraisal system and report the percentages of all instructional personnel and school-based administrators receiving a rating in each category under the appraisal system.
 - Requires the appraisal system to differentiate among 4 levels: highly effective, effective, needs improvement, and unsatisfactory. Student learning gain thresholds would be set in State Board of Education rule.
 - Provides that beginning in 2014-2015, personnel may not be rated as effective or highly effective if students fail to demonstrate learning gains.
 - Requires appraisals for beginning teachers at least 2 times per year.
 - Requires more than 50 percent of the classroom teacher's performance to be based on learning gains of students assigned to the teacher. More than 50 percent of other instructional personnel and school-based administrators' performance must be based on the learning gains of students assigned to the school.
 - Requires appraisals of instructional personnel and school-based administrators to include multiple data sources, including parent input.
 - Modifies the components for instructional and administrative performance appraisals. Allows individuals who receive a poor performance rating to request a review by the superintendent.
 - Requires the Commissioner to consult with classroom teachers and performance pay experts on the appraisal systems.
 - Amends s. 1012.42, F.S. - Prohibits the assignment of a beginning teacher to teach reading, science, or mathematics if the teacher is not certified in reading, science, or mathematics.
 - Amends s. 1012.56, F.S. –
 - Requires a certified teacher from another state to demonstrate subject matter mastery by the conclusion of the first semester of teaching.
 - Requires temporary certificate holders to pass subject matter test within first year of the temporary certificate with some extenuating exceptions.
 - Requires the State Board of Education to review the subject area examinations for certification for reading instruction and rigor.
 - Allows the State Board of Education to adopt rules for accepting college credit recommended by the American Council on Education (ACE).
 - Amends s. 1012.585, F.S. –

- Removes the provision for automatic renewal of National Board for Professional Teaching Standards certificate holders, beginning in 2014.
- Ties renewal to effective or highly effective performance, as determined under the appraisal beginning with the 2014-15 school year.
- Amends s. 1012.79, F.S. - revises the composition of the Education Practices Commission.
- Requires two reviews of teacher preparation programs: a cost-effectiveness study by the DOE and the Board of Governors and a review of continued approval requirements and recommendations for funding by OPPAGA. (No new section of law created for these provisions.)
- Effective dates -
 - The bill goes into effect July 1, 2010, except as otherwise provided.
 - Sections 1012.22 and 1012.33, F.S., apply to contracts newly entered into, extended, or readopted on or after July 1, 2010.
 - Sections 1012.22 and 1012.33, F.S., apply to all contracts on or after July 1, 2013.
- Repeals -
 - s. 1003.62, F.S., charter districts pilot program.
 - s. 1003.63, F.S., deregulated schools pilot program.
 - ss. 1009.54, 1009.57, 1009.58, and 1009.59, F.S. - Critical Teacher Shortage Program, Florida Teacher Scholarship and Forgivable Loan Program, Critical Teacher Shortage Tuition Reimbursement Program, and Critical Teacher Shortage Student Loan Forgiveness Program.
 - ss. 1012.225 and 1012.2251, F.S., related to the Merit Award Program.
 - s. 1012.52, F.S., teacher quality legislative findings
 - s. 1012.72, F.S., Dale Hickam Excellent Teaching Program.

SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 1

The Department of Education (DOE), as the licensing body for professional educators, investigates and prosecutes educators who engage in criminal or ethical misconduct; however, the DOE is not currently granted statutory authority to access DCF information regarding an educator who may have committed an act of abuse or neglect. During an investigation regarding educator misconduct, occasions arise when an educator has been investigated through the DCF for an allegation of abuse or neglect. This investigation by the DCF may be related to the same incident that the DOE is investigating, or may be historical information pertinent to the pending case. Without clarity in the law, the DCF does not provide information to the DOE for use in investigating and prosecuting educators.

Section 4

The bill provides that the new professional service contract prohibition applies to charter schools as well as school districts. The bill also requires charter schools to adopt the new pay schedule beginning in 2014-2015 with the same provisions and prohibitions applied to district schools as set forth below, and it requires charter schools to adopt, acquire and implement state or end of course assessments also required of school districts by 2013-2014.

The bill also requires charter schools to certify compliance in these areas to the Commissioner of Education for review by the DOE annually. The bill provides that the penalty for noncompliance by a charter school is an amount equal to 5 percent of instructional personnel and school-based administrators' salaries and it prohibits the payment of the penalty for noncompliance being paid out of Legislative appropriations. While many charter schools engage in various forms of fund-raising, very few are able to raise enough funds to cover the amount that would be required for such a fine.

Section 6

Repeal of the charter districts pilot program, would affect Hillsborough, Volusia, Orange, and Palm Beach school districts. The regulation will currently expire without modification July 1, 2010.

Notes on Learning Gains (Applicable to Sections 4, 9, 11, 23, and 28).

Establishes student **learning gains** “as measured by state assessments required under s. 1008.22, F.S.” as a criterion in multiple sections of the bill, including the following areas:

- teacher compensation (criterion upon which to base compensation),
- approval of postsecondary teacher-preparation programs,
- measuring the effectiveness of teacher-preparation programs,
- selection of supervisors for teacher preparation programs,
- approval of alternative certification programs,
- compensation of school-based personnel who are not teachers, and
- compensation of district administrators.

In Florida’s accountability system for public schools, student learning gains have been applied in the calculation of school and district performance grades and in related accountability measures. Learning gains have been quantified specifically to determine whether students have made at least a year’s worth of progress in a year’s time in the subject areas of mathematics and reading in grades 3-10, as measured by the Florida Comprehensive Assessment Test (FCAT). In Florida, the FCAT is uniquely suited to measure learning gains (in the sense noted above) in reading and in mathematics because the test is administered in each grade 3 through 10 and because the FCAT has been developed in alignment with a “vertical scale” (a continuous measure of student progress across grade levels in the applicable subject areas).

Different models to measure “learning gains” will need to be developed to determine student growth on end-course (EOC) assessments. “Learning gains” for the purpose of this proposed legislation will need to be defined in rule. The Department has applied for a Race to the Top federal grant. If awarded, grant funds would be allocated to establish a student growth model that would be applied to district teacher evaluations in courses associated with the state assessment system. In addition, funds would be allocated to produce models that districts could use to calculate student growth based on performance in other subjects and grades.

District End-of-course Assessments (Sections 12 and 19).

There are a number of dates in Sections 12 and 19 for monitoring and reporting that must be coordinated so that information is reviewed and applied in a timely manner. In addition, there are other sections in the bill, such as those related to compensation and appraisal, which are dependent upon each district meeting the requirements of this section with valid and reliable assessments.

This section of the bill will significantly increase workload for school districts and charter schools. Although the exact number of exams to be created and monitored cannot be determined at this time, some expectations could be reasonably assumed based on the language of the bill and current practice information. First, while a district will likely not offer each of the hundreds of courses listed in the Course Code Directory, some districts will offer a large number of courses to students, including, for example, various levels of core courses (English III, English III honors, etc.), a number of electives, courses in exceptional education, and specialized advanced courses in career and technical education. Second, the bill requires “a valid and reliable” end of course assessment for “each” subject and grade level other than courses associated with FCAT, AP, IB, AICE or industry certification. Validity and reliability would be subject to determination by the district, as well. Specific psychometric procedures exist for making these determinations. Further, it is not clear whether this would allow for multiple measures including performance measures in courses that are purely skill or performance based, such as advance choral or instrumental classes, some career and technical courses, or visual arts. A result of this requirement could be a purposeful examination of courses and curriculum offered by districts, and/or a reduction in the variety of curricular offerings for students, depending on each district’s resources and instructional leadership. Additionally, the Florida College System would prefer the individual colleges to develop DE exams since the colleges grant the credit for DE courses. The Florida College system currently has a rule in development to supplement the DE statute that specifically authorizes the colleges to develop final exams for all dual enrollment courses.

Districts would need to use local funds to meet this requirement. These funds could be supplemented for some districts if the state is successful in being awarded a federal Race to the Top grant and if the district is considered a participating district in the grant. The requirements of the grant place an emphasis on measuring “growth” in student learning for every student. In its Race to the Top grant, the DOE set a goal that by 2013-14, all districts participating in the grant would have comparable measures of student growth for 80% of the district’s teachers, and the Department’s plan is to assist districts and consortia with some resources to meet this goal.

This section of the bill also increases the workload of the DOE. In addition to technical assistance, the monitoring process laid out in the bill would require additional staff resources, given the potential number of examinations

created by districts to meet this requirement. Perhaps if the monitoring were based on a standard reporting mechanism created based on the results of the teacher evaluations associated with the examinations, less workload and fiscal impact would be realized.

Teacher Preparation (Sections 9 and 10)

The amendments to subject area testing for completers of Educator Preparation Institute alternative certification programs mirror the requirements of completers of teacher preparation programs authorized under s. 1004.04, F.S. The amendments to both program types requiring learning gains analysis for continued program approval will only include analysis at the state level of completers who teach courses associated with the state assessment system. It will not be possible to perform a comparative analysis of learning gains in other subjects, since each district will adopt its own end-of-course assessments for other subjects and grade levels.

Compensation, Evaluations (Appraisal), and Contracts

The bill requires both that greater than 50% of each teacher and principal evaluation is based on student learning gains and that 50% of each educator's compensation is based on student learning gains. Further the bill requires that the remainder of each educator's compensation be based on the remaining portion of the educator's evaluation under s. 1012.34, F.S. The "greater than 50%" indication in the evaluation section would be a clarification of the statute's current use of the term of "primary" to describe the portion of the evaluation that should be based on student performance. Language amending s. 1012.22, F.S., would require that each employee's entire salary be based on their performance, as determined annually, with greater than 50% based on student learning gains. The language as written (using the percentages) would seem to place 100% of each educator's salary at risk each year. Changes elsewhere in the bill to the contracts offered to classroom teachers would allow for dismissal for a teacher not achieving learning gains. The intent for acceptable variances in salary earned based on a range of variances in learning gains and other performance results are not clear, given the percentages established in the bill.

Regardless of intent, under the bill each district would have to use existing and future funds to revise its salary schedule for new teachers and principals on July 1, 2010, and for all existing staff by July 1, 2013. It is likely that in most districts the salary schedule for teachers (including those hired to begin work on July 1, 2010) for the 2010-11 school year is set (or will be by the time this legislation might be signed into law). It is anticipated that the July 2010 timeline will be difficult for districts to manage within a few weeks.

The DOE has applied for a federal Race to the Top grant, which, if awarded, would require participating districts to base the "most significant" differential in the salary schedule on each educator's performance under an evaluation system where greater than 50% of the evaluation is based on student growth no later than the last year of the grant (2013-14 school year).

Teacher Recruitment and Retention (Section 21)

The bill would allow the DOE to provide only a virtual job fair each year, rather than requiring the Department to provide a face-to-face job fair in the central part of the state each year. If the bill is intended to eliminate the option for a face-to-face job fair, this may impact districts' potential assistance from the DOE in recruiting teachers based on district needs. Although annual numbers of new teachers hired have been reduced by up to 40% last year, districts have predicted needing to hire more teachers this year because of the next phase of the implementation of the class size amendment.

Critical Teacher Shortage Areas (Section 22)

This bill amends s. 1012.07, F.S., by removing the specificity of the high need areas of mathematics, science, and career education and replaces it with the language "high-need content areas." The bill also provides for the State Board of Education to identify the high-need content areas and high-priority location areas for purposes of defining critical teacher shortage areas.

The proposed language would require the State Board of Education to identify critical teacher shortage areas based on current and emerging educational requirements and workforce demand rather than on teacher characteristics such as ethnic background, race, and gender.

The proposed language would include lowest performing schools as defined in s. 1008.33(4)(b), F.S., as part of the high-priority location areas. It removes the criteria such as percentage of free lunches, the percentage of students under Chapter I of the Education Consolidation and Improvement Act of 1981, and the faculty attrition rate.

Educator Certification and Renewal (Section 31)

The changes to subparagraph (5)(e) of s.1012.56, F.S., will result in the state no longer having full reciprocity with any other state. Over the last five years, between 1,400 and 2,000 individuals per year have qualified for a Florida Professional Certificate by presenting a valid standard certificate from another state in a subject for which Florida offers certification. The bill would result in individuals with these credentials having to apply for a Florida Temporary Certificate and then reapply for a Professional Certificate after having taken and passed the Florida subject area test (incurring the fee and time taken to complete these activities). Potentially, districts could lose a source of qualified teachers if individuals with out-of-state certificates chose not to come to Florida because of these processes and expenses. Or, if the same number continues to enter the state, the number of times these individuals must be processed through the Bureau of Educator Certification in the DOE would at least double.

There are currently 263,976 individuals who hold a valid Florida Professional Certificate. Of those, 74,222 are not employed in Florida public schools and would need the comparable means of demonstrating effectiveness to renew their certificates to be established by the State Board as described in the bill to renew their certificates.

Education Practices Commission (Section 34)

The changes to the make up (but not the total number of members) of the Commission would assist with workload of the members, who are volunteers, by allowing the Commission to sit concurrent teacher panels, reducing the number of cases each teacher members must attend to for each hearing.

Review of Teacher Preparation Program Funding (Section 36)

This section would require a report on the cost effectiveness of teacher preparation programs be submitted to the Governor, President of the Senate, and Speaker of the House of Representatives on December 1, 2011. The DOE is required to work with the Board of Governors to establish a cost effectiveness methodology. The methodology must be based on:

- program costs,
- program outcomes of student cohorts, such as:
 - completion rates,
 - placement rates in teaching jobs,
 - retention rates in the classroom, and
 - student achievement and learning gains of students taught by graduates.

This report would change the current retention report produced by the DOE because it would link teachers to schools of graduation.

B. PRESENT SITUATION:

Notes on Learning Gains

References to learning gains in the applicable sections are new. (The statutory sections amended by this bill previously did not include references to student learning gains.)

End-of-course Examinations

Currently, districts are not required to offer an end-of-course examination for every course. Districts and charter schools that participated in the Merit Award Program were required to develop or acquire end of course examinations to participate in the program. For 2008-09 approximately 180 charter schools and 4 school districts were implementing their Merit Award Program plans.

Compensation and Evaluations (Appraisal)

While s. 1012.34, F.S., reflects that student performance be the primary component of teacher and principal evaluations, the term "primary" was never defined in statute, and, therefore, was viewed in a variety of ways in district evaluation processes: for example, as the largest factor when all other factors are combined, or the factor that is larger than any other single factor. Section 1012.22, F.S., currently reflects that a portion of each employee's performance must be based on performance under s. 1012.34, F.S., there is no monitoring or consequence if this is not followed, nor is the expectation of the portion defined in the current statute. The DOE has applied for a federal Race to the Top grant, which, if awarded, would require participating districts to make the "most significant" differentials in the salary schedule to be based on each educator's performance.

Critical Teacher Shortage Areas

Section 1012.07, F.S., specifies that mathematics, science, and career education are critical teacher shortage areas. The statute authorizes the State Board of Education to identify additional critical teacher shortage areas based on teacher characteristics such as ethnic background, race, and gender, and school grade levels.

The statute authorizes the State Board of Education to designate high priority location areas based on:

- High-density, low-economic urban schools
- Low-density, low-economic rural schools
- Percentage of free lunches
- Percentage of students under Chapter I of the Education Consolidation and Improvement Act of 1981
- Faculty attrition rate.

Educator Certification and Renewal

- Currently, and for at least the last five years, 20-25% of individuals receiving their initial Florida Educator's Certificate were certified by presenting their valid standard certificate from another state.
- Currently, courses completed and evaluated to establish college credit by the American Council on Education cannot be accepted for educator certification purposes, unless accepted as transfer credit and shown on an official transcript by an accredited or approved institution, usually at significant expense to the applicant.
- Currently, 74,222 of the individuals who hold a valid Florida Professional Certificate are not employed in Florida public schools.

Review of Teacher Preparation Program Funding

The Department currently produces a retention report by district. Additional reporting functions and data collection may need to be added to the processes of the Board of Governors, State Colleges and the Department of Education to meet this requirement.

C. WILL AN AMENDMENT TO RULE(S) OR NEW RULES BE REQUIRED TO IMPLEMENT THE CHANGES MADE?

- The State Board will need to revise rule 6A-5.066, F.A.C., to conform to revised continued approval standards for teacher preparation programs under ss. 1004.04 and 1004.85, F.S.
- The State Board will need to adopt rules to establish reporting formats, supporting documentation and procedures for the review of district end-of-course assessments, millage rates, and salary schedules, as outlined in new s. 1011.626, F.S. (section 19 of the bill).
- The State Board will need to revise rules for determining Critical Teacher Shortage areas to meet the revised definitions in statute.
- The State Board will need to adopt rules to define just cause under new s. 1012.335, F.S.
- The State Board will need to adopt rules to define the methods for out-of-state applicants to demonstrate subject knowledge for a Professional Certificate under s. 1012.56(5)(e), F.S.
- The State Board will need to adopt rules to amend certification examination competencies or cut scores established under s. 1012.56(9), F.S.
- The State Board will need to adopt rules to prescribe processes for certified individuals to renew a Professional Certificate who cannot receive an annual evaluation under s. 1012.34, F.S.
- The State Board will need to adopt rules to provide for the use of credits shown on transcripts from the American Council on Education (ACE).
- The State Board will need to adopt rules to define "learning gains" as applied in several sections of this bill.

FISCAL ANALYSIS

1. LOCAL GOVERNMENT

a. Revenues:

School districts that fail to comply with SS. 1012.22(1)(c), and 1008.222, F. S., must levy School District Accountability Millage to raise revenue in the amount of 5% of instructional staff and school-based administrator salaries, and will lose an equivalent amount of state FEFP funds. In 2008-09, which is the

most recent year for which district salary data is available, school districts spent \$9,759,915,041 for instructional staff salaries. Assuming all districts were not in compliance, five percent of this amount is \$487,995,752, which equates to 0.332 mills of additional tax levy using the projected 2010-11 tax roll (assumes a two-year time period from the fiscal year of noncompliance to the fiscal year of the levy). The amount of \$981,566,544 was spent on school-based administration. Five percent of this amount is \$49,077,827, which equates to 0.033 mills of additional tax levy in 2010-11. By district, the combined millage levies for instructional staff and school-based administrators range from 0.083 to 1.897.

The Florida Constitution restricts the total millage amount to 10.0 mills that districts may levy, not including debt service and millage levied for two years or less pursuant to Section 1011.73(1), F.S. If all districts had levied the above millages in 2009-10, all districts would be under the 10.0 mill cap by a range of 0.261 to 6.497.

For comparison, the statewide 2008-09 Required Local Effort Millage rate, which a district must levy to participate in the Florida Education Finance Program (FEFP), was 5.136 mills and generated \$8.3 billion in local tax revenue. The total state and local funds in the 2008-09 FEFP were \$17.9 billion. The 2008-09 instructional staff salaries are 55% of the 2008-09 FEFP, and the school based salaries are 5% of the 2008-09 FEFP.

b. Expenditures:

While a district will likely not offer each of the hundreds of course listed in the Course Code Directory, some districts will offer a large number of courses to students, including, for example, various levels of core courses (English III, English III honors, etc.), a number of electives, courses in exceptional education, and specialized advanced courses in career and technical education. The bill requires "a valid and reliable" end of course assessment for "each" subject and grade level other than courses associated with FCAT, AP, IB, AICE or industry certification. Districts would need to use local funds to meet this requirement. These funds could be supplemented for some districts if the State is successful in being awarded a federal Race to the Top grant and if the district is considered a participating district in the grant. However, even if the state wins a grant award, is funded at the necessary level to carry out grant activities in this area, and goals of the grant are achieved, districts who do not go beyond the goals of the grant would still fall short of the requirements of the bill.

Graduates of teacher preparation programs who fail to demonstrate student learning gains during the first two years following graduation shall be provided additional training by the teacher preparation program at no expense to the educator or the employer. The public universities and state colleges with baccalaureate degree teacher education programs and Educator Preparation Institutes would be required to provide this additional instruction.

2. STATE

a. Revenues:

For the school districts that fail to comply with SS. 1012.22(1)(c), and 1008.222, F. S., and are required to levy the portion of state FEFP funds equal to 5 percent of the salaries of instructional personnel and school-based administrators, the state will save an equivalent amount in state FEFP funds. Charter schools will pay to the state treasury a fine equal to 5% of instructional staff and school-based administrator salaries. See Local Government Revenues.

b. Expenditures:

The DOE is required to monitor and assist districts in the development of end of course exams and to review and approve school district performance contracts. The department is also required to verify charter school compliance with teacher and school-based administrator performance contracts. Additional resources will be necessary to meet these requirements.

3. PRIVATE SECTOR IMPACT

a. Revenues: None

b. Expenditures:

Charter schools that fail to comply will pay a fine to the state treasury equivalent to 5% of instructional staff and school-based administrator salaries. Data are not available for charter school instructional staff and

school based administrator salaries. Assuming that charter schools expended in 2008-09 the same per FTE amount on instructional staff and school-based administrator salaries as traditional public schools and, if all charter schools were not in compliance, the fine for instructional staff would be \$23.1 million and the fine for school-based administrators would be \$2.3 million for the 2008-09 fiscal year.

COMMENTS

TECHNICAL DEFICIENCIES

Educator Certification (Section 31).

- It is not clear how the DOE would monitor for certification purposes whether subject knowledge was demonstrated by an out-of-state teacher the during the “first semester” of employment (1012.56(5)(e)). It would seem that the intent of this requirement is covered elsewhere in amendments to paragraph (7).
- The word “examination” appears to have been omitted on line 1521.

GENERAL COUNSEL REVIEW

COUNSEL’S ISSUES/CONCERNS:

It is suggested that all applicable references to “learning gains” be revised to explicitly state that the learning gains are defined or calculated in accordance with State Board rule. This would avoid confusion or discrepancies in implementation. (This is especially necessary in s. 1012.34 (3)(a), F.S.) Similarly, specific rulemaking authority should be added to s. 1012.34(2)(g), F.S., to explicitly provide that the State Board may promulgate a rule establishing the learning gains threshold for each category of teacher performance (highly effective, effective, needs improvement, and unsatisfactory).

It is unclear whether districts are responsible for charter schools’ failure to comply with the requirements for teacher salaries and contracts. It is suggested that the bill be revised to explicitly state whether a charter school’s failure to comply could be the basis for termination of a charter, or other corrective action by the district. In addition, the new s. 1011.626, F.S., should explicitly state whether charter schools are included in determining a district’s compliance with the act for purposes of imposing the millage.

The proposed s. 1011.626, F.S., may raise a state constitutional question under Art. III, § 11(a), Fla. Const., as to whether the proposed levy of the additional millage is proper. (Reviewing Attorney: Mari Presley)

RECOMMENDED ACTION/COMMENTS:

Robert Large

Counsel’s Office Signature

Date

APPROVALS:

Kathy Hebda

3/6/10

245-0891

Chief Analyst

Date

Phone Number

Linda Champion

Fiscal Analyst

3/7/10

Date

Chancellor

John Newman

Senior Legislative & Policy Advisor

Date

3/7/10

Date

DRAFT