

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB SLC 07-01 Performance-based Pay Bonuses
SPONSOR(S): Schools & Learning Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Schools & Learning Council		Kooi	Cobb
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill establishes the Performance-based pay plan program for instructional personnel and school-based administrators and sets forth findings and intent. District participation in the program is voluntary, but districts will only receive their appropriation if they choose to adopt a plan under this section. The funds for districts that do not choose to participate are redistributed to participating districts.

District performance-based pay plans must require that each employee must first meet the criteria set forth by the district for its principal/superintendent appraisal. Those employees that meet this criteria, will then qualify for a performance-based bonus based upon objectively measured, significantly improved student performance of assigned students. Improved student performance is to be measured by statewide standardized tests and, for grades and courses not covered the statewide assessment program, by locally determined testing instruments that meet certain criteria. District measurement of improved student performance may not allow an unfair advantage to employees based upon the achievement level of their students at the time the students are assigned to the employee.

The plans are subject to collective bargaining under Ch. 447, F.S., and the Auditor General is responsible for compliance monitoring of district performance-based pay plans with assistance from the Department of Education (DOE).

The Florida School Recognition Program is incorporated into the performance-based pay bonuses program and the funds are required to be used for bonuses to all faculty and staff at the qualifying school during the year it qualified. The amounts of these bonuses are subject to negotiation through collective bargaining.

STAR proviso language from the 2006 General Appropriations Act (GAA) is codified, but will expire June 30, 2007. STAR implementation deadlines are pushed back to May 1, 2007 for revisions, and June 30, 2007 for approval.

The former personnel assessment system requirement in s. 1012.34, F.S. is revised and a new personnel appraisal system requirement is established that includes instructional personnel as well as administrative and supervisory personnel. District personnel appraisal systems are approved by districts and reviewed by DOE and are required to use the Florida Educator Accomplished Practices as an evaluation tool.

Funding for this program is subject to the legislative appropriation in the 2007-08 GAA, see FISCAL ANALYSIS section below.

The bill also provides that, except as otherwise provided, this act shall take effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb01.SLC.doc
DATE: 3/9/2007

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - The bill increases the State Board of Education's rulemaking authority. It also increases the responsibilities of the Auditor General by requiring the monitoring the compliance of district performance-based pay plans. The Department of Education is also required to provide technical assistance and assist the Auditor General in monitoring compliance.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to examine school district performance pay plans. In January 2007, OPPAGA published Report No. 07-01, *Restrictive District Requirements Limited Participation in Performance Pay Systems*. This report found that, historically, most Florida district school boards have paid teachers using salary schedules that have been based on input factors such as highest degree earned, and years of experience.

The 1997 Legislature instructed districts to base a portion of instructional personnel compensation on performance. The 1999 Legislature required districts to implement, by June 30, 2002, performance pay plans that would award 5% bonuses to school administrators and instructional personnel who demonstrated outstanding performance. Districts were to create a reserve fund within their existing budgets to fully fund the additional 5% bonuses.¹

In implementing performance pay plans, districts are to evaluate instructional personnel primarily on the performance of students assigned to their classrooms or schools, as appropriate. Where applicable, districts must measure student performance by using the Florida Comprehensive Assessment Test (FCAT), the designated state assessment test. In subjects and grade levels that are not covered by the FCAT, districts may use local assessments of student performance.²

Districts have the flexibility in assessing the performance of instructional personnel; however, current law sets forth the specific skill-based criteria that districts must include in their evaluation of instructional personnel for performance pay.³ These criteria are the ability to maintain appropriate discipline; knowledge of subject matter; ability to plan and deliver instruction; the use of technology in the classroom; ability to evaluate instructional needs; and ability to establish and maintain a positive relationship with students' families.⁴

The 2006 Legislature established the Special Teachers Are Rewarded (STAR) program for elementary, middle, and high school instructional personnel and appropriated \$147.5 million to the program in the 2006-2007 General Appropriations Act.⁵ In order to receive those funds, districts were required to remove all barriers to eligibility and award 5% performance bonuses to the top performing 25% of their instructional personnel.⁶

¹ OPPAGA: *Restrictive District Requirements Limited Participation in Performance Pay Systems*. Report No. 07-01. January 2007.

² Id.

³ s. 1012.34(3)(a), F.S.

⁴ OPPAGA: *Restrictive District Requirements Limited Participation in Performance Pay Systems*. Report No. 07-01. January 2007.

⁵ 2006-2007 General Appropriation Act, Specific Appropriation 91

⁶ OPPAGA: *Restrictive District Requirements Limited Participation in Performance Pay Systems*. Report No. 07-01. January 2007.

Districts may choose whether to participate in STAR but all districts must implement approved performance pay plans⁷ for their instructional personnel. Districts participating in STAR may use any remaining funds to award to provide performance rewards to award additional instructional or school-based administrative personnel. Districts electing not to participate in STAR still must implement approved performance pay plans⁸ for their instructional personnel and are required to pay for performance pay out of other funds.⁹

Effects of Proposed Changes

The bill establishes the Performance-based pay plan program for instructional personnel and school-based administrators and sets forth findings and intent. District participation in the program is voluntary. However, districts will only receive their appropriation for performance pay bonuses if they choose to adopt a plan under this section. Districts that choose not to participate must still negotiate a performance pay plan pursuant to s. 1012.22(1)(c), F.S.

In order to be eligible for funding under this program, district plans must reward eligible employees based upon objectively measured, significantly improved student performance of assigned students as well as principal or superintendent evaluations. All instructional personnel¹⁰ and school-based administrators¹¹ are eligible for performance pay bonuses without having to apply. Substitute teachers are not included.

Individual performance-based pay bonuses are subject to collective bargaining under Ch. 447. An exception is provided relating to the requirements of s. 447.403, F.S., which allows the district and the union to move past the appointment of a mediator or special magistrate and on to resolution of the impasse where one of the parties does not wish to seek such an appointment.

Charter schools are also eligible for both individual and school recognition bonuses. If a charter school follows a district's salary schedule the charter school should be included within the district's plan. However, if a charter school does not follow the district's salary schedule or the district chooses not to adopt a plan, the charter school may adopt their own performance-based pay plan pursuant to the requirements of the statute.

The funds for districts that choose not to participate in the program are redistributed to participating districts. Each participating district will receive a pro rata share of any such remaining funds. All funds appropriated for the performance-based pay plan program must be disbursed to the qualifying employees by September 1 of the following school year.

The bonuses may not exceed \$10,000 per individual recipient and must be an equal amount provided to each employee that qualifies. The employee must also remain employed at a Florida public school in order to receive the bonus. If all qualifying employees receive a \$10,000 bonus and there is still funds remaining from the district allocation, such funds shall be rolled over to the following year for bonuses to qualifying employees.

Performance-based pay bonuses may not adversely affect the opportunity of the recipient to receive any other compensation made available to other teachers and principals within the district. Additionally, these bonuses are not available for contribution to the Florida Retirement System.

District performance-based pay plans must require that each employee must first meet the criteria set forth by the district for its principal/superintendent appraisal. The district determined factors must include, but are not limited to:

⁷ s. 1012.22(1)(c), F.S.

⁸ s. 1012.22(1)(c), F.S.

⁹ OPPAGA: *Restrictive District Requirements Limited Participation in Performance Pay Systems*. Report No. 07-01. January 2007.

¹⁰ s. 1012.01(2), F.S., provides for the definition of instructional personnel.

¹¹ s. 1012.01(3), F.S., provides for the definition of administrative personnel.

1. ability to maintain discipline,
2. outstanding knowledge of subject matter and ability to deliver high quality instruction,
3. outstanding principal management skills, including teacher recruitment and retention,
4. ability to evaluate student instructional needs,
5. ability of teachers and principals to work well with parents and families of students, and
6. the Florida Educator Accomplished Practices for instructional personnel and the Florida Principal Leadership Standards for school-based administrators.

Those employees that meet the criteria set forth by the district regarding the principal/superintendent appraisal are then evaluated based on the objectively measured significantly improved student performance of the students assigned to the employee. "Significantly improved student performance" is defined as a three-fourths standard deviation¹² above the prior year district average of improved student performance for the employee's grade and/or subject area grouping. The mean should be determined based upon a point system or other methodology that evaluates employees based upon the level of learning gains of each of the employee's students.

The DOE is required to make available a model methodology to assist districts in determining how to measure the value of improved student performance in a fair and equitable manner. District measurement of improved student performance may not allow an unfair advantage to employees based upon the achievement level of their students at the time the students are assigned to the employee.

If the teacher or principal deals with students school-wide, he or she will be evaluated according to the learning gains of the entire student body. Improved student performance is to be measured by statewide standardized tests and, for grades and courses not covered by the statewide assessment program, by locally determined testing instruments that meet certain criteria.

Districts are required to annually review their plans for compliance and issue a report that must be sent to the Commissioner of Education and the Auditor General. Compliance monitoring of district performance-based pay plans are to be performed by the Auditor General with assistance from DOE. DOE is also required to provide technical assistance for the purposes of aiding the development, revision, improvement and monitoring of such plans and must collect and disseminate best practices for locally-determined testing instruments.

The Florida School Recognition Program is incorporated into the performance-based pay plan program and the funds are required to be used for bonuses to all faculty and staff at the qualifying school during the year such bonuses were earned. School recognition bonuses for faculty and staff at qualifying schools will be subject to collective bargaining pursuant to Ch. 447, F.S., and the amounts of the bonuses are also subject to negotiation.

In addition to being provided to schools with a grade of "A" and schools that improve by at least one letter grade, school recognition funds are also to be awarded to schools with a substantial improvement within a school grade designation or schools that maintain the same school grade the year after raising the school grade by two letter grades.

The STAR proviso language from the 2006-07 GAA is codified, but will sunset at the end of the 2006-2007 school year. The STAR deadlines for submission and approval of district plans are pushed back to May 1, 2007 for revisions, and June 30, 2007 for approval. Any district that is able to adopt and have a plan

¹² The standard deviation is a statistic that tells you how tightly all the various examples are clustered around the mean in a set of data. When the examples (in this case teachers' scores based on improved student achievement) are pretty tightly bunched together and the bell-shaped curve is steep, the standard deviation is small. When the examples are spread apart and the bell curve is relatively flat, that tells you you have a relatively large standard deviation. The same concept holds for three-fourths of a standard deviation. It's simply a fraction of the standard deviation.

Therefore, the standard deviation is basically a function of how widely teacher scores will vary.

See <http://www.robertmiles.com/stats/stdev.shtml>.

STORAGE NAME: pcb01.SLC.doc
DATE: 3/9/2007

approved by June 30, 2007 will receive its appropriation. Any funds that would have been available to districts that choose not to participate will be redistributed to participating districts.

The former personnel assessment system requirement in s. 1012.34, F.S. is revised and a new personnel appraisal system requirement is established that includes instructional personnel as well as administrative and supervisory personnel. The new personnel appraisal requirements also include use of the Florida Educator Accomplished Practices and the Florida Principal Leadership Standards, and provide that assessments selected for personnel appraisal must allow for the comparison of the relative effectiveness of similarly assigned personnel.

Personnel appraisal systems are approved by districts and reviewed by DOE and require a personnel appraisal on an annual basis.

Funding for this program is subject to the legislative appropriation in the 2007-08 GAA, see FISCAL ANALYSIS section below.

The bill also provides that, except as otherwise provided, this act shall take effect upon becoming law.

C. SECTION DIRECTORY:

Section 1. Creates s. 1012.225, F.S., providing findings and legislative intent, establishing a voluntary program for performance-based pay bonuses to be awarded to high performing schools and individual teachers and principals.

Section 2. Codifies the proviso language for the STAR program in the 2006-2007 General Appropriations Act. It revises certain deadlines for submission and approval of district performance pay plans for the 2006-2007 school year and clarifies that appropriated funds are considered encumbered upon approval and adoption of a plan by June 30, 2007.

Section 3. Amends to conform language in s. 1008.34(4), F.S. relating to eligibility for school recognition bonuses.

Section 4. Amends to conform language in s. 1008.34(2)(c), F.S. relating to eligibility for school recognition bonuses.

Section 5. Amends s. 1008.345(7)(b), F.S. to provide deregulated status to school that meet certain requirements.

Section 6. Amends s. 1012.22(1)(c)4., F.S. by removing references to Commissioner of Education authority to withhold lottery funds.

Section 7. Amends s. 1012.28(3), F.S. to conform to changes made to s. 1012.34, F.S.

Section 8. Amends s. 1012.34 removing State Board of Education authority to approve district personnel appraisal systems and adding new requirements and new employees to be covered by such systems.

Section 9. Provides that except as otherwise provided, act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The fiscal impact will be determined in the General Appropriations Act.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

District school boards are free to provide whatever additional funding they may choose to add to provide bonuses to more eligible employees. There may also be some district costs to administer the program.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The 2006 Legislature appropriated \$147.5 million in the 2006-2007 General Appropriations Act, Specific Appropriation 91. The funding for this program is subject to the 2007 Legislative appropriation in the 2007-2008 General Appropriations Act.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority to the State Board of Education for the administration of the program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES