

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7087 and HB 7091 Education Law Repeals

SPONSOR(S): Education Committee and K-20 Innovation Subcommittee and K-20 Competitiveness Subcommittee, Stargel and others

TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|----------------------------------|------------------|----------|------------------------------------------|
| Orig. Comm.: Education Committee | 11 Y, 5 N, As CS | Guilford | Klebacha |

SUMMARY ANALYSIS

The bill repeals programs that were never implemented or are no longer funded. The programs are: Digital Divide Council and the associated Pilot Project for Discounted Computers and Internet Access for Low-Income Students; the Institute on Urban Policy and Commerce; the Community and Faith-based Organizations Initiative; the Community and Library Technology Access Partnership; the Community computer access grant program; Adult Literacy Centers; the Florida Literacy Corps; Preteacher and Teacher Education Pilot programs, the Teacher Education Pilot Programs for High-Achieving Students; the Merit Award Program; the Critical Teacher Shortage Program, which includes: the Florida Teacher Scholarship and Forgivable Loan Program, the Critical Teacher Shortage Tuition Reimbursement Program, and the Critical Teacher Shortage Student Loan Forgiveness Program.

The bill also repeals obsolete provisions of law governing the criteria for awarding continuing contracts and professional service contracts.

In addition, the bill repeals a section of law found unconstitutional that prohibits any person in the state of Florida from falsely claiming to possess an academic degree, or the title associated with that degree, unless the person has been awarded the degree from an accredited institution.

Finally, the bill repeals the requirement for students who took Algebra I in the middle grades from 2007-2008 through 2009-2010 to take the Algebra I end-of-course assessment in the 2010-2011 school year. Approximately 39,600 students would not have to take the Algebra I assessment.

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

The bill takes effect upon becoming law, except as otherwise provided.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill repeals programs that were never implemented or are no longer funded.

Digital Divide Council¹

The Digital Divide Council was established in 2001 to facilitate the design and implementation of programs to help at-risk families bridge the digital divide. This program is no longer operational. The last annual report produced by the Digital Divide Council occurred in 2008, and the requirement for such report has been repealed. The Department of Education supports repeal of this section.

The bill repeals s. 445.049, F.S., creating the Digital Divide Council.

Making False Claims of Academic Degree or Title²

In 1989, legislation was enacted to prohibit any person in the state of Florida from falsely claiming to possess an academic degree, or the title associated with that degree, unless the person has been awarded the degree from an accredited institution. Florida law specified that a person who violates the law commits a misdemeanor of the first degree and is subject to suspension or revocation of their license or certification to practice an occupation or profession.

In 1995, this provision was found unconstitutional. The court held that prohibiting people from claiming to hold academic degrees or titles unless such degrees or titles had been conferred by accredited institutions violated the First Amendment. A state may not place an absolute prohibition on certain types of misleading information if the information may also be presented in a way that is not deceptive. "A state may consider 'requiring a disclaimer about the certifying organization or the standards of a specialty.'"³

The bill repeals s. 817.567, F.S., relating to Making False Claims of Academic Degree or Title.

Discounted Computers and Internet Access for Low-Income Students; Pilot Project⁴

This program was enacted in 2006 to assist low-income students in purchasing discounted computers and internet access services. The last appropriation for the pilot project was in FY 2006-07. The Department of Education supports repeal of this section.

The bill repeals s. 1001.291, F.S., which implemented the pilot program for discounted computers and internet access for low-income students.

Institute on Urban Policy and Commerce⁵

The Institute on Urban Policy and Commerce was established in 1999 to improve the quality of life in urban communities through research, teaching, and outreach activities. The institute is no longer operational. The last appropriation provided to the institute occurred in FY 1999-00. The Florida Agricultural and Mechanical University supports repeal of this section.

The bill repeals s. 1004.50, F.S., creating the Institute on Urban Policy and Commerce at Florida

¹ Section 445.049, F.S.

² Section 817.567, F.S.

³ See *Strang v. Satz*, 884 F.Supp. 504, 510 (U.S. S.D. Fla. 1995).

⁴ Section 1001.291, F.S.

⁵ Section 1004.50, F.S.

Community and Faith-based Organizations Initiative; Community and Library Technology Access Partnership and Community computer access grant program⁶

The Community and Faith-based Organizations Initiative; Community and Library Technology Access Partnership and Community computer access grant program were enacted in 2001 to expand community Internet access through partnerships with public libraries. At the time, the majority of Floridians did not have access to the internet at home. Currently in Florida 81 percent of all households own a computer and 79 percent of households have home Internet service.

Also, now all Florida public libraries offer Internet access programs that include extensive numbers of publicly available Internet workstations throughout the community served. Florida public libraries also provide training and point of use assistance in the use of the Internet and are now seeking to provide broadband services that are far more complex to maintain than dial-up Internet connections.

Given the services in place in public libraries today, the goals of the Community and Faith-based Organizations Initiative; Community and Library Technology Access Partnership and Community computer access grant program as conceived in 2001 are no longer relevant to Florida communities.

The bill repeals ss. 1004.51 and 1004.52, F.S., relating to Community and Faith-based Organizations Initiative and Community and Library Technology Access Partnership and Community computer access grant program. The Department of State supports repeal of these sections.

Adult Literacy Centers⁷

The Adult Literacy Centers were authorized in 1992, to establish and operate Adult Literacy Centers, with the assistance of community colleges and public school districts. The centers were required to identify, contact, counsel, and refer persons considered to be lacking in basic or functional literacy skills to the appropriate private and public agencies. These adult literacy centers are no longer in operation. The last appropriation was provided in FY 1999-00. The Department of Education supports repeal of this section.

The bill repeals s. 1004.95, F.S., authorizing Adult Literacy Centers.

Florida Literacy Corps⁸

The Florida Literacy Corps was enacted in 1992 to offer eligible postsecondary students the opportunity to perform a public service while earning college credit as volunteer tutors for adults who do not possess basic or functional literacy skills. No appropriation has been provided to the Florida Literacy Corps. The Department of Education has not received an annual report since the Florida Literacy Corps was enacted. The Department of Education supports repeal of this section.

The bill repeals s. 1004.97, F.S., establishing the Florida Literacy Corps.

Preteacher and Teacher Education Pilot Programs⁹ and the Teacher Education Pilot Programs for High-Achieving Students.¹⁰

The Preteacher and Teacher Education Pilot Programs were authorized in law in 1990. State universities and community colleges were to establish such programs to encourage promising minority students to prepare for a career in education. Pilot programs were to be designed to recruit and provide

⁶ Sections 1004.51 and 1004.52, F.S.

⁷ Section 1004.95, F.S.

⁸ Section 1004.97, F.S.

⁹ Section 1004.04(11), F.S.

¹⁰ Section 1004.04(12), F.S.

additional academic, clinical, and counseling support for students whom the state universities and community colleges judged to be potentially successful teacher education candidates, but who may not meet teacher education program admission standards.

The Teacher Education Pilot Programs for High-Achieving Students were enacted in 2001. The Commissioner of Education was to authorize pilot teacher preparation programs to be established at colleges and universities with state-approved teacher education programs. These programs were to include a year-long paid teaching assignment and competency-based learning experiences and were to be designed to encourage high-achieving students, as identified by the state universities and community colleges, to pursue a career in education.

These two pilot programs are no longer being utilized by any teacher preparation program and are not funded.

The bill repeals s. 1004.04(11) and (12), F.S., relating to teacher education pilot programs. The Department of Education supports repeal of these provisions.

The Critical Teacher Shortage Program¹¹

The Critical Teacher Shortage Program includes three separate programs, the Florida Teacher Scholarship and Forgivable Loan Program, the Critical Teacher Shortage Tuition Reimbursement Program, and the Critical Teacher Shortage Student Loan Forgiveness Program.

The Florida Teacher Scholarship and Forgivable Loan Program became effective July 1, 1993. The program was established to provide scholarship assistance to eligible students for lower-division undergraduate study and loan assistance to eligible students in upper-division undergraduate and graduate study. The purpose of the program was to draw capable and promising students to the teaching profession, attract teachers to areas of projected or current critical teacher shortage, attract liberal arts and science graduates to teaching, and provide opportunity for persons making midcareer decisions to enter the teaching profession.

The Critical Teacher Shortage Tuition Reimbursement Program was established in 1983 to advance the skills and knowledge of current teachers or persons preparing to teach in critical teacher shortage areas.

The Critical Teacher Shortage Student Loan Forgiveness Program was also established in 1983 and was designed to encourage qualified personnel to seek employment in subject areas in which critical teacher shortages exist. The purpose of the program was to make repayments toward loans received by students from federal programs or commercial lending institutions to support postsecondary education study.

These programs are no longer funded. There were only 4,716 total participants in 2009 for all the Critical Teacher Shortage Programs combined.

The bill repeals s. 1009.54, F.S., relating to the Critical Teacher Shortage Program; s. 1009.57, F.S., relating to the Florida Teacher Scholarship Forgivable Loan Program; s. 1009.58, F.S., relating to the Critical Teacher Shortage Tuition Reimbursement Program; and s. 1009.59, F.S., relating to the Critical Teacher Shortage Student Loan Forgiveness Program. The bill also makes conforming changes to ss. 1003.52(10), 1009.40(1)(a), 1009.94(2)(c), and 1012.07, F.S. The Department of Education supports repeal of these provisions.

¹¹ Section 1009.54, F.S.

Merit Award Program for Instructional Personnel and School-Based Administrators; Merit Award Program End-of-Course Examinations; Merit Award Program Impasse Hearing

The Merit Award Program (MAP) was established in 2007. The program provides merit-based pay supplements for high-performing school employees in participating school districts. A school district that participates in MAP must be able to administer end-of-course examinations in all grade groupings and subjects for any year in which the district participates in the program.

In the 2010-11 school year, only three school districts participated in the Merit Award Program.¹²

Current law provides for an expedited impasse hearing for collective bargaining disputes between a school board and teacher's union regarding the Merit Award Program. Because the bill repeals the Merit Award Program, this impasse procedure is also repealed.

The bill repeals ss. 1012.225 and 1012.2251, F.S., relating to the Merit Award Program; repeals s. 447.403 (2)(c), F.S., relating to the impasse procedure, and makes conforming changes to ss. 1002.33(20)(a), 1003.52(10), 1009.40(1)(a), 1009.94(2)(c), 1012.07, F.S.

Contracts

Section 1012.33(3)(a), F.S., sets forth the requirements for awarding continuing contracts. Continuing contracts have not been awarded since 1984. This paragraph is obsolete with regard to continuing contracts. The remaining provisions in paragraph (a), and the provisions in paragraphs (b) and (c), regarding professional service contracts are superseded as a result of the passage of CS/CS/SB 736.

The bill repeals s. 1012.33(a)(b)(c), F.S., effective July 1, 2011.

Algebra End-Of-Course Assessment¹³

Beginning in the 2011-12 school year, entering 9th grade students, must take and pass the statewide end-course-assessment (EOC) for Algebra I, in order to earn course credit.¹⁴ Although students have been required to take and pass the Algebra I course to earn high school credit, students were not previously required to take and pass an EOC associated with the course.¹⁵

Beginning in the 2010-11 school year, there will no longer be a ninth grade Math FCAT and beginning in the 2011-12 school year, there will no longer be a tenth grade Math FCAT.¹⁶ Federal law requires that all public school students be tested in reading and math at least once at the elementary, middle, and high school level.¹⁷ To comply with the federal law, students who earned high school credit for Algebra I while in middle school in the 2007-08 through 2009-10 school years and who have not taken the tenth grade Math FCAT are required to take the Algebra I EOC.¹⁸ This provision was enacted to satisfy the federal testing requirements. The Department of Education estimates that approximately 39,600 students completed Algebra I in the middle grades, and will not take the 10th grade Math FCAT; therefore they are required to take the Algebra I EOC in May 2011.¹⁹

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. As a result, the Department of Education submitted a request to the U.S. Department of

¹² Duval, Hillsborough, and Gilchrist. Email, Florida House PreK-12 Appropriations Subcommittee staff (March 11, 2011).

¹³ Section 1008.22(3), F.S.

¹⁴ s. 1008.22(3)(c) 2.a.(I), F.S.

¹⁵ s. 1008.22(3)(c)2.a.(I), F.S.

¹⁶ s. 1008.22(3)(c)1., F.S.

¹⁷ 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>.

¹⁸ s. 1008.22(3)(c)2.a.(I), F.S.

¹⁹ Email, Florida Department of Education, on file with the committee (March 7, 2011).

Education for a waiver from the federal law for the specific cohort of students who are affected. The waiver was granted on January 19, 2011.²⁰

B. SECTION DIRECTORY:

Section 1: Repealing s. 445.049, F.S.; relating to the Digital Divide Council.

Section 2: Repealing s. 817.567, F.S.; relating to Making False Claims of Academic Degree or Title.

Section 3: Repealing s. 1001.291, F.S.; relating to Discounted Computers and Internet Access for Low-Income Students; Pilot Project.

Section 4: Repealing s. 1004.50, F.S.; relating to the Institute on Urban Policy and Commerce.

Section 5: Repealing s. 1004.51, F.S.; relating to community and Faith-based Organizations Initiative; Community and Library Technology Access Partnership.

Section 6: Repealing s. 1004.52, F.S.; relating to Community computer access grant program.

Section 7: Repealing s. 1004.95, F.S.; relating to Adult Literacy Centers.

Section 8: Repealing s. 1004.97, F.S.; relating to Florida Literacy Corps.

Section 9: Repealing s. 1004.04(11) and (12), F.S.; relating to teacher education pilot projects.

Section 10: Repealing s. 1009.54, F.S.; relating to the Critical Teacher Shortage Program; s. 1009.57, F.S.; relating to the Florida Teacher Scholarship Forgivable Loan Program; s. 1009.58, F.S.; relating to the Critical Teacher Shortage Tuition Reimbursement Program; and, s. 1009.59, F.S.; relating to the Critical Teacher Shortage Student Loan Forgiveness Program.

Section 11: Repealing s. 1012.225, F.S.; relating to the Merit Award Program; and s. 1012.2251, F.S.; relating to assessments for awarding merit pay under the Merit Award Program.

Section 12: Repealing s. 447.403 (2)(c), F.S.; relating to resolution of collective bargaining disputes concerning the Merit Award Program.

Section 13: Conforming s. 1002.33 (20)(a), F.S.; reflecting repeal of s. 1012.225, F.S.

Section 14: Conforming s. 1003.52 (10), F.S.; reflecting repeal of s. 1009.58, F.S.

Section 15: Conforming s. 1009.40 (1)(a), F.S.; reflecting repeal of s. 1009.54, F.S.; and 1009.57, F.S.

Section 16: Conforming s. 1009.94 (2)(c), F.S.; reflecting repeal of ss. 1009.54, 1009.57, F.S.

Section 17: Conforming s. 1011.62(7)(d), F.S.; reflecting repeal of s. 1012.225, F.S.

Section 18: Conforming s. 1012.07, F.S.; reflecting repeal of ss. 1009.57, 1009.58, 1009.59; F.S.

Section 19: Repealing s. 1012.33(3)(a), (b), and (c), F.S.; relating to the criteria for awarding continuing contracts and professional service contracts (effective July 1, 2011).

Section 20: Amending s. 1008.22(3)(c), F.S.; relating to student assessment program for public schools.

Section 21: Providing an effective date of upon becoming law, except as otherwise provided.

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.

²⁰ 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).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2011, the Education Committee reported PCSMB for HB 7087 and HB 7091 favorably as a committee substitute.

The PCSMB combined HB 7087 by the K-20 Innovation Subcommittee and Representative Stargel, and HB 7091 by the K-20 Competitiveness Subcommittee and Representative Fresen. The PCSMB made no changes to HB 7091. The PCSMB repealed (rather than amended) ss. 1004.51 and 1004.52, F.S., relating to the Community and Faith-based Organizations Initiative; the Community and Library Technology Access Partnership; and the Community computer access grant program referenced in HB 7087.

In addition, the PCSMB repealed the requirement that students who took Algebra I in the middle grades from 2007-2008 through 2009-2010 had to take the Algebra I end-of-course assessment in the 2010-2011 school year.