

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 1696

INTRODUCER: Senator Wise

SUBJECT: Public School Accountability

DATE: March 23, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carrouth	Matthews	ED	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill is a comprehensive public school accountability package which would implement reforms in the following areas:

- Virtual Education—The bill provides that funding for students in grades 6-12 in district virtual programs and the Florida Virtual School (FLVS) is based on successful course completions rather than on credit completions and allows for academically advanced fourth and fifth grade students to take middle school courses from FLVS, and for FLVS to receive funding for the instruction.
- Charter Schools—The bill removes a restriction that prohibits Florida College System (FCS) institutions from operating charter schools that offer elementary education.
- Voluntary Prekindergarten Program (VPK) and Kindergarten Screening—The bill requires a VPK provider that is on probation to administer the statewide VPK enrollment screening to newly admitted VPK students. The provider must pay for the screening. The bill also repeals a numeric limitation on providers who fail to meet the kindergarten readiness rate.
- Career and Professional Academies—The bill specifies criteria for middle school career and professional academies relating to alignment to high school career and professional academies, an opportunity to earn an industry certification and partnerships with the business community. The bill allows the State Board of Education rules to establish program weights for industry certification based on rigor and demand.
- Student Assessment and School Accountability—The bill:
 - Repeals the requirement for certain middle school students to take the Algebra I end-of-course assessment (EOC) in 2010-2011;

- Revises the middle school grading formula to add the performance and participation of students in high school courses with statewide standardized assessments;
- Requires passage of civics for middle school promotion;
- Provides that a school shall receive a school grade of “F” if it does not meet specified minimum proficiency standards in reading;
- Provides that a determination of school grades for the Opportunity Scholarship Program (OSP) will be based on statewide assessments alone;
- Provides that for purposes of calculating the performance category under differentiated accountability, the statewide assessments’ portion of a school grade would be used in determining the appropriate performance category and revises category criteria;
- Provides for the assignment of scores from hospital/homebound students to be assigned to their home school; and
- Authorizes the Commissioner of Education to revise statewide testing dates.
- Instructional Materials—The bill:
 - Revises the review of instructional materials for state adoption by eliminating the 10-member state instructional materials committee;
 - Requires all adopted instructional materials for grades 5-12 to be in electronic format by 2013-14 and all K-12 adopted instructional materials to be in electronic format by 2014-15;
 - Requires school districts to use at least 50 percent of their annual allocation for the purchase of electronic, digital, or online content by 2012-13;
 - Replaces the current 6-year adoption cycle with a 5-year adoption cycle;
 - Removes the requirement for school districts to purchase materials within the first two years of an adoption cycle and to use at least 50 percent of their annual allocation on state-adopted materials; and
 - Allows for the purchase of technology hardware with categorical funds under certain conditions.
- Students with Disabilities—The bill authorizes the waiver of certain EOC assessment requirements for students with disabilities.
- Required Digital Curriculum—The bill requires school districts to implement a digital curriculum for students in grades 5-12.
- Class Size—The bill shifts the burden to school districts to demonstrate that, despite appropriate efforts, it was unable to meet class size for purposes of calculating an alternative reduction in the district’s class size categorical allocation.

The bill substantially amends sections 1001.20, 1001.42, 1002.33, 1002.37, 1002.38, 1002.45, 1002.67, 1002.69, 1002.73, 1003.03, 1003.4156, 1003.428, 1003.492, 1003.493, 1003.575, 1003.621, 1006.28, 1006.29, 1006.30, 1006.31, 1006.32, 1006.33, 1006.34, 1006.35, 1006.36, 1006.38, 1006.39, 1006.40, 1006.43, 1008.22, 1008.33, 1008.34, 1011.01, 1011.03, 1011.61, 1011.62, and 1012.39 of the Florida Statutes.

This bill creates section 1003.4203 of the Florida Statutes and repeals section 1006.37 of the Florida Statutes.

II. Present Situation:

Virtual Education

The Florida Virtual School (FLVS) offers individual course enrollments to all Florida students in grades 6 through 12, including public school, private school, and home education students.¹ School districts are required to provide students with access to enroll in courses available through the FLVS during or after the normal school day and through summer school enrollment.

Virtual education is also provided through school district virtual instruction programs.² Each school district is required to provide a full-time virtual instruction program for students in kindergarten through grade 12 and a full-time or part-time virtual instruction program for students in grades 9 through 12 enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-curricula courses to meet class size requirements, or community colleges offering a school district virtual instruction program.³

According to the DOE, “anytime access” has been inconsistently implemented by school districts. Thus, students in some schools have not been allowed to take courses from FLVS, especially as part of their regular school-day curriculum. In these cases, student choice is limited.

Charter Schools

Current law provides authority for the Florida College System (FCS) institutions to operate secondary charter schools.⁴ However, these institutions are prohibited from offering elementary education in the charter schools.⁵ Additionally, charter schools within the FCS are required to include an option for students to receive an associate degree upon high school graduation.⁶

Voluntary Prekindergarten (VPK)

The 2004 Legislature established the Voluntary Prekindergarten Education (VPK) Program, a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.

Within the first 30 days of an academic year, school districts must screen each kindergarten student to determine his or her readiness for kindergarten. From the results of this screening, the kindergarten readiness rate is calculated for each VPK provider.⁷ If a provider falls below the minimum readiness rate for two consecutive years, the provider is placed on probation and is required to take certain corrective actions, including the use of a curriculum approved by the

¹ See s. 1002.37, F.S.; see also Florida Department of Education, Florida Public Virtual Schools, FLVS FAQ, available at: <http://www.fldoe.org/Schools/virtual-schools/faqs.asp>; last checked March 17, 2011. The FLVS is required to be administratively housed within the DOE.

² s. 1002.45(1)(a), F.S.

³ s. 1002.45(1)(b)2., F.S.

⁴ s. 1002.33(5), F.S. According to the DOE, seven FCS institutions currently operate charter schools: Edison State College; Florida State College at Jacksonville; Indian River State College; Northwest Florida State College; Polk State College; St. Petersburg College; and State College of Florida, Manatee-Sarasota.

⁵ s. 1002.33(5)(b)4., F.S.

⁶ *Id.*

⁷ The kindergarten readiness rate is the percentage of students that participated in the provider’s VPK program that are deemed ready for kindergarten. Currently, the readiness rate may not be set higher than a rate below which 15 percent of the VPK providers would fall. See s. 1002.69(6)(b), F.S.

DOE.⁸ If a provider remains on probation for two consecutive years without receiving a good cause exemption, the provider loses eligibility to deliver VPK.⁹ A good cause exemption may be granted for a provider that meets certain criteria established by the State Board of Education (SBE).¹⁰

Career and Professional Academies

The Career and Professional Education (CAPE) Act was enacted by the Florida Legislature to attract and retain targeted, high-value industries and to develop a knowledge-based workforce.¹¹ Each district school board must develop, in collaboration with the local workforce board and the area postsecondary institutions, a 5-year strategic plan to meet local and regional workforce demands through career academies.¹²

For each student enrolled in a career and professional academy who graduates with a standard high school diploma and who earns a certification included on the “Industry Certification Funding List,” the district of instruction may earn 0.3 full-time equivalent (FTE) student membership for the following year’s funding calculation in the Florida Education Finance Program (FEFP).¹³ In 2009-10, 1,237 students generated 371.1 additional FTE in the K-12 funding formula.¹⁴

CAPE academy students perform better than other high school students and have higher grade point averages, lower absentee rates, fewer disciplinary actions, lower dropout rates, higher rates of standard diplomas awarded, higher rates of enrollment in advanced courses, and higher eligibility rates for Bright Futures Scholarships.¹⁵ While high school students have the option to earn industry certifications, there is little opportunity for students to earn rigorous industry certifications in the middle grades. Furthermore, middle school grades are determined solely on the results of statewide assessments without additional incentives to encourage more rigorous and engaging coursework, such as courses offered through a career and professional academy.

School Accountability

The school grades for public schools in Florida are determined each year based upon a point system of student achievement and annual learning gains.¹⁶ Middle school grades are currently based upon student scores on the FCAT.

⁸ s. 1002.67(3)(c), F.S.

⁹ s. 1002.69(7), F.S.

¹⁰ A provider may receive an exemption if it can show learning gains of children served in the VPK program, if the provider has served at least twice the statewide percentage of children with disabilities or children identified as limited English proficient, and if the provider shows that local and state health and safety requirements are met. A provider must still take corrective actions after receiving a good cause exemption. *See* s. 1002.69(7)(b), F.S.

¹¹ ss. 1003.491 - 1003.494, F.S.

¹² ss. 1003.491(2), F.S.

¹³ s. 1011.62(1)(p), F.S. Certifications earned through dual enrollment are not eligible for additional FTE. The additional FTE may not exceed 0.3 per student (i.e., no repeat allocations for additional certifications).

¹⁴ Because the funding is awarded retroactively, the data reported for 2008-09 is used for the 2009-10 FEFP calculation.

¹⁵ *The Ninth Grade--A Precarious Time for the Potential Dropout*. ERIC Digest No. 34, available at:

<http://www.ericdigests.org/pre-926/ninth.htm>. See also <http://www.edweek.org/rc/articles/2007/10/03/sow1003.h27.html>.

¹⁶ s. 1008.34(3), F.S.

Beginning with the 2009-10 school year, the calculation for high school grades incorporated other factors in addition to student achievement and annual learning gains on statewide standardized assessments. These factors include a high school's graduation rate, a high school's graduation rate of certain at-risk students, postsecondary readiness, and student performance and participation in Advanced Placement, International Baccalaureate, dual enrollment, industry certification, and Advanced International Certificate of Education courses.¹⁷

The school grade is used to determine categories of differentiated accountability and eligibility for the Opportunity Scholarship Program (OSP). Differentiated accountability is a system of categorizing schools based upon student achievement and determining appropriate interventions. Each category is based upon the school's grade, progress towards adequate yearly progress under the federal No Child Left Behind requirements, and changes in student performance. School grades are also used to determine if a child is eligible for an Opportunity Scholarship. The OSP provides parents whose children are assigned to a school that has received an "F" twice in a 4-year period the opportunity to send their children to a higher performing public school.

Student Assessment

The Commissioner of Education is required to design and implement a statewide program of educational assessment and to establish schedules for the administration of the assessments and reporting of student test results. The schedule for reporting student test results on the FCAT is no later than the week of June 8 and for end-of-course assessment results no later than a week after the school district completes testing for each course.¹⁸

Beginning in the 2011-12 school year, entering ninth grade students must take and pass the statewide end-course-assessment (EOC) for Algebra I, to earn course credit.¹⁹ Although students have been required to take and pass Algebra I to earn high school credit, students were not previously required to take and pass an EOC associated with the course.²⁰

Beginning in the 2010-11 school year, there will no longer be a ninth grade Mathematics FCAT and beginning in the 2011-12 school year, there will no longer be a tenth grade Mathematics FCAT.²¹ Because federal law requires that all public school students be tested in reading and mathematics at least once at the elementary, middle, and high school level,²² students who earned high school credit for Algebra I while in middle school in the 2007-08 through 2009-10 school years would be required to take the Algebra I EOC, as the tenth grade Mathematics FCAT would no longer be administered.²³ Although students who take high school level courses in the middle grades will, most likely, enroll in sequentially more rigorous courses, some school districts raised concerns that the lapse in time between taking the course in middle school and sitting for the EOC assessment in high school would be unfair. In addition, these students will

¹⁷ s. 1008.34(3)(b)2., F.S.

¹⁸ The Commissioner is also required to direct Florida school districts to participate in the administration of the National Assessment of Educational Progress (NAEP), or a similar national assessment program. See s. 1008.22(2), F.S.

¹⁹ s. 1008.22(3)(c) 2.a.(I), F.S.

²⁰ s. 1008.22(3)(c)2.a.(I), F.S.

²¹ s. 1008.22(3)(c)1., F.S.

²² See s. 1111(b)(3)(C)(v)(I)(cc) of the Elementary and Secondary Education Act (ESEA), available at:

<http://www2.ed.gov/policy/elsec/leg/esea02/pg2.html>.

²³ s. 1008.22(3)(c)2.a.(I), F.S.

have already earned their course credit in Algebra I and do not need to pass the EOC assessment to earn course credit or graduate from high school. Accordingly, there were concerns that these students had no reason to perform well, yet their test results would be included in the school's grade. As a result, the Department of Education submitted a request to the U.S. Department of Education for a waiver from the federal law for the specific cohort of students who are affected. The waiver was granted on January 19, 2011.²⁴

Students in grades 6 through 12 who score a Level 1 on FCAT Reading must be enrolled in and complete an intensive reading course the following year. The reading needs of a student that scores a Level II on FCAT Reading must be assessed to determine whether the student needs to be placed in an intensive reading course or a content area course in which reading strategies are delivered.

In order for students to be promoted to high school, the student must successfully complete three middle school or higher courses in English, mathematics, science, and social studies, including one semester of civics education, and one course in career and education planning to be completed in grades 7 or 8.²⁵ Beginning in the 2012-13 school year, the required civics course must include an end-of-course assessment. By the 2014-15 school year, all students must pass the civics EOC assessment to pass the course and receive course credit.²⁶

Instructional Materials

Current law requires the Commissioner to prescribe the procedures and specifications for the evaluation and adoption of instructional materials and to appoint state instructional materials committees (SIMC) composed of 10 or more members.²⁷

Contracts with publishers must be executed by the Governor and Secretary of State and publishers and manufactures must maintain a contract with a depository in the state.²⁸

Florida currently operates under a 6-year adoption cycle, with subject areas rotated during the 6-year cycle and school districts required to requisition adopted instructional materials from the depository within the first two years of the adoption cycle. School districts must use at least 50 percent of their annual allocation on instructional materials on the state-adopted list. School districts are prohibited from using the remaining categorical funds for the purchase of technology hardware.²⁹ Instructional materials adopted after 2012-13 for students in grades 9 through 12 must also be provided in an electronic format.³⁰

²⁴ Letter to Commissioner of Education Eric Smith from the Assistant Secretary of the U.S. Department of Education, on file with the committee (Jan. 19, 2011). The DOE estimates that approximately 39,600 students completed Algebra I in the middle grades and will not take the 10th grade Mathematics FCAT.

²⁵ s. 1003.4156, F.S.

²⁶ s. 1008.22(3)(c), F.S.

²⁷ The state adoption committee consists of at least 50 percent certified classroom teachers, two laypersons, one district school board member, and two supervisors of teachers.

²⁸ s. 1006.38(11), F.S.

²⁹ s. 1006.40(4), F.S.

³⁰ s. 1006.29(4), F.S.

Digital Curriculum

School boards are not currently required to provide digital curriculum. Many schools, however, currently offer courses in computer programming, web design, and in other information technology areas.³¹

Students with Disabilities

Current law does not provide for an exemption for middle school students with disabilities from end-of-course assessments, however, the law does include a provision to waive end-of-course assessments for high school students with disabilities when the IEP committee determines that an end-of-course assessment cannot accurately measure the student's abilities, taking into consideration all allowable accommodations.

*Assistive Technology Devices*³²

Presently, certain agencies are required to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan, or an IEP.³³ The interagency agreements help the agencies to coordinate services for students with disabilities, including a determination of the need for assistive technology, the content of the transition plan, and the post-school support required to meet the student's transition goals.³⁴

III. Effect of Proposed Changes:*Virtual Education*

The bill requires school districts to provide students access to FLVS courses during and after the normal school day. This change provides uniformity among school districts and increases a student's access to the FLVS.

The bill amends the length of time a virtual instruction provider maintains its approved provider status. The bill changes the date of approval for virtual instruction providers to three school years after the date of approval. Because providers are currently approved in February, changing the length of approved provider status to correlate with the school year will prevent the loss of approved status in the middle of a school year.

The bill also eliminates the requirement that the FLVS be administratively housed within the DOE, as FLVS has never been administratively housed within the DOE.

³¹ Computer and other digital curriculum are included under the Fine Arts subject area of the Sunshine State Standards and the Next Generation Sunshine State Standards. These standards establish the core content of the curricula to be taught and specify the core content knowledge and skills that K-12 public school students are expected to acquire. See Florida Department of Education, *Sunshine State Standards*, <http://www.fldoe.org/bii/curriculum/sss>; last visited March 20, 2011.

³² Assistive technology devices are defined as manual and motorized wheelchairs, motorized scooters, voice-synthesized computer modules, optical scanners, talking software, Braille printers, environmental control devices for use by a person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to, in effect, speak, personal transfer systems, and specialty beds, including a demonstrator, that a consumer purchases or accepts transfer of in this state for use by a person with a disability. See s. 427.802, F.S.

³³ The required agencies include the Department of Health, the Department of Education, and the Agency for Workforce Innovation. See s. 1003.575, F.S.

³⁴ Florida Department of Education, Technical Assistance Paper, *The Transfer of Assistive Technology to Home, Other Districts, Other Schools, and Other Agencies* (Dec. 2005), available at: <http://www.fldoe.org/ese/pdf/y2006-6.pdf>.

Charter Schools

Under the bill, FCS institutions may operate charter schools that offer elementary education. According to the DOE, a number of colleges within the FCS believe that offering elementary education would help the state explore new models for student success, alleviate the class size burden, and improve teacher quality.³⁵ The bill would also amend the requirement for FCS charter schools to include an option for students to receive an associate degree upon high school graduation. Providing this option to students will now become permissive for FCS charter schools.

Voluntary Prekindergarten (VPK)

The bill requires the SBE to periodically review and revise the performance standards for statewide kindergarten screening and to align these standards to the standards for student performance on statewide assessments.

The bill requires a VPK provider to be placed on probation if it fails to meet the minimum kindergarten readiness rate established by the State Board of Education. Previously, a provider had to fail to meet the standards for two consecutive years. This change will require providers to begin corrective actions sooner and will thus improve the quality of VPK providers.

The bill eliminates the restrictions placed on increasing the kindergarten readiness rates and the requirement that no more than 15 percent of the VPK providers can fall below the minimum readiness rate. The readiness rates would no longer be tied to the number of VPK providers that fail to meet them; rather, the SBE can set the rate based on its determination of readiness.

The bill amends the criteria the SBE may use to grant good cause exemptions for public and private VPK providers by eliminating the exemption for providers serving at least twice the statewide percentage of children with disabilities or those identified as limited English proficient. Instead, good cause will be determined by learning gains through a standardized pre- and post-assessment approved by the DOE. The assessment has already been approved by the DOE. The pre-assessment must be administered by the Early Learning Coalition or a second party approved by the DOE and administered within the first 30 days of each school year for which a good cause exemption is sought. The provider must also administer a post-assessment to measure learning gains for the year or the summer and must submit this data to the DOE within 30 days of the assessment administration. This change shifts the emphasis for a good cause exemption from simply the type of students a provider serves (inputs) to the extent of student learning gains (outputs).

Digital Curriculum

The bill authorizes district school boards to develop and implement a digital curriculum for students in grades 6 through 12. The curriculum would use web-based core technologies to design creative, informational, and content standards for web-based digital products that demonstrate proficiency in creating, publishing, testing, monitoring, and maintaining a website. The digital curriculum may be integrated into another subject area or may be offered as a

³⁵ Department of Education legislative bill analysis, on file with the committee.

separate course. The DOE would be required to develop a model digital curriculum and to provide school boards a guide in the development of a digital curriculum.

Career and Professional Academies

In an effort to engage students at an earlier age, prepare them for increasingly demanding coursework, and attain higher level industry certifications, the bill would expand CAPE opportunities to students in middle grades and establish funding for middle school students who earn industry certifications. The strategic 5-year plan developed and approved by school districts, workforce boards and agencies, and postsecondary institutions must include plans to implement career and professional academies at the middle grades.

Middle school students who earn industry certifications would generate the additional funding following graduation from high school with a standard diploma. Although there would be a considerable lapse in time before these students would generate bonus funding, these students will most likely be enrolled in higher level courses and be academically engaged, thus less likely to drop out. High school students who begin their career academy exposure in the middle grades would be prepared to earn additional and more demanding certifications at the high school level.³⁶

The bill also establishes weights for industry certifications based on the level of rigor for the certification, entry-level earnings, and workforce demand in the industry. The formula used to determine these weights would be established through rulemaking.³⁷

Student Assessment

The bill authorizes the commissioner to direct school districts to participate in the administration of an international assessment, in addition to the administration of the National Assessment of Educational Progress (NAEP). This will authorize the commissioner to direct school district participation in assessments like the Program for International Student Assessment (PISA) and the Trends in International Mathematics and Science Study (TIMSS) assessment. The bill also provides the commissioner flexibility to adjust the administration of statewide assessments under exigent circumstances.

The bill eliminates the requirement that all students who took Algebra I in middle school during the 2007-08 through 2009-10 school years take the EOC assessment in the 2010-11 school year. These students are no longer required to take the EOC assessment because the DOE obtained a waiver from the U.S. Department of Education. Without removing this requirement, approximately 39,600 students will unnecessarily be required to take the Algebra I EOC

³⁶ School districts that offer industry-certified career and professional academies in the middle grades would receive a prorated portion of the additional bonus weight in the FEFP for students who receive industry certification in middle school and who subsequently earn a standard high school diploma. Funds would be provided in the General Appropriations Act in the year following the student's graduation from high school and attainment of the industry certification. If the middle school student were to earn additional industry certifications at the high school level, the bonus weight associated with the highest industry certification would be prorated and shared with the appropriate middle school.

³⁷ The DOE and AWI are currently collaborating in establishing the weighting process for inclusion in rule. Factors would include the number of instructional hours, including work experience hours, required to earn the certification, award of college credit for academy courses based on statewide articulation agreements with postsecondary institutions, entry-level wages, growth rate in employment for each occupational category, and average annual openings for the primary occupation linked to the industry certification.

assessment in May. The bill also authorizes middle school principals to determine whether a student that transfers to the middle school and has already completed a civics education course prior to transfer must take the civics education EOC assessment. The middle school principal must make this determination in accordance with SBE rules.

School Accountability

The bill requires the school grade for schools comprised of middle school grades 6 through 8 or grades 7 and 8, to include the performance and participation of its students enrolled in Algebra I, geometry, and biology.

The bill also requires the achievement score and learning gains of a student designated as hospital or homebound to be assigned to that student's home school. A home school is defined as the school the student would be assigned if the student were not assigned to a hospital or homebound program. This provision would ensure that a school district retains its focus on helping these students succeed.

The bill requires a school to receive a school grade of "F", unless it meets a minimum percentage of students proficient in reading, irrespective of its performance on other indicators in the school grading formula. In addition, the bill allows the DOE to grant an exception if the school made significant gains in reading proficiency from the prior year. The SBE must establish the minimum percentage required to receive an exception.

The bill changes how school grades are determined for purposes of differentiated accountability. The bill requires high school grades to be based solely upon the portion of school's grade derived from statewide assessments, including the FCAT and end-of-course assessments, and the level and rate of change in student performance in the areas of reading and mathematics. The formula for calculating high school grades changed in the 2009-10 school year to incorporate other factors, including high school graduation rates and student participation and performance in industry certifications and in certain accelerated courses. Because of the additional factors included in the high school grading formula, the DOE will not be able to determine the appropriate intervention based on the school's performance until after the following school year begins. Accordingly, by changing the law to focus on statewide assessment results, which are provided before the end of the school year, a school may be more quickly categorized. This allows the DOE, school districts, and schools to more timely provide the necessary type and intensity of intervention for schools in need of improvement.

The bill changes how school grades are determined for purposes of Opportunity Scholarship Program eligibility by solely using statewide assessments. Because incorporating the additional factors into the high school grading formula takes more time, a parent must wait until as late as November to determine if their child is eligible to participate in the OSP. Changing how the school grades are calculated for the OSP will allow parents to decide if they want their child to participate in the OSP before the school year begins.³⁸

³⁸ According to the DOE, prior to 2010, these grades have been available mid-summer, allowing time for parent notification and student transfers prior to the beginning of the following school year. Opportunity Scholarship Program eligibility for high schools was unclear as of the opening of the 2010-11 school year, since high school grades were not yet available due to changes in s. 1008.34, F.S. Attempts to identify eligible high schools based on statewide assessments led to some confusion among parents and district personnel, since some identified schools anticipated a performance grade category of "D" or

Instructional Materials

The bill would replace references to textbooks with references to instructional materials and student or site licenses and requires the review of instructional materials for state adoption by at least two expert reviewers instead of a 10-member state instructional materials committee. A secondary review of materials recommended by the expert reviewers would be conducted by one classroom teacher or content supervisor from each district. The bill also establishes that all adopted instructional materials for grades 5-12 must be in electronic format by 2013-14 and for all K-12 adopted instructional materials to be in electronic format by 2014-15. Publishers would be required to provide electronic samples of instructional materials to the DOE and to provide evidence that the publishers' materials are conducive to an electronic search and organization by specific performance standards. In addition, publishers would be encouraged to offer components of state adopted content in digital and electronic formats at reduced rates.

Under the bill, school districts would be required to use at least 50 percent of their annual allocation for the purchase of electronic, digital, or online content by 2012-13 and would be allowed to use these funds for the purchase of technology hardware with categorical funds under certain conditions. The bill removes the requirement for school districts to spend 50 percent of their categorical allocation on state adopted materials and to requisition materials from the depository within the first two years of an adoption cycle. The bill also designates the Commissioner as the contract authority for state-adopted instructional materials rather than the Department of Legal Affairs, the Governor, and the Secretary of State.³⁹ Finally, the current 6-year adoption cycle would be replaced with a 5-year adoption cycle. Instructional Materials are currently amortized over six years.⁴⁰ In reducing the adoption cycle to five years, this may generate a requirement for additional funds in a more abbreviated recurrence schedule. This may, however, be offset by the trend to purchase digital content which may reduce cost.

Students with Disabilities

The bill authorizes the individual education plan (IEP) committee to waive the EOC assessment results for students with disabilities, if the IEP committee determines that the EOC assessment cannot accurately measure the student's abilities even after considering all allowable accommodations.⁴¹ This exemption will allow middle grade students with disabilities the opportunity to pass a course and receive course credit without passing the EOC assessment;

above. Additionally, appropriate transfer schools (ones performing higher than the eligible school, but not less than performance grade category "C" could not be confidently identified. By specifying that high school grades will be based on statewide assessments, this language could allow identification of Opportunity Scholarship-eligible high schools to be made early enough to allow districts sufficient time for parent notification and student transfer. Department of Education legislative bill analysis, on file with the committee.

³⁹ According to the Department of Education legislative bill analysis, the contract execution requirements in current law require modification. The current process is outdated as it has been in place since the Commissioner of Education was a cabinet level officer. It provides for the contract to be prepared by the Attorney General's Office and signed and countersigned by the Governor and Secretary of State. The proposed process is more efficient and properly assigns authority to the Commissioner for execution of the instructional materials contracts.

⁴⁰ See the *Instructional Materials Cost Analysis For Fiscal Year 2011-2012*, available at: <http://www.fadima.net/>.

⁴¹ To be eligible for this waiver, a student must be documented as having an intellectual disability, a hearing impairment, including deafness, a speech or language impairment, a visual impairment, including blindness, an emotional or behavioral disability, an orthopedic or other health impairment, an autism spectrum disorder, a traumatic brain injury, or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia.

however, the student is still required to take the assessment. The bill also requires any school with an IEP team to complete an assistive technology assessment within 60 days of receiving a request to determine the most appropriate assistive technology needed to maintain or improve the functional capabilities of the student.

Budget Approval

The bill removes the requirement that the commissioner review the annual operating budgets for district school boards and the FCS institutions. Some school districts have attempted to hold the commissioner and the DOE accountable when problems existed with their budgets because the budgets had, in theory, been reviewed and approved. By removing the requirement to review and approve, the school districts will be fully accountable for their budgets.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the DOE, publishers would be allowed to offer instructional materials at reduced rates through the Florida Virtual Curriculum Marketplace.⁴²

The cost of the VPK pre-enrollment screening will be incurred by private providers and schools on probation based upon the minimum kindergarten readiness rate established. Costs of the VPK pre-enrollment screening are indeterminate at this time.⁴³

The cost for the electronic format of instructional materials is indeterminate. Publisher expenses will be reduced as samples of instructional materials will be submitted electronically to the department.⁴⁴

⁴² Department of Education legislative bill analysis, on file with the committee.

⁴³ *Id.*

⁴⁴ *Id.*

C. Government Sector Impact:

According to the DOE, changes to school improvement categories under the bill may affect the number of schools that qualify for School Recognition Awards. In 2010-11 each qualifying school was awarded \$75 per student for School Recognition, with total program funding at \$119,824,250.⁴⁵

Based on the DOE analysis, the travel costs for the SIMC meetings have ranged from \$30,000 to \$70,000, with an average cost of \$51,000 over the last five completed adoption cycles (2005-06 to 2009-10).⁴⁶ Although this expense would no longer be necessary, the bill provides for compensation of expert reviewers in an indeterminate amount.

VI. Technical Deficiencies:

Lines 642 to 645 allow capital improvement funds to be used to purchase equipment or software. However, the bill does not amend s. 1011.71(2), F.S., to comply with this provision, creating a statutory conflict.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁴⁵ *Id.*

⁴⁶ *Id.*