

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1145 Education  
**SPONSOR(S):** K-12 Subcommittee, Sprowls and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	11 Y, 2 N	Brink	Fudge
2) Education Appropriations Subcommittee		Seifert	Heflin
3) Education Committee			

### SUMMARY ANALYSIS

The bill enhances K-20 fiscal transparency and revises provisions relating to public and private educational choice options and assignment and certification of teachers by:

- Specifying that CAPE digital tools, CAPE industry certifications, and collegiate high school programs are considered public educational choice options and that the Florida Personal Learning Savings Account Program is a private educational choice option.
- Requiring that parents be provided information about the average amount expended per student in their child's school using the parent guide or a similar publication.
- Requiring that each state university and Florida College System institution annually notify students of state expenditures used for the education of the student.
- Requiring district school boards to publish an open controlled enrollment process that allows a parent to enroll his or her child and transport the child to any public school.
- Defining the term "capacity" for purposes of determining choices available for public K-12 enrollment.
- Specifying that a charter school that has not reached capacity may be open to any student in the state.
- Requiring district school boards to establish a transfer process by which a parent may request that his or her child be transferred to another teacher.
- Conforming language related to the assignment of teachers.
- Requiring the state board to establish rules for the issuance of adjunct certificates, allowing adjunct certificates to be used for full-time positions in certain circumstances, and authorizing charter school boards to issue adjunct certificates.

The authorization in the bill for students to enroll in any district in the state would result in a redistribution of funding among the 67 school districts in the Florida Education Finance Program (FEFP). See fiscal comments.

The bill provides an effective date of July 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Fiscal Transparency**

###### Present Situation

Each public school must provide parents of students a school financial report as part of its annual public school accountability report.<sup>1</sup> The purpose of the school financial report is to better inform parents and the public concerning how funds were spent to operate the school during the prior fiscal year.<sup>2</sup>

Each school's financial report must follow a uniform, districtwide format that is easy to read and understand.<sup>3</sup> The report must indicate revenues and their sources.<sup>4</sup> In addition, the report must include expenditures per unweighted full-time equivalent student at the district and state levels for teachers, substitute teachers, other instructional personnel, contracted instructional services, school administration and support personnel, certain materials and supplies, food services, support services, operation and maintenance of the school plant, and district-level expenditures the support the school's operations.<sup>5</sup>

Current law requires each state university and Florida College System institution to provide its students with a student handbook that includes student rights and responsibilities, available appeals processes, the student conduct code, and other specified information.<sup>6</sup> However, there is no requirement that students be notified of how state-appropriated monies and their tuition are used to fund their postsecondary education.

###### Effect of Proposed Changes

The bill requires the school financial report to include the average amount expended per student in the school, including operating and capital outlay expenses. In addition, the report must also be included in the school's parent guide and, if possible, posted to the school's website.

The bill requires each state university and Florida College System institution to annually notify students of the amount and percentage of tuition per credit hour subsidized by the state. This information must also include the average amount of money, by source, estimated to be expended for the education of the student.

##### **Public and Private Education Choice Options**

###### Present Situation

Parents of public school students may seek school choice options such as controlled open enrollment, lab schools, virtual instruction programs, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, auditory-oral education programs, advanced placement, dual enrollment, International Baccalaureate, Advanced International Certificate of Education, credit by examination or demonstration of competency, the School for Deaf and the Blind, the Florida Virtual

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<sup>1</sup> See ss. 1002.20(16); 1010.215(5), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 1010.215(5), F.S.

<sup>4</sup> See s. 1010.215(5)(a), F.S.

<sup>5</sup> See s. 1010.215(5)(b) and (c), F.S.

<sup>6</sup> Section 1002.21(4), F.S.

School, and the public school options for the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.<sup>7</sup>

### *Controlled Open Enrollment*

Controlled open enrollment is a public education delivery system that gives school districts the option of making student school assignments using a parent's indicated preferential public school choice as a significant factor.<sup>8</sup>

Each district school board offering the controlled open enrollment must adopt by rule a controlled open enrollment plan and post the plan on the district's website.<sup>9</sup> The plan must:<sup>10</sup>

- Adhere to federal desegregation requirements.
- Include an application process required to participate in controlled open enrollment that allows parents to declare school preferences, including placement of siblings within the same school.
- Provide a lottery procedure to determine student assignment and establish an appeals process for hardship cases.
- Afford parents of students in multiple session schools preferred access to controlled open enrollment.
- Maintain socioeconomic, demographic, and racial balance.
- Address the availability of transportation.

During the 2013-14 school year, 52 districts offered some form of controlled open enrollment.<sup>11</sup>

### *Private Educational Choices*

Current law allows parents of public school students to seek private school choice options under the McKay Scholarships for Students with Disabilities Program and the Florida Tax Credit Scholarship Program.<sup>12</sup> Under the McKay program, the parent of a public school student with a disability may request and receive a McKay Scholarship for the student to attend a private school.<sup>13</sup> Under the Florida Tax Credit Scholarship Program, the parent of a student who qualifies for free or reduced-price school lunch or who is currently placed, or during the previous state fiscal year was placed, in foster care may seek a scholarship from an eligible nonprofit scholarship-funding organization.<sup>14</sup>

Legislation enacted in 2014 established the Florida Personal Learning Scholarship Accounts (PLSA) Program for students who:

- Are Florida residents;
- Are eligible to enroll in kindergarten through grade 12 in a public school;
- Have an eligible disability;<sup>15</sup> and
- Are the subject of an IEP or have a diagnosis of an eligible disability from a physician or psychologist.

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<sup>7</sup> Section 1002.20(6), F.S.

<sup>8</sup> Section 1002.31(1), F.S.; Implementation of the plan by a district school board is optional. Section 1002.31(2), F.S.

<sup>9</sup> Section 1002.31(3), F.S.

<sup>10</sup> Section 1002.31(3), F.S.

<sup>11</sup> Email, Florida Department of Education, Office of Independent Education and Parental Choice (Mar. 15, 2015). The department no longer collects information related to controlled open enrollment plans, as the districts are no longer required to submit the plans to the department for approval. *See* s. 21, ch. 2014-39, L.O.F.

<sup>12</sup> Section 1002.20(6)(b), F.S.

<sup>13</sup> Section 1002.20(6)(b)1., F.S.

<sup>14</sup> Section 1002.20(6)(b)2., F.S.

<sup>15</sup> Eligible disabilities are autism; cerebral palsy; Down syndrome; an intellectual disability; Prader-Willi syndrome; Spina bifida; Williams syndrome; and, for a student in kindergarten, being a high-risk child.

Under the program, a parent may exercise his or her “parental option to determine the appropriate placement or the services that best meet the needs of his or her child.”<sup>16</sup> PLSA funds may be used to reimburse purchases of the following items or services:

- Instructional materials;
- Curriculum;
- Specialized services including, but not limited to, applied behavior analysis services and services provided by speech-language pathologists, occupational therapists, physical therapists, and listening and spoken language specialists;
- Enrollment in, or tuition or fees associated with enrollment in, an eligible private school, an eligible postsecondary educational institution, a private tutoring program, a virtual program offered by a department-approved private online provider, or a department-approved online course;
- Fees for standardized assessments;
- Contributions to the Stanley G. Tate Prepaid College Program; and
- Contracted services provided by a public school or school district.<sup>17</sup>

### Effect of Proposed Changes

The bill requires each district school board to allow a parent to choose to enroll his or her child in and transport his or her child to any public school that has not reached capacity in the district. Further, the bill provides that a parent may enroll his or her child in and transport his or her child to any public school, including charter schools, that has not reached capacity in any school district in the state. The school district must accept the student and report the student for purposes of the district’s funding pursuant to the Florida Education Finance Program.

The bill defines capacity by grade level to mean 90% of the allowable core class size<sup>18</sup> for class average based upon class size calculation.<sup>19</sup>

Further, the bill requires each district school board to establish a transfer process for a parent to request his or her child be transferred to another classroom teacher. A school must grant or deny the transfer within 2 weeks after receiving a request. If a request for transfer is denied, the school must notify the parent and specify the reasons for a denial. An explanation of the transfer process must be made available in the parent guide or a similar publication.

The bill provides that career and professional education digital tools, career and professional education industry certifications, and collegiate high school programs can be considered public educational choice options. In addition, the bill specifies that the Florida Personal Learning Scholarship Accounts Program is a private educational choice option.

## **Adjunct Educator Certification**

### Present Situation

In order for a person to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the department.<sup>20</sup> Persons seeking employment at a public school as a school supervisor, school principal, teacher, library media specialist, school counselor, athletic coach, or in another instructional capacity must be

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<sup>16</sup> Section 1002.385(11), F.S.

<sup>17</sup> A student who receives contracted public school services is not considered to be enrolled in a public school for eligibility purposes.

<sup>18</sup> The department is required to identify from the Course Code Directory core-curricula courses for the purpose of satisfying the maximum class size requirement. Section 1003.03(6), F.S. Class size maximum requirements are established in Art. IX, s. 1, Fla. Const., and s. 1003.03(1), F.S.

<sup>19</sup> Section 1003.03, F.S. establishes provisions related to calculating class size.

<sup>20</sup> Sections 1012.55(1) and 1002.33(12)(f), F.S.

certified.<sup>21</sup> The purpose of certification is to require school-based personnel to “possess the credentials, knowledge, and skills necessary to allow the opportunity for a high-quality education in the public schools.”<sup>22</sup>

To be eligible for an educator certificate, a person must:<sup>23</sup>

- Be at least 18 years of age;
- Sign an affidavit attesting that the applicant will uphold the U.S. and State Constitutions;
- Earn a bachelor’s or higher degree from an accredited institution of higher learning or from a nonaccredited institution identified by the department as having a quality program resulting in a bachelor’s or higher degree;<sup>24</sup>
- Submit to fingerprinting and background screening and not have a criminal history that requires the applicant’s disqualification from certification or employment;
- Be of good moral character; and
- Be competent and capable of performing the duties, functions, and responsibilities of a teacher.

In addition, each applicant must submit an application and the required fee to the department.<sup>25</sup>

The department issues three types of educator certificates:

- **Professional Certificate.** The professional certificate is Florida’s highest type of full-time educator certification.<sup>26</sup> The professional certificate is valid for five years and is renewable.<sup>27</sup> There are multiple ways to obtain a professional certificate, including through teacher preparation programs, certificate reciprocity, and other alternative routes, such as college teaching experience and professional training options.<sup>28</sup>
- **Temporary Certificate.** The temporary certificate covers employment in full-time positions for which educator certification is required.<sup>29</sup> The temporary certificate is valid for three years and is nonrenewable.<sup>30</sup>
- **Athletic Coaching Certificate.** The athletic coaching certificate covers full-time and part-time employment as a public school’s athletic coach.<sup>31</sup> DOE issues two types of athletic coaching certificates – one is valid for five years and is renewable and the other is valid for three years and is nonrenewable.<sup>32</sup> The five-year certificate requires satisfaction of certain specialization requirements established in rule.<sup>33</sup>

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<sup>21</sup> Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certificated individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-1.0502, F.A.C.; ss. 1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

<sup>22</sup> Section 1012.54, F.S.; see rule 6A-4.001(1), F.A.C.

<sup>23</sup> Section 1012.56(2)(a)-(f), F.S.

<sup>24</sup> Section 1012.56(2)(c), F.S.; rule 6A-4.003(2), F.A.C. (criteria for approval of nonaccredited institutions of higher learning). For initial certification, an applicant must attain at least a 2.5 overall grade point average on a 4.0 scale in the applicant’s major field of study. Section 1012.56(2)(c), F.S.

<sup>25</sup> Section 1012.56(1), F.S.; see s. 1012.59, F.S. The fee for initial certification is \$75 per subject area. Rule 6A-4.0012(1)(a)1. and 2., F.A.C.

<sup>26</sup> Rule 6A-4.004(2), F.A.C.

<sup>27</sup> Section 1012.56(7)(a), F.S.; see rule 6A-4.0051(3)(c), F.A.C. (validity period is expressed as 5 years from July 1 of the school fiscal year).

<sup>28</sup> See Florida Department of Education, *Routes to a Florida Professional Certificate* (2014), available at <http://www.fldoe.org/core/fileparse.php/5423/urlt/Routes2014Chart.pdf>.

<sup>29</sup> Rule 6A-4.004(1)(a)2., F.A.C.

<sup>30</sup> Section 1012.56(7), F.S. (flush-left provisions at end of subsection; validity period is expressed in school fiscal years); rule 6A-4.004(1)(a), F.A.C. DOE also issues a nonrenewable temporary certificate, which is valid for 2 years, in the area of speech-language impairment. Sections 1012.56(7)(c) and 1012.54, F.S.; rule 6A-4.001(1), F.A.C.

<sup>31</sup> Section 1012.55(2), F.S.

<sup>32</sup> Rule 6A-4.004(4), F.A.C. (validity periods expressed in school fiscal years).

<sup>33</sup> See rule 6A-4.0282, F.A.C.

School districts are authorized to issue adjunct teaching certificates to part-time teachers who have expertise in the subject area to be taught. The teacher must meet the same eligibility and background screening requirements as candidates for department-issued certificates.<sup>34</sup> An adjunct teaching certificate is valid through the term of the annual contract between the educator and the school district.<sup>35</sup> An additional annual certification and an additional annual contract may be awarded by the district at its discretion only if the adjunct teacher is rated effective or highly effective during each year of teaching under the adjunct certification.<sup>36</sup>

### Effect of Proposed Changes

The bill requires the state board to adopt rules to allow for the issuance of an adjunct teaching certificate by both district school boards and charter school boards. The bill allows an adjunct certificate to be used for a full-time position upon the teacher demonstrating competency in the following:

- The Florida Educator Accomplished Practices;
- The state-adopted student content standards;
- Scientifically research-based reading instruction;
- Content literacy and mathematical practices;
- Strategies appropriate for instruction of English language learners; and
- Strategies appropriate for instruction of students with disabilities

The bill states that adjunct certification enables school districts and charter schools to issue adjunct certificates to enhance the diversity of course offerings, whether face-to-face or online, by using the wealth of talent and expertise represented in Florida's residents.

### **Assignment of Teachers**

#### Present Situation

Current law prohibits a school district from assigning to schools graded "D" or "F" a higher percentage than the school district average of temporarily certified teachers, teachers in need of improvement, and out-of-field teachers.<sup>37</sup> However, in 2011, SB 736 established four separate evaluation ratings to be used for instructional personnel and administrators, including the ratings of "needs improvement" and "unsatisfactory."<sup>38</sup>

#### Effect of Proposed Changes

The bill updates statutory language by replacing the phrase "teachers in need of improvement" with the statutorily defined ratings of "needs improvement" or "unsatisfactory."

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

Section 1. Amends s. 1002.20, F.S.; including certain public and private education options.

Section 2. Amends s. 1002.21, F.S.; requiring state universities and Florida College System institutions to annually notify students of certain financial information related to cost of instruction.

Section 3. Amends s. 1002.31, F.S.; requiring districts to publish a process for controlled open enrollment; defining capacity; requiring a district school board to annually report the number of student exercising school choice; allowing a parent to enroll his or her child in a public school in the state that has not reached capacity; requiring districts to establish a process for a parent to request his or her

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<sup>34</sup> Section 1012.57(1), F.S.

<sup>35</sup> Section 1012.57(1) and (4), F.S.

<sup>36</sup> Section 1012.57(4), F.S.

<sup>37</sup> Section 1012.2315(2), F.S.

<sup>38</sup> Ch. 2011-1, L.O.F.

child to be transferred to another teacher and providing requirements for the process.

Section 4. Amends s. 1002.33, F.S.; specifying that a charter school with capacity may be open to any student in the state.

Section 5. Amends s. 1010.215, F.S.; requiring certain information to be included in a school financial report.

Section 6. Amends s. 1012.2315, F.S.; conforming language relating to assignment of teachers.

Section 7. Amends s. 1012.57, F.S.; requiring the state board to adopt rules for the issuance of adjunct teaching certificates; allowing adjunct certificates to be used for full-time positions in certain circumstances; allowing charter school boards to issue adjunct certificates.

Section 8. Provides an effective date of July 1, 2015.

## **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:**

The bill requires each district school board to allow a parent to choose to enroll his or her child in and transport his or her child to any public school that has not reached capacity in the district. Further, the bill provides that a parent may enroll his or her child in and transport his or her child to any public school, including charter schools, that has not reached capacity in any school district in the state. The school district must accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

The authorization in the bill for students to enroll in any district in the state would result in a redistribution of funding among the 67 school districts in the Florida Education Finance Program (FEFP). The bill could result in increased state funding needs in the FEFP depending on the choices of parents to enroll in neighboring districts. If students choose into a district where the millage produces more than 90 percent of a district's total FEFP entitlement, the FEFP formula will require more state funding to cover the cost of the student as there would be a corresponding increase in local millage rate as the 90 percent gap decreases. The bill could also result in significant losses of funding in districts

where large numbers of parents and students choice into another district creating a financial hardship in the home district as the funding will be reduced after budget planning has taken place.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

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

Not applicable. The bill does not appear to affect municipal or local governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

The bill requires the State Board of Education to adopt rules for the issuance of adjunct teaching certificates. The bill eliminates district school board authority to adopt such rules.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 24, 2015, the K-12 Subcommittee heard a proposed committee substitute (PCS) for the bill and reported it favorably. The PCS differs from the bill by:

- Specifying that CAPE digital tool certificates, CAPE industry certifications, and collegiate high school programs are public educational choices.
- Requiring that each state university and Florida College System institution annually notify students of state expenditures used for the education of the student.
- Including the Florida Personal Learning Scholarship Accounts Program as a private educational choice.
- Removing the requirement for districts to adopt a controlled open enrollment policy and instead requiring districts to publish a process for controlled open enrollment.
- Removing the requirement that students participating in controlled open enrollment be placed on a first-come, first-serve basis.
- Providing that capacity for controlled open enrollment purposes is determined by grade level to mean 90% of the allowable core class size for class average based upon class size calculation.
- Removing language stating that high school student athletic eligibility may be impacted by attendance at a school not assigned by the district.
- Removing language related to requests for transfer from a classroom with an out-of-field teacher.

The bill analysis reflects the committee substitute as passed by the K-12 Subcommittee.