

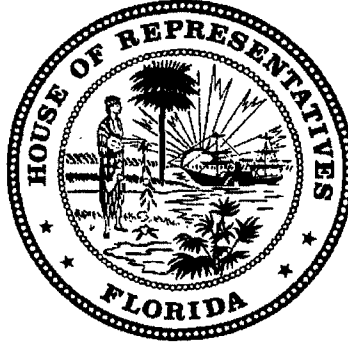
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**K - 12**  
**Subcommittee**  
**Wednesday, March 27, 2013**  
**10:30 a.m. – 12:30 p.m.**  
**17 HOB**

**Meeting Packet**

**Will Weatherford**  
**Speaker**

**Janet H. Adkins**  
**Chair**



## AGENDA

K-12 Subcommittee  
Wednesday, March 27, 2013  
10:30 a.m. – 12:30 p.m.

17 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bill(s):
  - HB 283 Public School Student Participation in Fine Arts Courses by McBurney
  - HB 1031 Instructional Materials for K-12 Public Education by Porter
  - HB 1097 School Safety by Steube
  - PCB KTS 13-04 Public School Personnel
- IV. Closing Remarks and Adjournment



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: K-12 Subcommittee  
2 Representative McBurney offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 1003.499, Florida Statutes is created  
7 to read:

8 1003.499 Fine arts education.-

9 (1) This section may be cited as the "Arts for All  
10 Students Act."

11 (2) The Department of Education shall annually publish and  
12 make available to parents, school district leaders, and school  
13 administrators an "Arts for All Students" annual report for each  
14 K-12 public school. The report shall include data-set metrics  
15 and institutional metrics comparing student achievement,  
16 learning gains, and graduation rates of students participating  
17 in a fine arts education curriculum with students who do not  
18 participate in such curriculum. An analysis of students  
19 participating in a fine arts education curriculum and in English  
20 for Speakers of Other Languages programs, exceptional student

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 283 (2013)

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21 education programs, and free or reduced-price meal programs  
22 should be included in the report.

23 (3) A fine arts curriculum includes visual arts, music,  
24 dance, and theatre courses.

25 (4) (a) The department shall establish an "Arts for All  
26 Students" advisory committee composed of experts in the field of  
27 fine arts education. The advisory committee shall use specified  
28 data sets to develop criteria and a formula for granting K-12  
29 public schools and school districts an "Arts for All Students"  
30 model school designation or "Arts for All Students" model school  
31 district designation.

32 (b) The department shall use the criteria and formula  
33 recommendations of the advisory committee to annually award  
34 "Arts for All Students" model school designations and "Arts for  
35 All Students" model school district designations to eligible  
36 schools and school districts.

37 (5) Data used by the advisory committee and the department  
38 for awarding the model school and model school district  
39 designations must include, but not be limited to:

40 (a) Fine arts course offerings by grade level.

41 (b) Number of students enrolled in fine arts courses.

42 (c) Number of students enrolled in more than one fine arts  
43 course or discipline per academic year.

44 (d) Number of hours dedicated to fine arts education by  
45 arts discipline.

46 (e) Certification level of teachers providing fine arts  
47 education in specified areas.

48 (f) Number of designed, equipped, and dedicated classroom

Amendment No. 1

49 spaces for fine arts instruction.

50 (6) The department shall include the data specified in  
51 subsection (5) in the "Arts for All Students" annual report.

52 Section 2. Paragraph (d) is added to subsection (3) of  
53 section 1008.34, Florida Statutes, to read:

54 1008.34 School grading system; school report cards;  
55 district grade.-

56 (3) DESIGNATION OF SCHOOL GRADES.-

57 (d) Beginning with the 2013-2014 school year for schools  
58 comprised of any of grade kindergarten through grade 12, the  
59 school's grade shall include a maximum of 10 bonus points, to be  
60 determined by the Department of Education for the participation  
61 rate and as valid data becomes available, the performance of  
62 student who are enrolled in fine arts courses, which are visual  
63 arts, music, dance, and theatre courses.

64 Section 3. This act shall take effect July 1, 2013.

65

66

67

**T I T L E A M E N D M E N T**

68

Remove lines 2-10 and insert:

69

An act relating to the "Arts for All Students Act"; creating s.  
70 1003.499, F.S.; providing a short title; requiring the  
71 Department of Education to publish an "Arts for All Students"  
72 annual report; providing for content of the report; requiring  
73 the department to establish an advisory committee to develop  
74 criteria and a formula for granting "Arts for All Students"  
75 model school and model school district designations; providing  
76 for annual award of the designations; specifying data

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77 requirements; providing reporting requirements; amending s.  
78 1008.34, F.S., relating to the school grading system; providing  
79 for up to 10 bonus points for participation in fine arts;  
80 providing for an effective date.

81

1                                   A bill to be entitled  
 2       An act relating to public school student participation  
 3       in fine arts courses; amending s. 1008.34, F.S.;  
 4       requiring annual reporting of participation in fine  
 5       arts courses and compliance with standards for  
 6       curricular content; revising the basis for the  
 7       designation of school grades to include the  
 8       participation rate of students who are enrolled in  
 9       fine arts courses; correcting terminology; providing  
 10      an effective date.

11  
 12   Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Subsection (1) and paragraphs (b) and (c) of  
 15   subsection (3) of section 1008.34, Florida Statutes, are amended  
 16   to read:

17           1008.34 School grading system; school report cards;  
 18   district grade.—

19           (1) ANNUAL REPORTS.—The Commissioner of Education shall  
 20   prepare annual reports of the results of the statewide  
 21   assessment program which describe student achievement in the  
 22   state, each district, and each school. The commissioner shall  
 23   prescribe the design and content of these reports, which must  
 24   include descriptions of the performance of all schools  
 25   participating in the assessment program and all of their major  
 26   student populations as determined by the commissioner. The  
 27   report must ~~also~~ include the percent of students performing at  
 28   or above grade level and making a year's learning growth in a



29 year's time in reading and mathematics. The report must also  
 30 include a description based on annual reporting by schools of  
 31 student access to, and participation in, fine arts courses, the  
 32 number and certification status of educators providing  
 33 instruction in the courses, and the manner in which schools are  
 34 providing the core curricular content for fine arts established  
 35 in the Next Generation Sunshine State Standards. The provisions  
 36 of s. 1002.22 pertaining to student records apply to this  
 37 section.

38 (3) DESIGNATION OF SCHOOL GRADES.—

39 (b)1. A school's grade shall be based on a combination of:

40 a. Student achievement scores, including achievement as  
 41 measured by FCAT assessments under s. 1008.22(3)(c)1.,  
 42 statewide, standardized end-of-course assessments under s.  
 43 1008.22(3)(c)2.a. and b., and achievement scores for students  
 44 seeking a special diploma.

45 b. Student learning gains in reading and mathematics as  
 46 measured by FCAT and statewide, standardized end-of-course  
 47 assessments, as described in s. 1008.22(3)(c)1. and 2.a.,  
 48 including learning gains for students seeking a special diploma,  
 49 as measured by an alternate assessment.

50 c. Improvement of the lowest 25th percentile of students  
 51 in the school in reading and mathematics on the FCAT or end-of-  
 52 course assessments described in s. 1008.22(3)(c)2.a., unless  
 53 these students are exhibiting satisfactory performance.

54 2. Beginning with the 2011-2012 school year~~7~~ for schools  
 55 comprised of middle school grades 6 through 8 or grades 7 and 8,  
 56 the school's grade shall include the performance and

57 participation of its students enrolled in high school level  
 58 courses with end-of-course assessments administered under s.  
 59 1008.22(3)(c)2.a. Performance and participation must be weighted  
 60 equally. As valid data becomes available, the school grades  
 61 shall include the students' attainment of national industry  
 62 certification identified in the Industry Certification Funding  
 63 List pursuant to rules adopted by the state board.

64 3. Beginning with the 2009-2010 school year for schools  
 65 comprised of high school grades 9, 10, 11, and 12, or grades 10,  
 66 11, and 12, at least 50 percent of the school grade shall be  
 67 based on a combination of the factors listed in sub-  
 68 subparagraphs 1.a.-c. and the remaining percentage on the  
 69 following factors:

- 70 a. The high school graduation rate of the school;
- 71 b. As valid data becomes available, the performance and  
 72 participation of the school's students in College Board Advanced  
 73 Placement courses, International Baccalaureate courses, dual  
 74 enrollment courses, and Advanced International Certificate of  
 75 Education courses; and the students' achievement of national  
 76 industry certification identified in the Industry Certification  
 77 Funding List, pursuant to rules adopted by the state board;
- 78 c. Postsecondary readiness of all of the school's on-time  
 79 graduates as measured by the SAT, the ACT, the Postsecondary  
 80 Education Readiness Test, or the common placement test;
- 81 d. The high school graduation rate of at-risk students,  
 82 who are students scoring at Level 1 or Level 2 on grade 8 FCAT  
 83 Reading and FCAT Mathematics;
- 84 e. As valid data becomes available, the performance of the

85 school's students on statewide, standardized end-of-course  
 86 assessments administered under s. 1008.22(3)(c)2.c. and d.; and  
 87 f. The growth or decline in the components listed in sub-  
 88 subparagraphs a.-e. from year to year.

89 4. Beginning with the 2013-2014 school year for schools  
 90 comprised of any of grades kindergarten through grade 12, the  
 91 school's grade shall include the participation rate of students  
 92 who are enrolled in fine arts courses, which are visual arts,  
 93 music, dance, and theatre courses.

94 (c) Student assessment data and participation rates used  
 95 in determining school grades shall include:

96 1. The aggregate scores of all eligible students enrolled  
 97 in the school who have been assessed on the FCAT and statewide,  
 98 standardized end-of-course assessments in courses required for  
 99 high school graduation, including, beginning with the 2011-2012  
 100 school year, the end-of-course assessment in Algebra I; and  
 101 beginning with the 2012-2013 school year, the end-of-course  
 102 assessments in geometry and Biology I; and beginning with the  
 103 2014-2015 school year, on the statewide, standardized end-of-  
 104 course assessment in civics education at the middle school  
 105 level.

106 2. The aggregate scores of all eligible students enrolled  
 107 in the school who have been assessed on the FCAT and statewide,  
 108 standardized end-of-course assessments as described in s.  
 109 1008.22(3)(c)2.a., and who have scored at or in the lowest 25th  
 110 percentile of students in the school in reading and mathematics,  
 111 unless these students are exhibiting satisfactory performance.

112 3. The achievement scores and learning gains of eligible

113 students attending alternative schools that provide dropout  
 114 prevention and academic intervention services pursuant to s.  
 115 1003.53. The term "eligible students" in this subparagraph does  
 116 not include students attending an alternative school who are  
 117 subject to district school board policies for expulsion for  
 118 repeated or serious offenses, who are in dropout retrieval  
 119 programs serving students who have officially been designated as  
 120 dropouts, or who are in programs operated or contracted by the  
 121 Department of Juvenile Justice. The student performance data for  
 122 eligible students identified in this subparagraph shall be  
 123 included in the calculation of the home school's grade. As used  
 124 in this subparagraph and s. 1008.341, the term "home school"  
 125 means the school to which the student would be assigned if the  
 126 student were not assigned to an alternative school. If an  
 127 alternative school chooses to be graded under this section,  
 128 student performance data for eligible students identified in  
 129 this subparagraph shall not be included in the home school's  
 130 grade but shall be included only in the calculation of the  
 131 alternative school's grade. A school district that fails to  
 132 assign the FCAT and statewide, standardized end-of-course  
 133 assessment as described in s. 1008.22(3)(c)2.a. scores of each  
 134 of its students to his or her home school or to the alternative  
 135 school that receives a grade shall forfeit Florida School  
 136 Recognition Program funds for 1 fiscal year. School districts  
 137 must require collaboration between the home school and the  
 138 alternative school in order to promote student success. This  
 139 collaboration must include an annual discussion between the  
 140 principal of the alternative school and the principal of each

141 student's home school concerning the most appropriate school  
 142 assignment of the student.

143 4. The achievement scores and learning gains of students  
 144 who are hospitalized ~~designated as hospital-~~ or homebound.  
 145 Student assessment data for students who are hospitalized  
 146 ~~designated as hospital-~~ or homebound shall be assigned to their  
 147 home school for the purposes of school grades. As used in this  
 148 subparagraph, the term "home school" means the school to which a  
 149 student would be assigned if the student were not assigned to a  
 150 hospital/homebound ~~hospital- or homebound~~ program.

151 5. For schools comprised of high school grades 9, 10, 11,  
 152 and 12, or grades 10, 11, and 12, the data listed in  
 153 subparagraphs 1.-3. and the following data as the Department of  
 154 Education determines such data are valid and available:

155 a. The high school graduation rate of the school as  
 156 calculated by the department;

157 b. The participation rate of all eligible students  
 158 enrolled in the school and enrolled in College Board Advanced  
 159 Placement courses; International Baccalaureate courses; dual  
 160 enrollment courses; Advanced International Certificate of  
 161 Education courses; and courses or sequences of courses leading  
 162 to national industry certification identified in the Industry  
 163 Certification Funding List, pursuant to rules adopted by the  
 164 State Board of Education;

165 c. The aggregate scores of all eligible students enrolled  
 166 in the school in College Board Advanced Placement courses,  
 167 International Baccalaureate courses, and Advanced International  
 168 Certificate of Education courses;

169 d. Earning of college credit by all eligible students  
 170 enrolled in the school in dual enrollment programs under s.  
 171 1007.271;

172 e. Earning of a national industry certification identified  
 173 in the Industry Certification Funding List, pursuant to rules  
 174 adopted by the State Board of Education;

175 f. The aggregate scores of all eligible students enrolled  
 176 in the school in reading, mathematics, and other subjects as  
 177 measured by the SAT, the ACT, the Postsecondary Education  
 178 Readiness Test, and the common placement test for postsecondary  
 179 readiness;

180 g. The high school graduation rate of all eligible at-risk  
 181 students enrolled in the school who scored at Level 2 or lower  
 182 on grade 8 FCAT Reading and FCAT Mathematics;

183 h. The performance of the school's students on statewide,  
 184 standardized end-of-course assessments administered under s.  
 185 1008.22(3)(c)2.c. and d.; and

186 i. The growth or decline in the data components listed in  
 187 sub-subparagraphs a.-h. from year to year.

188 6. Beginning with the 2013-2014 school year for schools  
 189 comprised of any of grades kindergarten through grade 12, the  
 190 participation rate of students in the school who are enrolled in  
 191 fine arts courses, which are visual arts, music, dance, and  
 192 theatre courses.

193  
 194 The State Board of Education shall adopt appropriate criteria  
 195 for each school grade. The criteria must also give added weight  
 196 to student achievement in reading. Schools earning a grade of

HB 283

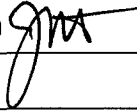
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197 "C," making satisfactory progress, shall be required to  
198 demonstrate that adequate progress has been made by students in  
199 the school who are in the lowest 25th percentile in reading and  
200 mathematics on the FCAT and end-of-course assessments as  
201 described in s. 1008.22(3)(c)2.a., unless these students are  
202 exhibiting satisfactory performance. For schools comprised of  
203 high school grades 9, 10, 11, and 12, or grades 10, 11, and 12,  
204 the criteria for school grades must also give added weight to  
205 the graduation rate of all eligible at-risk students. In order  
206 for a high school to earn a grade of "A," the school must  
207 demonstrate that its at-risk students, as defined in this  
208 paragraph, are making adequate progress.

209 Section 2. This act shall take effect July 1, 2013.

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 283 Public School Student Participation in Fine Arts Courses  
**SPONSOR(S):** McBurney and others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 428

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Beagle GB	Ahearn 
2) Education Appropriations Subcommittee			
3) Education Committee			

**SUMMARY ANALYSIS**

Florida public schools, including charter schools, earn a school grade of A through F based upon student achievement data from statewide, standardized assessments. A school's grade is calculated based upon points earned for student achievement scores on the Florida Comprehensive Assessment Test in Reading, Mathematics, Science, and Writing, the Florida Alternate Assessment (FAA), and statewide, standardized end-of-course (EOC) assessments; student learning gains in reading and mathematics; and the improvement of the lowest 25 percent of students in the school in reading and mathematics. School grades for middle schools include an additional component measuring middle school students' participation and performance on high school level EOC assessments. High school grades are calculated using additional components such as graduation rates, student participation and performance in accelerated courses, and postsecondary readiness of on-time graduates as measured by the SAT, the ACT, the Postsecondary Education Readiness Test, or the common placement test.

The Commissioner of Education must annually report statewide assessment results for the state, school districts, and schools. The annual report must describe the performance of each public school and its major student populations, and include the percent of students performing at or above grade level and making a year's worth of progress in reading and mathematics.

Student participation rates in fine arts courses are not currently factored into school grades or reported in the commissioner's annual report.

Beginning with the 2013-2014 school year, the bill requires each K-12 public school's grade to include the participation rate of students who are enrolled in fine arts courses, which are visual arts, music, dance, and theatre courses.

In addition, the commissioner's annual report must include information regarding student access to, and participation in, fine arts courses, the number and certification status of educators providing arts instruction, and the manner in which schools are providing the core curricular content for fine arts established in the Next Generation Sunshine State Standards.

The bill does not have a fiscal impact on state government or school districts.

The bill takes effect July 1, 2013.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **School Grades**

Florida public schools, including charter schools, earn a school grade of A through F based upon student achievement data from statewide standardized assessments.<sup>1</sup> A school's grade is calculated based upon points earned for student achievement scores on the Florida Comprehensive Assessment Test in Reading, Mathematics, Science, and Writing, the Florida Alternate Assessment (FAA), and statewide, standardized end-of-course (EOC) assessments; student learning gains in reading and mathematics; and the improvement of the lowest 25 percent of students in the school in reading and mathematics.<sup>2</sup> School grades for middle schools include an additional component measuring middle school students' participation and performance on high school level EOC assessments. High school grades are calculated using additional components such as graduation rates, student participation and performance in accelerated courses, and postsecondary readiness of on-time graduates as measured by the SAT, the ACT, the Postsecondary Education Readiness Test, or the common placement test.<sup>3</sup>

The Commissioner of Education must annually report statewide assessment results for the state, school districts, and schools. The annual report must describe the performance of each public school and its major student populations, and include the percent of students performing at or above grade level and making a year's worth of progress in reading and mathematics.<sup>4</sup>

Student participation rates in fine arts courses are not currently factored into school grades or reported in the commissioner's annual report.

##### Effect of Proposed Changes

Beginning with the 2013-14 school year, the bill requires each K-12 public school's grade to include the participation rate of students who are enrolled in fine arts courses, which are visual arts, music, dance, and theatre courses.

In addition, the commissioner's annual report must include information regarding student access to, and participation in, fine arts courses, the number and certification status of educators providing arts instruction, and the manner in which schools are providing the core curricular content for fine arts established in the Next Generation Sunshine State Standards.

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<sup>1</sup> Section 1008.34(3)(b)3., F.S. To receive a school grade, a school must have at least 30 full-year-enrolled students with valid Florida Comprehensive Assessment Test (FCAT) scores in reading for the current and prior years and at least 30 full-year-enrolled students with valid FCAT scores in mathematics for the current and prior years are assigned a school grade. For high schools, there must be at least 10 eligible students with current and prior year math scores (rather than 30) for the school to qualify for a grade in 2012 and at least 20 students with current and prior year math scores to qualify for a grade beginning in 2013. Department of Juvenile Justice schools are not graded, and alternative schools that provide dropout prevention and academic intervention services have the option of earning a school grade or a school improvement rating. If an alternative school chooses to receive a school improvement rating instead of a school grade, student performance is also included in the school grade of the students' home school. Rule 6A-1.09981(3)(a), F.A.C.; ss. 1008.34(3)(a)1. and (c)3. and 1008.34(3)(c)3., F.S.

<sup>2</sup> Section 1008.34(3)(b)1., F.S.; rule 6A-1.09981(1)(a)1.a.-c., F.A.C.

<sup>3</sup> Section 1008.34(3)(b)3., F.S.; Florida Department of Education, *Florida School Grades* (July 2012), available at <http://schoolgrades.fl DOE.org/pdf/1112/SchoolGradesPressPacket.pdf>.

<sup>4</sup> Section 1008.34(1), F.S.

Currently, school grades are based upon student performance outputs. The bill would factor student participation in fine arts courses into a school's grade, without measuring student performance in such courses.

The bill could increase student participation in fine arts courses; however, it may also induce schools to over-fill these courses solely to obtain the school grade points, as class size caps do not apply to fine arts classes. This could dilute the quality of fine arts instruction or lead to the enrollment of students in arts courses regardless of their interests or willingness to do so.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1008.34, F.S., relating to the School grading system; requires inclusion of fine arts participation rates in school grades; requires inclusion of information related to fine arts instruction in annual reports.

**Section 2.** Provides an effective date of July 1, 2013.

**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:**

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**

Not applicable.



1                                   A bill to be entitled  
 2           An act relating to instructional materials for K-12  
 3           public education; amending s. 1006.28, F.S.; providing  
 4           district school board duties relating to the  
 5           collection of fees from publishers or manufacturers  
 6           and procedures for reviewing and approving  
 7           instructional materials; defining the term  
 8           "instructional materials" for purposes of review;  
 9           repealing s. 1006.282, F.S., relating to a pilot  
 10          program for the transition to electronic and digital  
 11          instructional materials; amending s. 1006.29, F.S.;  
 12          providing for Department of Education instructional  
 13          materials reviewers; providing procedures for  
 14          department review and approval of instructional  
 15          materials; authorizing the department to compensate  
 16          reviewers; deleting provisions relating to adoption of  
 17          instructional materials; requiring the department to  
 18          publicize adopted instructional materials; amending s.  
 19          1006.30, F.S., relating to an affidavit made by  
 20          instructional materials reviewers, to conform;  
 21          amending s. 1006.31, F.S.; providing duties of  
 22          department and school district instructional materials  
 23          reviewers; requiring a reviewer to use specified  
 24          standards to determine the propriety of an  
 25          instructional material; amending s. 1006.32, F.S.;  
 26          providing prohibited acts for department and district  
 27          instructional materials reviewers; repealing s.  
 28          1006.33, F.S., relating to bids or proposals by

29 publishers or manufacturers; amending s. 1006.34,  
 30 F.S.; providing duties of the State Board of Education  
 31 relating to evaluating instructional materials;  
 32 authorizing the collection of fees from publishers or  
 33 manufacturers; deleting provisions relating to  
 34 selection and adoption of instructional materials and  
 35 publisher or manufacturer contracts, bonds, and  
 36 deposits; amending s. 1006.35, F.S., relating to the  
 37 accuracy of instructional materials, to conform;  
 38 amending s. 1006.36, F.S.; providing for a state  
 39 review cycle and schedule; repealing s. 1006.37, F.S.,  
 40 relating to the requisition of instructional materials  
 41 from a publisher's depository; amending s. 1006.38,  
 42 F.S.; revising duties of publishers and manufacturers;  
 43 amending s. 1006.40, F.S.; revising provisions  
 44 relating to the use of the instructional materials  
 45 allocation by district school boards; amending ss.  
 46 1001.10, 1003.55, 1003.621, and 1011.62, F.S.;  
 47 conforming provisions; repealing s. 1010.82, F.S.,  
 48 relating to the Textbook Bid Trust Fund; providing an  
 49 effective date.

50

51 Be It Enacted by the Legislature of the State of Florida:

52

53 Section 1. Paragraph (b) of subsection (1) and subsection  
 54 (2) of section 1006.28, Florida Statutes, are amended to read:  
 55 1006.28 Duties of district school board, district school  
 56 superintendent; and school principal regarding K-12

57 instructional materials.-

58 (1) DISTRICT SCHOOL BOARD.—The district school board has  
 59 the duty to provide adequate instructional materials for all  
 60 students in accordance with the requirements of this part. The  
 61 term "adequate instructional materials" means a sufficient  
 62 number of student or site licenses or sets of materials that are  
 63 available in bound, unbound, kit, or package form and may  
 64 consist of hardbacked or softbacked textbooks, electronic  
 65 content, consumables, learning laboratories, manipulatives,  
 66 electronic media, and computer courseware or software that serve  
 67 as the basis for instruction for each student in the core  
 68 courses of mathematics, language arts, social studies, science,  
 69 reading, and literature. The district school board has the  
 70 following specific duties:

71 (b) Instructional materials.-

72 1. Provide for proper requisitioning, distribution,  
 73 accounting, storage, care, and use of all instructional  
 74 materials and furnish such other instructional materials as may  
 75 be needed. The district school board shall ensure that  
 76 instructional materials used in the district are consistent with  
 77 the district goals and objectives and the course descriptions  
 78 established in curriculum frameworks adopted by rule of the  
 79 State Board of Education, as well as with the state and district  
 80 performance standards provided for in s. 1001.03(1). The  
 81 district school board may set and collect fees from publishers  
 82 or manufacturers participating in the instructional materials  
 83 approval process. However, a district school board may not

84 assess a fee to review materials that have been evaluated  
85 previously by the state.

86 2. Adopt rules prescribing the procedures by which  
87 district personnel shall evaluate instructional materials  
88 submitted by publishers or manufacturers in each approval cycle.

89 3. Determine if the district will be responsible for  
90 reviewing instructional materials submitted by a publisher or  
91 manufacturer or if the district will refer submitted materials  
92 to the department for review.

93 4. If the district is responsible for reviewing submitted  
94 materials, designate district staff who are experts in the  
95 content areas submitted for approval to review submitted  
96 instructional materials to ensure the content aligns with the  
97 applicable state standards. The reviewers shall be designated as  
98 district instructional materials reviewers and shall review the  
99 materials for the level of instructional support and the  
100 accuracy and appropriateness of progression of introduced  
101 content. Instructional materials shall be made electronically  
102 available to the reviewers. The reviewers shall make  
103 recommendations to the district school board regarding materials  
104 that should be considered for use in schools. For purposes of  
105 reviewing materials, the term "instructional materials" means  
106 items having intellectual content that by design assist in the  
107 instruction of a subject or course. These items may be available  
108 in bound, unbound, kit, or package form and may consist of  
109 hardbacked or softbacked textbooks, electronic content,  
110 consumables, learning laboratories, manipulatives, electronic  
111 media, and computer courseware or software. A publisher or



112 manufacturer providing instructional materials as a single  
 113 bundle shall also make the instructional materials available as  
 114 separate and unbundled items, each priced individually. A  
 115 publisher or manufacturer must also offer sections of  
 116 instructional materials in digital or electronic versions at  
 117 reduced rates to districts, schools, and teachers.

118 5. Approve instructional materials that have been reviewed  
 119 by district or department instructional materials reviewers and  
 120 have been determined to align with all applicable state  
 121 standards pursuant to s. 1003.41 and the requirements in s.  
 122 1006.31.

123 6. Certify to the department that all core instructional  
 124 materials have been approved pursuant to subparagraph 5.

125 (2) DISTRICT SCHOOL SUPERINTENDENT.—

126 ~~(a)~~ The district school superintendent has the duty to  
 127 recommend such plans for improving, providing, distributing,  
 128 accounting for, and caring for instructional materials and other  
 129 instructional aids as will result in general improvement of the  
 130 district school system, as prescribed in this part, in  
 131 accordance with adopted district school board rules prescribing  
 132 the duties and responsibilities of the district school  
 133 superintendent regarding the requisition, purchase, receipt,  
 134 storage, distribution, use, conservation, records, and reports  
 135 of, and management practices and property accountability  
 136 concerning, instructional materials, and providing for an  
 137 evaluation of any instructional materials to be requisitioned  
 138 that have not been used previously in the district's schools.  
 139 The district school superintendent must keep adequate records

140 and accounts for all financial transactions for funds collected  
 141 pursuant to subsection (3), as a component of the educational  
 142 service delivery scope in a school district best financial  
 143 management practices review under s. 1008.35.

144 ~~(b) Each district school superintendent shall notify the~~  
 145 ~~department by April 1 of each year the state-adopted~~  
 146 ~~instructional materials that will be requisitioned for use in~~  
 147 ~~his or her school district. The notification shall include a~~  
 148 ~~district school board plan for instructional materials use to~~  
 149 ~~assist in determining if adequate instructional materials have~~  
 150 ~~been requisitioned.~~

151 Section 2. Section 1006.282, Florida Statutes, is  
 152 repealed.

153 Section 3. Section 1006.29, Florida Statutes, is amended  
 154 to read:

155 1006.29 Department of Education State instructional  
 156 materials reviewers.-

157 (1)(a) The commissioner shall determine annually the areas  
 158 in which instructional materials shall be submitted for approval  
 159 ~~adoption~~, taking into consideration the desires of the district  
 160 school boards. ~~The commissioner shall also determine the number~~  
 161 ~~of titles to be adopted in each area.~~

162 (b) ~~By April 15 of each school year,~~ The department  
 163 ~~commissioner shall,~~ appoint three state or national experts in  
 164 the content areas submitted by a publisher, manufacturer, or  
 165 district school board for approval, ~~adoption to review the~~  
 166 instructional materials and evaluate the content for alignment  
 167 with the applicable Next Generation Sunshine state standards.

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168 ~~These reviewers shall be designated as state instructional~~  
169 ~~materials reviewers and shall review~~ The materials shall be  
170 evaluated for the level of instructional support and the  
171 accuracy and appropriateness of progression of introduced  
172 content. Instructional materials shall be made electronically  
173 available to the reviewers. ~~The initial review of the materials~~  
174 ~~shall be made by only two of the three reviewers. If the two~~  
175 ~~reviewers reach different results, the third reviewer shall~~  
176 ~~break the tie. The reviewers shall independently make~~  
177 ~~recommendations to the commissioner regarding materials that~~  
178 ~~should be placed on the list of adopted materials through an~~  
179 ~~electronic feedback review system.~~

180 (c) The department may compensate assigned reviewers with  
181 funds collected through fees authorized in accordance with s.  
182 1006.34(2). The commissioner shall request each district school  
183 superintendent to nominate one classroom teacher or district-  
184 level content supervisor to review two or three of the  
185 submissions recommended by the department ~~state~~ instructional  
186 materials reviewers. School districts shall ensure that these  
187 district reviewers are provided with the support and time  
188 necessary to accomplish a thorough review of the instructional  
189 materials. District reviewers shall independently rate the  
190 recommended submissions on the instructional usability of the  
191 resources.

192 (2) For purposes of approving materials ~~state adoption~~,  
193 the term "instructional materials" means items having  
194 intellectual content that by design assist ~~serve as a major tool~~  
195 ~~for assisting~~ in the instruction of a subject or course. These

196 items may be available in bound, unbound, kit, or package form  
 197 and may consist of hardbacked or softbacked textbooks,  
 198 electronic content, consumables, learning laboratories,  
 199 manipulatives, electronic media, and computer courseware or  
 200 software. A publisher or manufacturer providing instructional  
 201 materials as a single bundle shall also make the instructional  
 202 materials available as separate and unbundled items, each priced  
 203 individually. A publisher or manufacturer shall ~~may~~ also offer  
 204 sections of ~~state-adopted~~ instructional materials in digital or  
 205 electronic versions at reduced rates to districts, schools, and  
 206 teachers.

207 (3) Beginning in the 2015-2016 academic year, all approved  
 208 ~~adopted~~ instructional materials for students in kindergarten  
 209 through grade 12 must be provided in an electronic or digital  
 210 format. For purposes of this section, the term:

211 (a) "Electronic format" means text-based or image-based  
 212 content in a form that is produced on, published by, and  
 213 readable on computers or other digital devices and is an  
 214 electronic version of a printed book, whether or not any printed  
 215 equivalent exists.

216 (b) "Digital format" means text-based or image-based  
 217 content in a form that provides the student with various  
 218 interactive functions; that can be searched, tagged,  
 219 distributed, and used for individualized and group learning;  
 220 that includes multimedia content such as video clips,  
 221 animations, and virtual reality; and that has the ability to be  
 222 accessed at any time and anywhere.

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224 The terms do not include electronic or computer hardware even if  
 225 such hardware is bundled with software or other electronic  
 226 media, nor does it include equipment or supplies.

227 (4) The department shall develop a training program for  
 228 persons selected to review submitted as state instructional  
 229 materials ~~reviewers and school district reviewers~~. The program  
 230 shall be structured to assist reviewers in developing the skills  
 231 necessary to make valid, culturally sensitive, and objective  
 232 decisions regarding the content and rigor of instructional  
 233 materials. All persons reviewing ~~servicing as~~ instructional  
 234 materials ~~reviewers~~ must complete the training program prior to  
 235 beginning the review and selection process.

236 (5) The department shall post on its website a list of  
 237 department-approved instructional materials, district-approved  
 238 instructional materials, and instructional materials approved by  
 239 other states that align with applicable state standards.

240 Section 4. Section 1006.30, Florida Statutes, is amended  
 241 to read:

242 1006.30 Affidavit of Department of Education state  
 243 instructional materials reviewers.—Before transacting any  
 244 business, each department state instructional materials reviewer  
 245 shall make an affidavit, to be filed with the department, that:

246 (1) The reviewer will faithfully discharge the duties  
 247 imposed upon him or her.

248 (2) The reviewer has no interest in any publishing or  
 249 manufacturing organization that produces or sells instructional  
 250 materials.

251 (3) The reviewer is in no way connected with the

252 distribution of the instructional materials.

253 (4) The reviewer does not have any direct or indirect  
 254 pecuniary interest in the business or profits of any person  
 255 engaged in manufacturing, publishing, or selling instructional  
 256 materials designed for use in the public schools.

257 (5) The reviewer will not accept any emolument or promise  
 258 of future reward of any kind from any publisher or manufacturer  
 259 of instructional materials or his or her agent or anyone  
 260 interested in, or intending to bias his or her judgment in any  
 261 way in, the selection of any materials to be approved ~~adopted~~.

262 (6) The reviewer understands that it is unlawful to  
 263 discuss matters relating to instructional materials submitted  
 264 for approval ~~adoption~~ with any agent of a publisher or  
 265 manufacturer of instructional materials, either directly or  
 266 indirectly, except during the period when the publisher or  
 267 manufacturer is providing a presentation for the reviewer during  
 268 his or her review of the instructional materials submitted for  
 269 approval ~~adoption~~.

270 Section 5. Section 1006.31, Florida Statutes, is amended  
 271 to read:

272 1006.31 Duties of the Department of Education and school  
 273 district ~~each state~~ instructional materials reviewer.—The duties  
 274 of the ~~each state~~ instructional materials reviewer are:

275 (1) PROCEDURES.—To adhere to procedures prescribed by the  
 276 department or the district for evaluating instructional  
 277 materials submitted by publishers and manufacturers in each  
 278 review for approval ~~adoption~~.

279 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To evaluate

280 carefully all instructional materials submitted, in order to  
 281 ascertain which instructional materials, if any, submitted for  
 282 consideration implement the selection criteria developed by the  
 283 department or the district and those curricular objectives  
 284 included within applicable performance standards provided for in  
 285 s. 1001.03(1).

286 (a) When evaluating ~~recommending~~ instructional materials  
 287 for use in the schools, each reviewer should ensure that the  
 288 ~~shall include only~~ instructional materials ~~that~~ accurately  
 289 portray the ethnic, socioeconomic, cultural, and racial  
 290 diversity of our society, including men and women in  
 291 professional, career, and executive roles, and the role and  
 292 contributions of the entrepreneur and labor in the total  
 293 development of this state and the United States.

294 (b) When evaluating ~~recommending~~ instructional materials  
 295 for use in the schools, each reviewer should ensure that the  
 296 ~~shall include only~~ materials ~~that~~ accurately portray, whenever  
 297 appropriate, humankind's place in ecological systems, including  
 298 the necessity for the protection of our environment and  
 299 conservation of our natural resources and the effects on the  
 300 human system of the use of tobacco, alcohol, controlled  
 301 substances, and other dangerous substances.

302 (c) When evaluating ~~recommending~~ instructional materials  
 303 for use in the schools, each reviewer should ensure that the  
 304 materials shall require such materials as he or she deems  
 305 ~~necessary and proper to~~ encourage thrift, fire prevention, and  
 306 humane treatment of people and animals.

307 (d) When evaluating ~~recommending~~ instructional materials

308 for use in the schools, each reviewer should ensure ~~shall~~  
 309 ~~require~~, when appropriate to the comprehension of students, that  
 310 materials for social science, history, or civics classes contain  
 311 the Declaration of Independence and the Constitution of the  
 312 United States. A reviewer may not recommend any instructional  
 313 materials for use in the schools which contain any matter  
 314 reflecting unfairly upon persons because of their race, color,  
 315 creed, national origin, ancestry, gender, or occupation.

316 (e) When evaluating instructional materials, library  
 317 media, and other reading material for use in the schools, each  
 318 reviewer shall use the following standards to determine the  
 319 propriety of the material:

320 1. The age of students who normally could be expected to  
 321 have access to the material.

322 2. The educational purpose to be served by the material.  
 323 In considering instructional materials for classroom use,  
 324 priority shall be given to the selection of materials that  
 325 encompass the state and district school board performance  
 326 standards provided for in s. 1001.03(1) and that include the  
 327 instructional objectives contained within the course  
 328 descriptions established in rule by the State Board of  
 329 Education.

330 3. The degree to which the material would be supplemented  
 331 and explained by mature classroom instruction as part of a  
 332 normal classroom instructional program.

333 4. The degree to which the material represents the broad  
 334 racial, ethnic, socioeconomic, and cultural diversity of  
 335 students in the state.



336  
 337 Any instructional material containing pornography or otherwise  
 338 prohibited by s. 847.012 may not be used or made available  
 339 within any public school.

340 ~~(c) Any instructional material recommended by each~~  
 341 ~~reviewer for use in the schools shall be, to the satisfaction of~~  
 342 ~~each reviewer, accurate, objective, and current and suited to~~  
 343 ~~the needs and comprehension of students at their respective~~  
 344 ~~grade levels. Reviewers shall consider for adoption materials~~  
 345 ~~developed for academically talented students such as those~~  
 346 ~~enrolled in advanced placement courses.~~

347 ~~(3) REPORT OF REVIEWERS. After a thorough study of all~~  
 348 ~~data submitted on each instructional material, to submit an~~  
 349 ~~electronic report to the department. The report shall be made~~  
 350 ~~public and must include responses to each section of the report~~  
 351 ~~format prescribed by the department.~~

352 Section 6. Section 1006.32, Florida Statutes, is amended  
 353 to read:

354 1006.32 Prohibited acts.—

355 (1) A publisher or manufacturer of instructional material,  
 356 or any representative thereof, may not offer to give any  
 357 emolument, money, or other valuable thing, or any inducement, to  
 358 any district school board official or department or district  
 359 ~~state~~ instructional materials reviewer to directly or indirectly  
 360 introduce, recommend, vote for, or otherwise influence the  
 361 approval ~~adoption~~ or purchase of any instructional materials.

362 (2) A district school board official or a department or  
 363 district ~~state~~ instructional materials reviewer may not solicit

364 or accept any emolument, money, or other valuable thing, or any  
 365 inducement, to directly or indirectly introduce, recommend, vote  
 366 for, or otherwise influence the approval ~~adoption~~ or purchase of  
 367 any instructional material.

368 ~~(3) A district school board or publisher may not~~  
 369 ~~participate in a pilot program of materials being considered for~~  
 370 ~~adoption during the 18-month period before the official adoption~~  
 371 ~~of the materials by the commissioner. Any pilot program during~~  
 372 ~~the first 2 years of the adoption period must have the prior~~  
 373 ~~approval of the commissioner.~~

374 (3)~~(4)~~ Any publisher or manufacturer of instructional  
 375 materials or representative thereof or any district school board  
 376 official or department or district ~~state~~ instructional materials  
 377 reviewer who violates any provision of this section commits a  
 378 misdemeanor of the second degree, punishable as provided in s.  
 379 775.082 or s. 775.083. Any representative of a publisher or  
 380 manufacturer who violates any provision of this section, in  
 381 addition to any other penalty, shall be banned from practicing  
 382 business in the state for a period of 1 calendar year.

383 (4)~~(5)~~ This section does not prohibit any publisher,  
 384 manufacturer, or agent from supplying, for purposes of  
 385 examination, necessary sample copies of instructional materials  
 386 to any district school board official or department or district  
 387 ~~state~~ instructional materials reviewer.

388 (5)~~(6)~~ This section does not prohibit a district school  
 389 board official or department or district ~~state~~ instructional  
 390 materials reviewer from receiving sample copies of instructional  
 391 materials.

392        (6)~~(7)~~ This section does not prohibit or restrict a  
 393 district school board official from receiving royalties or other  
 394 compensation, other than compensation paid to him or her as  
 395 commission for negotiating sales to district school boards, from  
 396 the publisher or manufacturer of instructional materials  
 397 written, designed, or prepared by such district school board  
 398 official~~, and adopted by the commissioner or~~ purchased by any  
 399 district school board. No district school board official shall  
 400 be allowed to receive royalties on any materials not ~~on the~~  
 401 ~~state-adopted list~~ purchased for use by his or her district  
 402 school board.

403        (7)~~(8)~~ A district school superintendent, district school  
 404 board member, teacher, or other person officially connected with  
 405 the government or direction of public schools may not receive  
 406 during the months actually engaged in performing duties under  
 407 his or her contract any private fee, gratuity, donation, or  
 408 compensation, in any manner whatsoever, for promoting the sale  
 409 or exchange of any instructional material, map, or chart in any  
 410 public school, or be an agent for the sale or the publisher of  
 411 any instructional material or reference work, or have a direct  
 412 or indirect pecuniary interest in the introduction of any such  
 413 instructional material, and any such agency or interest shall  
 414 disqualify any person so acting or interested from holding any  
 415 district school board employment whatsoever, and the person  
 416 commits a misdemeanor of the second degree, punishable as  
 417 provided in s. 775.082 or s. 775.083; however, this subsection  
 418 does not prevent the approval ~~adoption~~ of any instructional  
 419 material written in whole or in part by a Florida author.

420 Section 7. Section 1006.33, Florida Statutes, is repealed.

421 Section 8. Section 1006.34, Florida Statutes, is amended  
422 to read:

423 1006.34 Powers and duties of the State Board of Education  
424 ~~commissioner and the department in evaluating selecting and~~  
425 ~~adopting~~ instructional materials.—

426 (1) PROCEDURES FOR EVALUATING INSTRUCTIONAL MATERIALS.—The  
427 State Board of Education shall adopt rules prescribing the  
428 procedures by which the department shall evaluate instructional  
429 materials submitted by publishers and manufacturers in each  
430 review for approval adoption. Included in these procedures shall  
431 be provisions affording each publisher or manufacturer or his or  
432 her representative an opportunity to provide a virtual  
433 presentation to the department ~~state~~ instructional materials  
434 reviewers on the merits of each instructional material submitted  
435 in each review for approval adoption.

436 (2) FEES.—The State Board of Education may set and collect  
437 fees from publishers or manufacturers participating in the  
438 instructional materials approval process who request a review of  
439 their submitted materials by the department.

440 ~~(2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.—~~

441 ~~(a) The department shall notify all publishers and~~  
442 ~~manufacturers of instructional materials who have submitted bids~~  
443 ~~that within 3 weeks after the deadline for receiving bids, at a~~  
444 ~~designated time and place, it will open the bids submitted and~~  
445 ~~deposited with it. At the time and place designated, the bids~~  
446 ~~shall be opened, read, and tabulated in the presence of the~~  
447 ~~bidders or their representatives. No one may revise his or her~~

448 ~~bid after the bids have been filed. When all bids have been~~  
449 ~~carefully considered, the commissioner shall, from the list of~~  
450 ~~suitable, usable, and desirable instructional materials reported~~  
451 ~~by the state instructional materials reviewers, select and adopt~~  
452 ~~instructional materials for each grade and subject field in the~~  
453 ~~curriculum of public elementary, middle, and high schools in~~  
454 ~~which adoptions are made and in the subject areas designated in~~  
455 ~~the advertisement. The adoption shall continue for the period~~  
456 ~~specified in the advertisement, beginning on the ensuing April~~  
457 ~~1. The adoption shall not prevent the extension of a contract as~~  
458 ~~provided in subsection (3). The commissioner shall always~~  
459 ~~reserve the right to reject any and all bids. The commissioner~~  
460 ~~may ask for new sealed bids from publishers or manufacturers~~  
461 ~~whose instructional materials were recommended by the state~~  
462 ~~instructional materials reviewers as suitable, usable, and~~  
463 ~~desirable; specify the dates for filing such bids and the date~~  
464 ~~on which they shall be opened; and proceed in all matters~~  
465 ~~regarding the opening of bids and the awarding of contracts as~~  
466 ~~required by this part. In all cases, bids shall be accompanied~~  
467 ~~by a cash deposit or certified check of from \$500 to \$2,500, as~~  
468 ~~the department may direct. The department, in adopting~~  
469 ~~instructional materials, shall give due consideration both to~~  
470 ~~the prices bid for furnishing instructional materials and to the~~  
471 ~~report and recommendations of the state instructional materials~~  
472 ~~reviewers. When the commissioner has finished with the report of~~  
473 ~~the state instructional materials reviewers, the report shall be~~  
474 ~~filed and preserved with the department and shall be available~~  
475 ~~at all times for public inspection.~~

476 ~~(b) In the selection of instructional materials, library~~  
 477 ~~media, and other reading material used in the public school~~  
 478 ~~system, the standards used to determine the propriety of the~~  
 479 ~~material shall include:~~

480 ~~1. The age of the students who normally could be expected~~  
 481 ~~to have access to the material.~~

482 ~~2. The educational purpose to be served by the material.~~  
 483 ~~In considering instructional materials for classroom use,~~  
 484 ~~priority shall be given to the selection of materials which~~  
 485 ~~encompass the state and district school board performance~~  
 486 ~~standards provided for in s. 1001.03(1) and which include the~~  
 487 ~~instructional objectives contained within the curriculum~~  
 488 ~~frameworks approved by rule of the State Board of Education.~~

489 ~~3. The degree to which the material would be supplemented~~  
 490 ~~and explained by mature classroom instruction as part of a~~  
 491 ~~normal classroom instructional program.~~

492 ~~4. The consideration of the broad racial, ethnic,~~  
 493 ~~socioeconomic, and cultural diversity of the students of this~~  
 494 ~~state.~~

495  
 496 ~~Any instructional material containing pornography or otherwise~~  
 497 ~~prohibited by s. 847.012 may not be used or made available~~  
 498 ~~within any public school.~~

499 ~~(3) CONTRACT WITH PUBLISHERS OR MANUFACTURERS; BOND. As~~  
 500 ~~soon as practicable after the commissioner has adopted any~~  
 501 ~~instructional materials and all bidders that have secured the~~  
 502 ~~adoption of any instructional materials have been notified~~  
 503 ~~thereof by registered letter, the department shall prepare a~~

504 ~~contract in proper form with every bidder awarded the adoption~~  
 505 ~~of any instructional materials. Each contract shall be executed~~  
 506 ~~by the commissioner, one copy to be kept by the contractor and~~  
 507 ~~one copy to be filed with the department. After giving due~~  
 508 ~~consideration to comments by the district school boards, the~~  
 509 ~~commissioner, with the agreement of the publisher, may extend or~~  
 510 ~~shorten a contract period for a period not to exceed 2 years;~~  
 511 ~~and the terms of any such contract shall remain the same as in~~  
 512 ~~the original contract. Any publisher or manufacturer to whom any~~  
 513 ~~contract is let under this part must give bond in such amount as~~  
 514 ~~the department requires, payable to the state, conditioned for~~  
 515 ~~the faithful, honest, and exact performance of the contract. The~~  
 516 ~~bond must provide for the payment of reasonable attorney's fees~~  
 517 ~~in case of recovery in any suit thereon. The surety on the bond~~  
 518 ~~must be a guaranty or surety company lawfully authorized to do~~  
 519 ~~business in the state; however, the bond shall not be exhausted~~  
 520 ~~by a single recovery but may be sued upon from time to time~~  
 521 ~~until the full amount thereof is recovered, and the department~~  
 522 ~~may at any time, after giving 30 days' notice, require~~  
 523 ~~additional security or additional bond. The form of any bond or~~  
 524 ~~bonds or contract or contracts under this part shall be prepared~~  
 525 ~~and approved by the department. At the discretion of the~~  
 526 ~~department, a publisher or manufacturer to whom any contract is~~  
 527 ~~let under this part may be allowed a cash deposit in lieu of a~~  
 528 ~~bond, conditioned for the faithful, honest, and exact~~  
 529 ~~performance of the contract. The cash deposit, payable to the~~  
 530 ~~department, shall be placed in the Textbook Bid Trust Fund. The~~  
 531 ~~department may recover damages on the cash deposit given by the~~

532 ~~contractor for failure to furnish instructional materials, the~~  
 533 ~~sum recovered to inure to the General Revenue Fund.~~

534 ~~(4) REGULATIONS GOVERNING THE CONTRACT. The department~~  
 535 ~~may, from time to time, take any necessary actions, consistent~~  
 536 ~~with this part, to secure the prompt and faithful performance of~~  
 537 ~~all instructional materials contracts; and if any contractor~~  
 538 ~~fails or refuses to furnish instructional materials as provided~~  
 539 ~~in this part or otherwise breaks his or her contract, the~~  
 540 ~~department may sue on the required bond in the name of the~~  
 541 ~~state, in the courts of the state having jurisdiction, and~~  
 542 ~~recover damages on the bond given by the contractor for failure~~  
 543 ~~to furnish instructional materials, the sum recovered to inure~~  
 544 ~~to the General Revenue Fund.~~

545 ~~(5) RETURN OF DEPOSITS.—~~

546 ~~(a) The successful bidder shall be notified by registered~~  
 547 ~~mail of the award of contract and shall, within 30 days after~~  
 548 ~~receipt of the contract, execute the proper contract and post~~  
 549 ~~the required bond. When the bond and contract have been~~  
 550 ~~executed, the department shall notify the Chief Financial~~  
 551 ~~Officer and request that a warrant be issued against the~~  
 552 ~~Textbook Bid Trust Fund payable to the successful bidder in the~~  
 553 ~~amount deposited pursuant to this part. The Chief Financial~~  
 554 ~~Officer shall issue and forward the warrant to the department~~  
 555 ~~for distribution to the bidder.~~

556 ~~(b) At the same time or prior thereto, the department~~  
 557 ~~shall inform the Chief Financial Officer of the names of the~~  
 558 ~~unsuccessful bidders. Upon receipt of such notice, the Chief~~  
 559 ~~Financial Officer shall issue warrants against the Textbook Bid~~



560 ~~Trust Fund payable to the unsuccessful bidders in the amounts~~  
 561 ~~deposited pursuant to this part and shall forward the warrants~~  
 562 ~~to the department for distribution to the unsuccessful bidders.~~

563 ~~(c) One copy of each contract and an original of each bid,~~  
 564 ~~whether accepted or rejected, shall be preserved with the~~  
 565 ~~department for at least 3 years after the termination of the~~  
 566 ~~contract.~~

567 ~~(6) DEPOSITS FORFEITED. If any successful bidder fails or~~  
 568 ~~refuses to execute contract and bond within 30 days after~~  
 569 ~~receipt of the contract, the cash deposit shall be forfeited to~~  
 570 ~~the state and placed by the Chief Financial Officer in the~~  
 571 ~~General Revenue Fund.~~

572 ~~(7) FORFEITURE OF CONTRACT AND BOND. If any publisher or~~  
 573 ~~manufacturer of instructional materials fails or refuses to~~  
 574 ~~furnish instructional materials as provided in the contract, the~~  
 575 ~~publisher's or manufacturer's bond is forfeited and the~~  
 576 ~~commissioner must make another contract.~~

577 Section 9. Section 1006.35, Florida Statutes, is amended  
 578 to read:

579 1006.35 Accuracy of instructional materials.—

580 (1) In addition to relying on statements of publishers or  
 581 manufacturers of instructional materials, the commissioner may  
 582 conduct or cause to be conducted an independent investigation to  
 583 determine the accuracy of approved ~~state-adopted~~ instructional  
 584 materials.

585 (2) When errors in approved ~~state-adopted~~ materials are  
 586 confirmed, the publisher or manufacturer of the materials shall  
 587 provide to each district school board that has purchased the

588 materials the corrections in a format approved by the  
 589 department.

590 (3) The commissioner may remove materials from the list of  
 591 approved ~~state-adopted~~ materials if he or she finds that the  
 592 content is in error and the publisher or manufacturer refuses to  
 593 correct the error when notified by the department.

594 (4) The commissioner may remove materials from the list of  
 595 approved ~~state-adopted~~ materials at the request of the publisher  
 596 or manufacturer if, in his or her opinion, there is no material  
 597 impact on the state's education goals.

598 Section 10. Section 1006.36, Florida Statutes, is amended  
 599 to read:

600 1006.36 State review cycle ~~Term of adoption~~ for  
 601 instructional materials.-

602 (1) The state review cycle ~~term of adoption~~ of any  
 603 instructional materials shall ~~must~~ be a 5-year period ~~beginning~~  
 604 ~~on April 1 following the adoption~~, except that the commissioner  
 605 may approve alternative schedules ~~terms of adoption~~ of less than  
 606 5 years for materials in content areas which require more  
 607 frequent revision. ~~Any contract for instructional materials may~~  
 608 ~~be extended as prescribed in s. 1006.34(3).~~

609 (2) The department shall publish annually an official  
 610 schedule of subject areas to be called for review ~~adoption~~ for  
 611 each of the succeeding 2 years, and a tentative schedule for  
 612 years 3, 4, and 5. If extenuating circumstances warrant, the  
 613 commissioner may add one or more subject areas to the official  
 614 schedule, in which event the commissioner shall develop criteria  
 615 for such additional subject area or areas and make them

616 available to publishers or manufacturers as soon as practicable  
 617 before the date on which submission for review is ~~bids~~ are due.  
 618 The schedule shall be developed so as to promote balance among  
 619 the subject areas so that the required expenditure for new  
 620 instructional materials is approximately the same each year in  
 621 order to maintain curricular consistency.

622 Section 11. Section 1006.37, Florida Statutes, is  
 623 repealed.

624 Section 12. Subsections (2), (3), and (5) of section  
 625 1006.38, Florida Statutes, are amended, subsections (15) and  
 626 (16) are renumbered as subsections (11) and (12), respectively,  
 627 and present subsections (11) through (14) of that section are  
 628 amended, to read:

629 1006.38 Duties, responsibilities, and requirements of  
 630 instructional materials publishers and manufacturers.—Publishers  
 631 and manufacturers of instructional materials, or their  
 632 representatives, shall:

633 (2) Electronically deliver fully developed sample copies  
 634 of all instructional materials upon which reviews ~~bids~~ are based  
 635 to the department pursuant to procedures adopted by the State  
 636 Board of Education.

637 (3) ~~Submit, at a time designated in s. 1006.33,~~ the  
 638 following information:

639 (a) Detailed specifications of the physical  
 640 characteristics of the instructional materials, including any  
 641 software or technological tools required for use by the  
 642 district, school, teachers, or students. The publisher or  
 643 manufacturer shall comply with these specifications if the

644 instructional materials are approved ~~adopted~~ and purchased in  
 645 completed form.

646 (b) Evidence that the publisher or manufacturer has  
 647 provided materials that address the performance standards  
 648 provided for in s. 1001.03(1) and that can be accessed through  
 649 the district's local instructional improvement system and a  
 650 variety of electronic, digital, and mobile devices.

651 (5) Furnish the instructional materials offered by them at  
 652 a price in the state which, including all costs of electronic  
 653 transmission, may not exceed the lowest price at which they  
 654 offer such instructional materials for approval ~~adoption~~ or sale  
 655 to any state or school district in the United States.

656 ~~(11) Maintain or contract with a depository in the state.~~

657 ~~(12) For the core subject areas specified in s.~~  
 658 ~~1006.40(2), maintain in the depository for the first 2 years of~~  
 659 ~~the contract an inventory of instructional materials sufficient~~  
 660 ~~to receive and fill orders.~~

661 ~~(13) For the core subject areas specified in s.~~  
 662 ~~1006.40(2), ensure the availability of an inventory sufficient~~  
 663 ~~to receive and fill orders for instructional materials for~~  
 664 ~~growth, including the opening of a new school, and replacement~~  
 665 ~~during the 3rd and subsequent years of the original contract~~  
 666 ~~period.~~

667 ~~(14) Accurately and fully disclose only the names of those~~  
 668 ~~persons who actually authored the instructional materials. In~~  
 669 ~~addition to the penalties provided in subsection (16), the~~  
 670 ~~commissioner may remove from the list of state-adopted~~  
 671 ~~instructional materials those instructional materials whose~~

672 ~~publisher or manufacturer misleads the purchaser by falsely~~  
 673 ~~representing genuine authorship.~~

674 Section 13. Subsections (2), (3), and (4) of section  
 675 1006.40, Florida Statutes, are amended to read:

676 1006.40 Use of instructional materials allocation;  
 677 instructional materials, library books, and reference books;  
 678 repair of books.—

679 (2) Each district school board must provide ~~purchase~~  
 680 current instructional materials to ~~provide~~ each student with a  
 681 ~~major tool of instruction~~ in core courses of the subject areas  
 682 of mathematics, language arts, science, social studies, reading,  
 683 and literature for kindergarten through grade 12. ~~Such purchase~~  
 684 ~~must be made within the first 2 years after the effective date~~  
 685 ~~of the adoption cycle. For the 2012-2013 mathematics adoption, a~~  
 686 ~~district using a comprehensive mathematics instructional~~  
 687 ~~materials program adopted in the 2009-2010 adoption shall be~~  
 688 ~~deemed in compliance with this subsection if it provides each~~  
 689 ~~student with such additional state-adopted materials as may be~~  
 690 ~~necessary to align the previously adopted comprehensive program~~  
 691 ~~to common core standards and the other criteria of the 2012-2013~~  
 692 ~~mathematics adoption.~~

693 (3)(a) By the 2015-2016 fiscal year, each district school  
 694 board shall use at least 50 percent of the annual allocation for  
 695 the purchase of digital or electronic instructional materials  
 696 that align with state standards ~~included on the state-adopted~~  
 697 ~~list, except as otherwise authorized in paragraphs (b) and (c).~~

698 ~~(b) Up to 50 percent of the annual allocation may be used~~  
 699 ~~for the purchase of instructional materials, including library~~

700 ~~and reference books and nonprint materials, not included on the~~  
 701 ~~state-adopted list and for the repair and renovation of~~  
 702 ~~textbooks and library books.~~

703 ~~(c) District school boards may use 100 percent of that~~  
 704 ~~portion of the annual allocation designated for the purchase of~~  
 705 ~~instructional materials for kindergarten, and 75 percent of that~~  
 706 ~~portion of the annual allocation designated for the purchase of~~  
 707 ~~instructional materials for first grade, to purchase materials~~  
 708 ~~not on the state-adopted list.~~

709 (4) Remaining funds may ~~The funds described in subsection~~  
 710 ~~(3) which district school boards may use to purchase materials~~  
 711 ~~not on the state-adopted list shall~~ be used for the purchase of  
 712 instructional materials or other items having intellectual  
 713 content which assist in the instruction of a subject or course.  
 714 These items may be available in bound, unbound, kit, or package  
 715 form and may consist of hardbacked or softbacked textbooks,  
 716 electronic content, replacements for items which were part of  
 717 previously purchased instructional materials, consumables,  
 718 learning laboratories, manipulatives, electronic media, computer  
 719 courseware or software, and other commonly accepted  
 720 instructional tools as prescribed by district school board rule.

721 Section 14. Paragraphs (o) and (p) of subsection (6) of  
 722 section 1001.10, Florida Statutes, are amended to read:

723 1001.10 Commissioner of Education; general powers and  
 724 duties.—

725 (6) Additionally, the commissioner has the following  
 726 general powers and duties:

727 (o) To develop criteria for use by Department of Education

728 ~~state~~ instructional materials reviewers in evaluating materials  
 729 submitted for approval ~~adoption consideration~~. The criteria  
 730 shall, as appropriate, be based on instructional expectations  
 731 reflected in course descriptions ~~curriculum frameworks~~ and  
 732 student performance standards. The criteria for each subject or  
 733 course shall be made available to publishers and manufacturers  
 734 of instructional materials pursuant to the requirements of  
 735 chapter 1006.

736 (p) To prescribe procedures for evaluating instructional  
 737 materials submitted by publishers and manufacturers in each  
 738 review for approval ~~adoption~~.

739 Section 15. Subsection (5) of section 1003.55, Florida  
 740 Statutes, is amended to read:

741 1003.55 Instructional programs for blind or visually  
 742 impaired students and deaf or hard-of-hearing students.—

743 (5) Any publisher or manufacturer of instructional  
 744 materials that have been approved by the Department of Education  
 745 or a school district ~~a textbook adopted pursuant to the state~~  
 746 ~~instructional materials adoption process~~ shall furnish the  
 747 department of ~~Education~~ with a computer file in an electronic  
 748 format specified by the department ~~at least 2 years in advance~~  
 749 that is readily translatable to braille and can be used for  
 750 large print or speech access. Any instructional materials  
 751 ~~textbook~~ reproduced pursuant to ~~the provisions of this~~  
 752 subsection shall be purchased at a price equal to the price paid  
 753 for the instructional materials ~~textbook~~ as approved ~~adopted~~.  
 754 The department of ~~Education~~ shall not reproduce instructional  
 755 materials ~~textbooks~~ obtained pursuant to this subsection in any

756 manner that would generate revenues for the department from the  
 757 use of such computer files or that would preclude the rightful  
 758 payment of fees to the publisher or manufacturer for use of all  
 759 or some portion of the instructional materials ~~textbook~~.

760 Section 16. Paragraph (j) of subsection (2) of section  
 761 1003.621, Florida Statutes, is amended to read:

762 1003.621 Academically high-performing school districts.—It  
 763 is the intent of the Legislature to recognize and reward school  
 764 districts that demonstrate the ability to consistently maintain  
 765 or improve their high-performing status. The purpose of this  
 766 section is to provide high-performing school districts with  
 767 flexibility in meeting the specific requirements in statute and  
 768 rules of the State Board of Education.

769 (2) COMPLIANCE WITH STATUTES AND RULES.—Each academically  
 770 high-performing school district shall comply with all of the  
 771 provisions in chapters 1000-1013, and rules of the State Board  
 772 of Education which implement these provisions, pertaining to the  
 773 following:

774 (j) Those statutes relating to instructional materials,  
 775 except that ~~s. 1006.37, relating to the requisition of state-~~  
 776 ~~adopted materials from the depository under contract with the~~  
 777 ~~publisher, and s. 1006.40 1006.40(3)(a), relating to the use of~~  
 778 50 percent of the instructional materials allocation, is ~~shall~~  
 779 ~~be~~ eligible for exemption.

780 Section 17. Section 1010.82, Florida Statutes, is  
 781 repealed.

782 Section 18. Paragraph (b) of subsection (6) of section  
 783 1011.62, Florida Statutes, is amended to read:



784 1011.62 Funds for operation of schools.—If the annual  
 785 allocation from the Florida Education Finance Program to each  
 786 district for operation of schools is not determined in the  
 787 annual appropriations act or the substantive bill implementing  
 788 the annual appropriations act, it shall be determined as  
 789 follows:

790 (6) CATEGORICAL FUNDS.—

791 (b) If a district school board finds and declares in a  
 792 resolution adopted at a regular meeting of the school board that  
 793 the funds received for any of the following categorical  
 794 appropriations are urgently needed to maintain school board  
 795 specified academic classroom instruction, the school board may  
 796 consider and approve an amendment to the school district  
 797 operating budget transferring the identified amount of the  
 798 categorical funds to the appropriate account for expenditure:

- 799 1. Funds for student transportation.
- 800 2. Funds for safe schools.
- 801 3. Funds for supplemental academic instruction if the  
 802 required additional hour of instruction beyond the normal school  
 803 day for each day of the entire school year has been provided for  
 804 the students in each low-performing elementary school in the  
 805 district pursuant to paragraph (1)(f).
- 806 4. Funds for research-based reading instruction if the  
 807 required additional hour of instruction beyond the normal school  
 808 day for each day of the entire school year has been provided for  
 809 the students in each low-performing elementary school in the  
 810 district pursuant to paragraph (9)(a).
- 811 5. Funds for instructional materials if all instructional

HB 1031

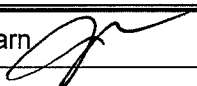
2013

812 material purchases necessary to provide updated materials that  
 813 are aligned with applicable ~~to Next Generation Sunshine~~ state  
 814 standards and course descriptions ~~benchmarks~~ and that meet  
 815 statutory requirements of content and learning have been  
 816 completed for that fiscal year, but no sooner than March 1.  
 817 Funds available after March 1 may be used to purchase hardware  
 818 for student instruction.

819 Section 19. This act shall take effect July 1, 2013.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1031 Instructional Materials for K-12 Public Education  
**SPONSOR(S):** Porter  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1388

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Beagle	GB Ahearn 
2) Education Appropriations Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

The law establishes a statewide process for the adoption of instructional materials. The Commissioner of Education must annually determine the academic areas in which instructional materials must be submitted for adoption. Instructional materials for each subject are adopted in five-year intervals. The commissioner appoints state instructional materials reviewers for content areas up for adoption. They review the instructional materials, evaluate the content for alignment with the Next Generation Sunshine State Standards, and recommend materials for inclusion on the state-adopted list.

The Department of Education (DOE) solicits bids from instructional materials publishers on the recommended list. After considering bids, the commissioner adopts instructional materials and contracts with every publisher with adopted instructional materials. Among other things, publishers must maintain a depository in the state, sufficient inventory to fill orders, and disclose the names of instructional materials authors.

School districts are responsible for the requisition, distribution, accounting, storage, care, and use of all instructional materials. Instructional materials must be requisitioned from the publisher's depository. School districts must use state funds for instructional materials to purchase material within the first two years of an adoption cycle. Fifty percent of the funds must be used to purchase digital instructional materials included on the state-adopted list, by FY 2015-16. The remaining 50 percent must be spent on instructional materials not on the state-adopted list.

The bill eliminates state instructional materials adoption and instead provides for review of instructional materials by either DOE or school boards. School districts are authorized to evaluate instructional materials submitted by publishers or refer submitted materials to DOE for review. The bill establishes standards for district and DOE review of instructional materials and authorizes the collection of fees from publishers who submit materials for review.

DOE must post on its website the list of DOE-approved instructional materials and those approved by other states, as "aligned to applicable standards," e.g., the Common Core State Standards in English Language Arts and Mathematics, which Florida has adopted.

Among other things, the bill eliminates the requirement that districts purchase instructional materials in the first two years of the adoption process. The bill eliminates elements of the adoption process from law, such as commissioner appointment of state instructional materials reviewers and provisions regarding DOE solicitation of bids and publisher contracting, deposits, bonds, depository, inventory, and author disclosure requirements.

The bill likely has a positive fiscal impact on DOE. The fiscal impact on school districts is indeterminate. See Fiscal Analysis & Economic Impact Statement and Drafting Issues or Other Comments.

The bill takes effect July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Instructional Materials Adoption**

Under Florida law, "instructional materials" are items having intellectual content designed to serve as a major tool for instruction of a subject or course. Instructional materials may consist of hard-backed or soft-backed textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.<sup>1</sup> The law establishes a statewide process for the adoption of instructional materials. The Commissioner of Education must annually determine the academic areas in which instructional materials must be submitted for adoption.<sup>2</sup>

The law establishes a five-year instructional materials adoption cycle for each content area, unless a content area requires more frequent revision, in which case the commissioner may approve a lesser term. The Department of Education (DOE) annually publishes an official adoption schedule for each of the succeeding two years, and a tentative schedule for years three through six.<sup>3</sup>

**Instructional Materials Adoption Schedule<sup>4</sup>**

Adoption Year	Subject Area
2011-12	Social Studies, K-12
2012-13	English Language Arts, K-5
	Mathematics, K-5
2013-14	English Language Arts, 6-12
	Mathematics, 6-12
2014-15	World Languages, K-12
	Career and Technical Education
	Health/Physical Education
	English for Speakers of Other Languages, K-12
2015-16	Science, K-12
2016-17	Social Studies, K-12

The commissioner must appoint three state instructional materials reviewers who are state or national experts in the content areas submitted for adoption. Reviewers evaluate instructional materials for alignment with the applicable Next Generation Sunshine State Standards (NGSSS), and recommend materials for inclusion on a state-adopted list.<sup>5</sup> The third reviewer is only required when the first two reviewers disagree on placement of an item on the state-adopted materials list, in which case he or she acts as a "tie-breaker."<sup>6</sup> In addition to standards alignment, reviewers must also consider the:

- Age of students expected to use the materials.
- Educational purpose of the materials in relation to state and district performance standards and course description objectives.

<sup>1</sup> Section 1006.29(2), F.S.

<sup>2</sup> Section 1006.29(1)(a), F.S.

<sup>3</sup> Section 1006.36(1), F.S.

<sup>4</sup> Florida Department of Education, *Instructional Materials Adoption Cycle* (May 2012), available at [http://www.fldoe.org/BII/instruct\\_mat/pdf/cycle.pdf](http://www.fldoe.org/BII/instruct_mat/pdf/cycle.pdf). Adoption years 2013-14, 2014-15, 2015-16, and 2016-17 are tentatively scheduled contingent on funding. *Id.*

<sup>5</sup> Section 1006.31(2), F.S.

<sup>6</sup> Section 1006.29(1)(b), F.S.

- Degree to which the materials will be supplemented by classroom instruction.
- Degree to which the materials represent the broad racial, ethnic, socioeconomic, and cultural diversity of students.<sup>7</sup>

Before each content area adoption, DOE publishes content specifications for instructional materials. These specifications detail the courses for which materials are sought, plus the standards the materials must meet.<sup>8</sup> DOE must advertise solicitation of bids from publishers with instructional materials on the recommended list. A publisher responding to the bid must submit samples of the instructional materials and bids must be accompanied by a deposit ranging from \$500 to \$2,500.<sup>9</sup> When all bids have been considered, the commissioner adopts from the recommended list instructional materials for each grade and subject in the public elementary, middle, and high school curriculum designated in the advertisement.<sup>10</sup>

Once instructional materials are adopted DOE must contract with every bidder with adopted instructional materials. A publisher under contract with DOE must give bond in such amount as DOE requires, signifying their intent to fulfill the contract.<sup>11</sup> Among other things, instructional materials publishers who submit items for adoption must:

- Maintain or contract with a depository in the state.
- Maintain in the depository for the first two years of the contract an inventory of instructional materials sufficient to receive and fill orders.
- Ensure the availability of an inventory in core academic subjects<sup>12</sup> sufficient to cover any growth in demand.
- Disclose only the names of instructional materials authors.<sup>13</sup>

### **District School Board Duties**

District school boards are responsible for the requisition, distribution, accounting, storage, care, and use of all instructional materials. The district must ensure that instructional materials used in the district are consistent with the district's goals and objectives, as well as the curriculum frameworks adopted by the State Board of Education.<sup>14</sup> Superintendents must requisition adopted instructional materials from the publisher's depository.<sup>15</sup>

Among other things, superintendents are required to notify DOE of the state-adopted materials that will be purchased for use in his or her district. The notification must include the school board's plan for using the instructional materials, to assist DOE in determining whether adequate materials have been requisitioned.<sup>16</sup>

### **Instructional Materials Funding**

Funding for instructional materials is provided annually in the General Appropriations Act. School districts are required to:

<sup>7</sup> Section 1006.34(2)(b), F.S.

<sup>8</sup> Section 1006.33(1), F.S.

<sup>9</sup> Sections 1006.33(3) and 1006.34(2), F.S.

<sup>10</sup> Section 1006.34(2), F.S.

<sup>11</sup> Section 1006.34(3), F.S.

<sup>12</sup> Core academic subjects include mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12. Section 1006.40(2), F.S.

<sup>13</sup> Section 1006.38(11)-(14), F.S.

<sup>14</sup> Section 1006.28(1)(b), F.S.

<sup>15</sup> Sections 1006.37(1) and 1006.38(11), F.S.

<sup>16</sup> Section 1006.28(2)(b), F.S.

- Provide each student, in kindergarten through grade 12, current instructional materials in core courses of mathematics, language arts, science, social studies, reading, and literature.
- Purchase instructional materials within the first two years of an adoption cycle.
- Spend at least fifty percent of the funds to purchase digital or electronic instructional materials included on the state-adopted list, by FY 2015-16.
- Spend up to fifty percent of the funds on instructional materials that are not found on the state-adopted instructional materials list. However, funding may exceed the fifty percent cap for kindergarten (100%) and first grade (75%) instructional materials.<sup>17</sup>

### **Effect of Proposed Changes**

The bill eliminates state instructional materials adoption and instead provides for review and approval of instructional materials by either DOE or school districts. School districts are authorized to evaluate instructional materials submitted by publishers or refer submitted materials to DOE for review. Districts must establish procedures for evaluating instructional materials submitted by publishers.

If the district chooses to review instructional materials, it must designate district staff who are experts in the content area to conduct reviews. Reviewers must review instructional materials for alignment to the NGSSS, level of instructional support, accuracy, and appropriate sequencing of content and make recommendations to the school board regarding materials that should be considered for use in district schools. Only instructional materials determined to be aligned to the NGSSS may be used.

School districts may collect fees from publishers who submit instructional materials for review; however, fees may not be charged for materials already reviewed by DOE. Districts must certify to DOE that all core instructional materials approved by the district are aligned with the NGSSS and evaluation standards.

The bill establishes requirements for DOE review and approval of instructional materials and authorizes the state board to collect fees from publishers who submit instructional materials for review. DOE must review instructional materials submitted by publishers or referred to it by school districts. The standards for such review are similar to those currently specified for state instructional materials reviewers. The bill prohibits approval of materials containing pornography or content for which sale to minors is prohibited.

DOE must post on its website the list of all school district- and DOE-approved instructional materials and those approved by other states, as “aligned to applicable standards.” Among other things, this will enable districts to capitalize on reviews conducted by other districts and, in the case of materials aligned to the Common Core State Standards in English Language Arts and Mathematics, other states.

The bill eliminates:

- The requirement that purchases be made in the first two years of the adoption process.
- Authorization to exceed the 50 percent cap on purchases of instructional materials not on the state-adopted list for kindergarten and first grade.
- Outdated requirements regarding the 2012-13 mathematics adoption.

The bill removes vestiges of the state adoption process made obsolete by the bill. The bill:

- Eliminates the requirement that superintendents notify DOE regarding state-adopted materials requisitioned by the district.
- Eliminates provisions requiring the commissioner to appoint three reviewers to review instructional materials for adoption.

- Shifts powers relating to instructional materials selection and adoption from the commissioner to the state board.
- Eliminates provisions regarding publisher bids, contracting, deposits, bonds, depository, inventory, and author disclosure requirements.

The bill also repeals statutory provisions:

- Authorizing an optional pilot program relating to transition to electronic and digital instructional materials.
- Relating to DOE advertising of requests for publisher bids.
- Requiring school districts to requisition instructional materials from publisher depositories.
- The Textbook Bid Trust Fund for holding publisher bids submitted to DOE.

These provisions are made obsolete by the bill.

Florida courts have held that the Legislature, when delegating authority to executive agencies or other entities, must establish minimal standards and guidelines ascertainable by reference to the legislation.<sup>18</sup> The bill authorizes school districts and the state board to collect fees from publishers who submit instructional materials for their review, but does not specify an amount or provide standards for determining the amount of the fee.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 1006.28, F.S., relating to Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials; authorizes school boards to review instructional materials for use in by school district; specifies requirements for review of instructional materials, authorizes the collection of fees from publishers; conforms provisions.

**Section 2.** Repeals s. 1006.282, F.S., relating to Pilot program for the transition to electronic and digital instructional materials; conforms provisions.

**Section 3.** Amends s. 1006.29, F.S., relating to State instructional materials reviewers; eliminates provision regarding the appointment of state reviewers; requires DOE to post on its website information regarding approved instructional materials; conforms provisions.

**Section 4.** Amends s. 1006.30, F.S., relating to Affidavit of state instructional materials reviewers; conforms provisions.

**Section 5.** Amends s. 1006.31, F.S., relating to Duties of state instructional materials reviewers; specifies standards for DOE instructional materials review; eliminates reporting; conforms provisions.

**Section 6.** Amends s. 1006.32, F.S., relating to Prohibited acts; conforms provisions.

**Section 7.** Repeals s. 1006.33, F.S., relating to Bids, proposals, advertisement.

**Section 8.** Amends s. 1006.34, F.S., relating to Powers and duties of the commissioner and DOE regarding instructional materials adoption; conforms provisions.

**Section 9.** Amends s. 1006.35, F.S., relating to Accuracy of instructional materials; conforms provisions.

**Section 10.** Amends s. 1006.36, F.S., relating to Term of adoption for instructional materials; conforms provisions.

**Section 11.** Repeals s. 1006.37, F.S., relating to Requisition of instructional materials from publisher's depository.

**Section 12.** Amends s. 1006.38, F.S., relating to Instructional materials publishers duties; eliminates provisions regarding publisher bids, contracts, bonds, and deposits.

**Section 13.** Amends s. 1006.40, F.S., relating to Use of instructional materials allocation; eliminates requirements regarding school district use of instructional materials funds; conforms provisions.

**Section 14.** Amends s. 1001.10, F.S., relating to Commissioner of Education; general powers; conforms provisions.

<sup>18</sup> See *Askew v. Cross Key Waterways*, 372 So.2d 913, 924 (Fla. 1978); See *Avatar Development Corp. v. State*, 723 So.2d 199 (Fla. 1998).

**Section 15.** Amends s. 1003.55, F.S., relating to Instructional programs for blind or visually impaired students and deaf or hard-of-hearing students; conforms provisions.

**Section 16.** Amends s. 1003.621, F.S., relating to Academically High Performing School Districts; conforms provisions.

**Section 17.** Repeals s. 1010.82, F.S., relating to Textbook Bid Trust Fund.

**Section 18.** Amends s. 1011.62, F.S., relating to Funds for operation of schools; conforms provisions.

**Section 19.** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill authorizes the State Board of Education to charge publishers a fee for reviewing submitted instructional materials.

#### 2. Expenditures:

DOE will likely experience cost savings resulting from the elimination of publisher bid solicitation, advertising, and review requirements associated with the instructional materials adoption process.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

The fiscal impact of the bill is indeterminate. To the degree school districts choose to review instructional materials, costs will be incurred related to the hiring of reviewers and establishing the infrastructure necessary to conduct reviews.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill authorizes school districts to charge publishers a fee for reviewing submitted instructional materials. It is not possible to predict the amount of fees districts will collect or the degree to which fees will offset the district's cost to review instructional materials submitted by publishers.

## 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:

Lines 80-83 and 436-439: Florida courts have held that the Legislature, when delegating authority to executive agencies or other entities, must establish minimal standards and guidelines ascertainable by reference to the legislation.<sup>19</sup> The bill authorizes school districts and the state board to collect fees from publishers who submit instructional materials for their review, but does not specify an amount or provide standards for determining the amount of the fee.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not Applicable.

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<sup>19</sup> See *Askew v. Cross Key Waterways*, 372 So.2d 913, 924 (Fla. 1978); See *Avatar Development Corp. v. State*, 723 So.2d 199 (Fla. 1998).



A bill to be entitled

An act relating to school safety; amending s. 790.115, F.S.; providing an exception to a prohibition on possession of firearms or other specified devices on school property or other specified areas for authorized concealed weapon or firearm licensees as designated by school principals or district superintendents; revising the applicability of a definition; amending s. 1006.12, F.S.; requiring district school boards to commission a school safety officer on each school campus in a school district unless the school principal for that campus has designated a concealed weapon or firearm licensee to carry firearms on school property while performing school duties under a specified provision; amending ss. 435.04, 790.251, 921.0022, and 1012.315, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 790.115, Florida Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions.—

(1) Except as provided in subsection (3), for purposes of this section, "school" means any preschool, elementary school,

29 middle school, junior high school, secondary school, career  
 30 center, or postsecondary school, whether public or nonpublic.

31 (2)~~(1)~~ A person who exhibits any sword, sword cane,  
 32 firearm, electric weapon or device, destructive device, or other  
 33 weapon as defined in s. 790.001(13), including a razor blade,  
 34 box cutter, or common pocketknife, except as authorized in  
 35 support of school-sanctioned activities, in the presence of one  
 36 or more persons in a rude, careless, angry, or threatening  
 37 manner and not in lawful self-defense, at a school-sponsored  
 38 event or on the grounds or facilities of any school, school bus,  
 39 or school bus stop, or within 1,000 feet of the real property  
 40 that comprises a public or private elementary school, middle  
 41 school, or secondary school, during school hours or during the  
 42 time of a sanctioned school activity, commits a felony of the  
 43 third degree, punishable as provided in s. 775.082, s. 775.083,  
 44 or s. 775.084. This subsection does not apply to the exhibition  
 45 of a firearm or weapon on private real property within 1,000  
 46 feet of a school by the owner of such property or by a person  
 47 whose presence on such property has been authorized, licensed,  
 48 or invited by the owner.

49 (3) This section does not apply to a member of a school  
 50 district's personnel who has been designated by the school  
 51 principal or, for an administration building, by the district  
 52 school superintendent, as authorized to carry a concealed weapon  
 53 or firearm on school district property.

54 (a) A designee authorized to carry a concealed weapon or  
 55 firearm on such school district property under this subsection  
 56 may only carry such weapon or firearm in a concealed manner and

57 may only do so while performing his or her official school  
 58 duties. Additionally, the designee must submit to the  
 59 authorizing principal or authorizing superintendent proof of  
 60 completion of training or experience as described in ss.  
 61 493.6113(3)(b) and 493.6303(4).

62 (b) Each school principal or, for an administration  
 63 building, the superintendent, may designate one or more such  
 64 designees pursuant to this subsection.

65 (c) For purposes of this subsection, "school" means any  
 66 public elementary school, middle school, junior high school, or  
 67 secondary school.

68 (4)(2)(a) A person shall not possess any firearm, electric  
 69 weapon or device, destructive device, or other weapon as defined  
 70 in s. 790.001(13), including a razor blade or box cutter, except  
 71 as authorized in support of school-sanctioned activities, at a  
 72 school-sponsored event or on the property of any school, school  
 73 bus, or school bus stop; however, a person may carry a firearm:

74 1. In a case to a firearms program, class or function  
 75 which has been approved in advance by the principal or chief  
 76 administrative officer of the school as a program or class to  
 77 which firearms could be carried;

78 2. In a case to a career center having a firearms training  
 79 range; or

80 3. In a vehicle pursuant to s. 790.25(5); except that  
 81 school districts may adopt written and published policies that  
 82 waive the exception in this subparagraph for purposes of student  
 83 and campus parking privileges.

84

85 ~~For the purposes of this section, "school" means any preschool,~~  
 86 ~~elementary school, middle school, junior high school, secondary~~  
 87 ~~school, career center, or postsecondary school, whether public~~  
 88 ~~or nonpublic.~~

89 (b) A person who willfully and knowingly possesses any  
 90 electric weapon or device, destructive device, or other weapon  
 91 as defined in s. 790.001(13), including a razor blade or box  
 92 cutter, except as authorized in support of school-sanctioned  
 93 activities, in violation of this subsection commits a felony of  
 94 the third degree, punishable as provided in s. 775.082, s.  
 95 775.083, or s. 775.084.

96 (c)1. A person who willfully and knowingly possesses any  
 97 firearm in violation of this subsection commits a felony of the  
 98 third degree, punishable as provided in s. 775.082, s. 775.083,  
 99 or s. 775.084.

100 2. A person who stores or leaves a loaded firearm within  
 101 the reach or easy access of a minor who obtains the firearm and  
 102 commits a violation of subparagraph 1. commits a misdemeanor of  
 103 the second degree, punishable as provided in s. 775.082 or s.  
 104 775.083; except that this does not apply if the firearm was  
 105 stored or left in a securely locked box or container or in a  
 106 location which a reasonable person would have believed to be  
 107 secure, or was securely locked with a firearm-mounted push-  
 108 button combination lock or a trigger lock; if the minor obtains  
 109 the firearm as a result of an unlawful entry by any person; or  
 110 to members of the Armed Forces, National Guard, or State  
 111 Militia, or to police or other law enforcement officers, with  
 112 respect to firearm possession by a minor which occurs during or

113 incidental to the performance of their official duties.

114 (d) A person who discharges any weapon or firearm while in  
 115 violation of paragraph (a), unless discharged for lawful defense  
 116 of himself or herself or another or for a lawful purpose,  
 117 commits a felony of the second degree, punishable as provided in  
 118 s. 775.082, s. 775.083, or s. 775.084.

119 (e) The penalties of this subsection shall not apply to  
 120 persons licensed under s. 790.06. Persons licensed under s.  
 121 790.06 shall be punished as provided in s. 790.06(12), except  
 122 that a licenseholder who unlawfully discharges a weapon or  
 123 firearm on school property as prohibited by this subsection  
 124 commits a felony of the second degree, punishable as provided in  
 125 s. 775.082, s. 775.083, or s. 775.084.

126 (5)~~(3)~~ This section does not apply to any law enforcement  
 127 officer as defined in s. 943.10(1), (2), (3), (4), (6), (7),  
 128 (8), (9), or (14).

129 (6)~~(4)~~ Notwithstanding s. 985.24, s. 985.245, or s.  
 130 985.25(1), any minor under 18 years of age who is charged under  
 131 this section with possessing or discharging a firearm on school  
 132 property shall be detained in secure detention, unless the state  
 133 attorney authorizes the release of the minor, and shall be given  
 134 a probable cause hearing within 24 hours after being taken into  
 135 custody. At the hearing, the court may order that the minor  
 136 continue to be held in secure detention for a period of 21 days,  
 137 during which time the minor shall receive medical, psychiatric,  
 138 psychological, or substance abuse examinations pursuant to s.  
 139 985.18, and a written report shall be completed.

140 Section 2. Paragraph (b) of subsection (2) of section

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141 1006.12, Florida Statutes, is amended to read:

142 1006.12 School resource officers and school safety  
143 officers.-

144 (2)

145 (b) A district school board shall ~~may~~ commission a school  
146 safety officer ~~one or more school safety officers~~ for the  
147 protection and safety of school personnel, property, and  
148 students on each school campus within the school district,  
149 except for the campus of a school whose principal has authorized  
150 one or more school district personnel to carry a concealed  
151 weapon or firearm on school property pursuant to s. 790.115(3).

152 The district school superintendent shall ~~may~~ recommend and the  
153 district school board shall ~~may~~ appoint the ~~one or more~~ school  
154 safety officers.

155 Section 3. Paragraphs (p) and (q) of subsection (2) of  
156 section 435.04, Florida Statutes, are amended to read:

157 435.04 Level 2 screening standards.-

158 (2) The security background investigations under this  
159 section must ensure that no persons subject to the provisions of  
160 this section have been arrested for and are awaiting final  
161 disposition of, have been found guilty of, regardless of  
162 adjudication, or entered a plea of nolo contendere or guilty to,  
163 or have been adjudicated delinquent and the record has not been  
164 sealed or expunged for, any offense prohibited under any of the  
165 following provisions of state law or similar law of another  
166 jurisdiction:

167 (p) Section 790.115(2) ~~790.115(1)~~, relating to exhibiting  
168 firearms or weapons within 1,000 feet of a school.



169 (q) Section 790.115(4)(b) ~~790.115(2)(b)~~, relating to  
 170 possessing an electric weapon or device, destructive device, or  
 171 other weapon on school property.

172 Section 4. Paragraph (a) of subsection (7) of section  
 173 790.251, Florida Statutes, is amended to read:

174 790.251 Protection of the right to keep and bear arms in  
 175 motor vehicles for self-defense and other lawful purposes;  
 176 prohibited acts; duty of public and private employers; immunity  
 177 from liability; enforcement.—

178 (7) EXCEPTIONS.—The prohibitions in subsection (4) do not  
 179 apply to:

180 (a) Any school property as defined in s. 790.115(1) and  
 181 regulated under that section ~~s. 790.115~~.

182 Section 5. Paragraphs (d) and (f) of subsection (3) of  
 183 section 921.0022, Florida Statutes, are amended to read:

184 921.0022 Criminal Punishment Code; offense severity  
 185 ranking chart.—

186 (3) OFFENSE SEVERITY RANKING CHART

187 (d) LEVEL 4

188

Florida	Felony	Description
Statute	Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with

189

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			siren and lights activated.
190	499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
191	499.0051(2)	3rd	Failure to authenticate pedigree papers.
192	499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
193	517.07(1)	3rd	Failure to register securities.
194	517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
195	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
196	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
197	784.075	3rd	Battery on detention or commitment facility staff.
198	784.078	3rd	Battery of facility employee by

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			throwing, tossing, or expelling certain fluids or materials.
199	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
200	784.081 (3)	3rd	Battery on specified official or employee.
201	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
202	784.083 (3)	3rd	Battery on code inspector.
203	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
204	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
205	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
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207	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
208	787.07	3rd	Human smuggling.
209	<u>790.115(2)</u> <del>790.115(1)</del>	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
210	<u>790.115(4)(b)</u> <del>790.115(2)(b)</del>	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
211	<u>790.115(4)(c)</u> <del>790.115(2)(c)</del>	3rd	Possessing firearm on school property.
212	800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
213	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
	810.02(4)(b)	3rd	Burglary, or attempted

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			burglary, of an unoccupied conveyance; unarmed; no assault or battery.
214	810.06	3rd	Burglary; possession of tools.
215	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
216	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
217	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
218	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
219	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
220	817.568(2)(a)	3rd	Fraudulent use of personal identification information.

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221

817.625(2) (a) 3rd Fraudulent use of scanning device or reencoder.

222

828.125(1) 2nd Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

223

837.02(1) 3rd Perjury in official proceedings.

224

837.021(1) 3rd Make contradictory statements in official proceedings.

225

838.022 3rd Official misconduct.

226

839.13(2) (a) 3rd Falsifying records of an individual in the care and custody of a state agency.

227

839.13(2) (c) 3rd Falsifying records of the Department of Children and Family Services.

228

843.021 3rd Possession of a concealed handcuff key by a person in custody.



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237	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
238	918.12	3rd	Tampering with jurors.
239	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
240	(f) LEVEL 6		
241	Florida Statute	Felony Degree	Description
242	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
243	499.0051(3)	2nd	Knowing forgery of pedigree papers.
244	499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
245	499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.



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246

775.0875(1) 3rd Taking firearm from law enforcement officer.

247

784.021(1)(a) 3rd Aggravated assault; deadly weapon without intent to kill.

248

784.021(1)(b) 3rd Aggravated assault; intent to commit felony.

249

784.041 3rd Felony battery; domestic battery by strangulation.

250

784.048(3) 3rd Aggravated stalking; credible threat.

251

784.048(5) 3rd Aggravated stalking of person under 16.

252

784.07(2)(c) 2nd Aggravated assault on law enforcement officer.

253

784.074(1)(b) 2nd Aggravated assault on sexually violent predators facility staff.

254

784.08(2)(b) 2nd Aggravated assault on a person 65 years of age or older.

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255

784.081(2) 2nd Aggravated assault on specified  
official or employee.

256

784.082(2) 2nd Aggravated assault by detained  
person on visitor or other  
detainee.

257

784.083(2) 2nd Aggravated assault on code  
inspector.

258

787.02(2) 3rd False imprisonment; restraining  
with purpose other than those  
in s. 787.01.

259

790.115(4)(d) 2nd Discharging firearm or weapon  
~~790.115(2)(d)~~ on school property.

260

790.161(2) 2nd Make, possess, or throw  
destructive device with intent  
to do bodily harm or damage  
property.

261

790.164(1) 2nd False report of deadly  
explosive, weapon of mass  
destruction, or act of arson or  
violence to state property.

262

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263	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
264	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
265	794.05(1)	2nd	Unlawful sexual activity with specified minor.
266	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
267	800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
268	806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
269	810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
	810.145(8)(b)	2nd	Video voyeurism; certain minor

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			victims; 2nd or subsequent offense.
270	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
271	812.014(6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
272	812.015(9)(a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
273	812.015(9)(b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
274	812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
275	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
276	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.

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277

825.102(1) 3rd Abuse of an elderly person or disabled adult.

278

825.102(3)(c) 3rd Neglect of an elderly person or disabled adult.

279

825.1025(3) 3rd Lewd or lascivious molestation of an elderly person or disabled adult.

280

825.103(2)(c) 3rd Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.

281

827.03(2)(c) 3rd Abuse of a child.

282

827.03(2)(d) 3rd Neglect of a child.

283

827.071(2) & (3) 2nd Use or induce a child in a sexual performance, or promote or direct such performance.

284

836.05 2nd Threats; extortion.

285

836.10 2nd Written threats to kill or do bodily injury.

286

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287	843.12	3rd	Aids or assists person to escape.
288	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
289	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
290	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
291	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
292	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
	944.40	2nd	Escapes.



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313           (o) Section 790.115(4)(b) ~~790.115(2)(b)~~, relating to  
314 possessing an electric weapon or device, destructive device, or  
315 other weapon at a school-sponsored event or on school property.  
316           Section 7. This act shall take effect July 1, 2013.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1097 School Safety  
**SPONSOR(S):** Steube and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1418

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Beagle <i>GB</i>	Ahearn <i>[Signature]</i>
2) Criminal Justice Subcommittee			
3) Education Appropriations Subcommittee			
4) Education Committee			

### SUMMARY ANALYSIS

School boards are authorized, but not required, to commission and assign to schools school safety officers for the protection of school personnel, property, and students within the school district. School safety officers are certified law enforcement officers, who are employed by either a law enforcement agency or a district school board. A school safety officer has the authority to carry weapons when performing official duties. Not all schools are assigned a school safety officer. The law does not specifically authorize a school principal to designate school district personnel to carry a concealed weapon or firearm for the protection of students and school employees.

Florida law authorizes the Department of Agriculture and Consumer Services (DACS) to issue a concealed weapons permit (CWP) to individuals who meet statutory qualifications. Among other criteria, applicants must pass a fingerprint-based criminal background check and complete a CWP training class.

The bill authorizes a public school principal to designate a member of a school district's personnel to carry a concealed weapon or firearm on school district property in the conduct of official duties. Similar authority is provided to district school superintendents regarding school district administration buildings. Such personnel must complete private security officer licensing training and statewide firearms license recertification training, with exceptions. For purposes of such designation, "school" means any public elementary school, middle school, junior high school, or secondary school. The bill does not require designated personnel to hold a CWP issued by DACS.

The bill requires each school board to commission a school safety officer for each school in the school district, except for schools in which the principal has authorized one or more school district personnel to carry a concealed weapon or firearm on school property. The bill requires the superintendent to recommend, and the school board to appoint, the school safety officers.

The bill does not have a fiscal impact on state government; however, the bill does have an indeterminate fiscal impact on school districts. See Fiscal Comments.

The bill authorizes a public school principal to designate a member of a school district's personnel to carry a concealed weapon or firearm on "school district property." The bill defines "school" as any public elementary school, middle school, junior high school, or secondary school and limits the carrying of a concealed weapon or firearm by designated personnel to "official school duties." However, use of the term "school district property" appears to grant the principal broader authority to designate personnel to carry a concealed weapon or firearm than just the school he or she oversees. The bill contains a number of other drafting issues. See Drafting Issues or Other Comments.

The bill takes effect July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Gun Free School Zones**

##### Federal Law

Federal law prohibits the knowing possession of a firearm that has moved in or that otherwise affects interstate or foreign commerce in a school zone. The prohibition does not apply to possession of a firearm:

- On private property not part of school grounds;
- By individuals licensed to possess a firearm by the state or a political subdivision of the state in which the school zone is located if the licensing law requires law enforcement verification that the individual meets the law's qualifications to receive the license before issuance;
- That is not loaded and stored in a locked container on a motor vehicle;
- Authorized pursuant to a program approved by the school in the school zone;
- Pursuant to a contract entered into between a school and the individual or an employer of the individual;
- By a law enforcement officer acting in his or her official capacity; or
- That is unloaded and is possessed by an individual who is authorized by the school to cross school grounds for the purpose of gaining access to public or private lands open to hunting.<sup>1</sup>

Federal law also prohibits the knowing or reckless discharge or attempted discharge of a firearm that has moved in or that otherwise affects interstate or foreign commerce in a school zone. The prohibition does not apply to the discharge of a firearm:

- On private property not part of school grounds;
- Authorized pursuant to a program approved by the school in the school zone;
- Pursuant to a contract entered into between a school and the individual or an employer of the individual; or
- By a law enforcement officer acting in his or her official capacity.<sup>2</sup>

Federal law further provides that it is not Congress' intent to occupy the field of firearms regulation, unless there is a direct, positive, and irreconcilable conflict between a federal and state firearms law regulating the same subject matter. Thus, states may regulate firearms in a manner that is consistent with federal law.<sup>3</sup>

##### Florida Law

Florida law prohibits, with exceptions, the possession or discharge of weapons or firearms at a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.<sup>4</sup> The law prohibits:

---

<sup>1</sup> 18 U.S.C. s. 922(q)(2)(A)-(B).

<sup>2</sup> 18 U.S.C. s. 922(q)(3)(A)-(B).

<sup>3</sup> 18 U.S.C. s. 927.

<sup>4</sup> Section 790.115(2)(a), F.S. (flush left provision at end of paragraph).

- Exhibition of a weapon<sup>5</sup> or firearm in the presence of another in a rude, careless, angry, or threatening manner on school property or a school bus, at a school bus stop or school-sponsored event, or within 1,000 feet<sup>6</sup> of a K-12 public or private school, during school hours or at the time of a school activity.<sup>7</sup> Such exhibition is a third degree felony,<sup>8</sup> unless it is made in lawful self-defense.<sup>9</sup>
- Possession of a weapon<sup>10</sup> or firearm, “except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop.” Penalties for such possession vary, as follows:
  - Willful and knowing unlawful possession of a firearm on school property or a school bus or at a school bus stop or school-sponsored activity or event is a third degree felony.<sup>11</sup>
  - A person who fails to securely store a firearm, enabling a minor to access it who then unlawfully possesses it on school property or a school bus or at a school bus stop or school-sponsored activity or event, commits a second degree misdemeanor.<sup>12</sup>
  - A person who discharges a firearm while unlawfully possessing it on school property or a school bus or at a school bus stop or school-sponsored activity or event, commits a second degree felony,<sup>13</sup> unless discharged for lawful defense of self or others or for a lawful purpose.<sup>14</sup>

The penalties for unlawful exhibition or possession of a firearm or weapon differ for licensed concealed weapons permit holders. Violations by such individuals constitute a second degree misdemeanor.<sup>15</sup>

The law provides several exceptions allowing individuals to carry a firearm on school property or a school bus or at a school bus stop or school-sponsored activity or event without express approval by school officials. A firearm may be carried:

- In a case to a school-approved firearms program;
- In a case to a career center having a firearms training range; or
- In a vehicle by a person who is at least 18 years of age and the firearm is securely encased or not readily accessible for immediate use.

School districts may adopt policies waiving the vehicle exception for purposes of student and campus parking privileges.<sup>16</sup>

<sup>5</sup> “Weapon” means any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife. Section 790.001(13), F.S. Exhibiting a sword, sword cane, electric weapon or device, destructive device, razor blade, box cutter, or common pocketknife is also prohibited. Section 790.115(1), F.S.

<sup>6</sup> The prohibition on exhibition of a firearm or weapon on private real property within 1,000 feet of a school does not apply to the property owner or those whose presence is authorized by the owner. Section 790.115(1), F.S.

<sup>7</sup> Section 790.115(1), F.S.

<sup>8</sup> A third degree felony is punishable by term of imprisonment not exceeding five years and a fine not exceeding \$5,000. Sections 775.082(3)(d) and 775.083(1)(c), F.S.

<sup>9</sup> Section 790.115(1), F.S.

<sup>10</sup> In addition to firearms and items defined as weapons, this provision also applies to possession of an electric weapon or device, destructive device, and a razor blade or box cutter. Section 790.115(2)(a), F.S.; *see footnote text, supra* note 4.

<sup>11</sup> Section 790.115(2)(e), F.S.

<sup>12</sup> Section 790.115(2)(c), F.S. This does not apply if the firearm was securely stored and the minor obtains the firearm as a result of an unlawful entry by any person or to members of the Armed Forces, National Guard, State Militia, or law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

<sup>13</sup> A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine not exceeding \$10,000.

<sup>14</sup> Section 790.115(2)(d), F.S.

<sup>15</sup> Sections 790.115(2)(e) and 790.06(12)(a) and (d), F.S. A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

<sup>16</sup> Section 790.115(2)(c), F.S.; *see, e.g.*, Policies 1217, 3217, 4217, 5772, and 7217, Leon County School Board.

## Concealed Weapons Permits

Florida law authorizes the Department of Agriculture and Consumer Services (DACS) to issue a concealed weapons permit (CWP) to individuals who meet statutory qualifications. Among other criteria, CWP applicants must pass a fingerprint-based criminal background check and complete a CWP training class. The CWP is a photo identification that enables the holder to carry a concealed weapon or firearm in public, except for specified locations, e.g., school or college athletic events; elementary, secondary, and postsecondary schools; and career centers.<sup>17</sup>

## School Safety Officers

School safety officers are certified law enforcement officers, who are employed by either a law enforcement agency or a district school board. School safety officers have authority to make arrests for violations of law on school board property and to arrest persons, whether on or off such property, who violate any law on such property under the same conditions that deputy sheriffs are authorized to make arrests. A school safety officer has the authority to carry firearms or other weapons when performing official duties.<sup>18</sup>

School boards are authorized, but not required, to commission and assign to schools school safety officers for the protection of school personnel, property, and students within the school district. School boards may enter into mutual aid agreements with one or more law enforcement agencies. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, if mutually agreed to.<sup>19</sup>

## Private Security Officer Training

Individuals seeking a Class "D" license as a private security officer must complete at least 40 hours of professional training by a provider licensed by DACS.<sup>20</sup> The training addresses legal liability issues and court procedures; personal security; traffic and crowd control; fire detection and life safety; crime and accident prevention; terrorism awareness; first aid; emergency response procedures; ethics; and patrol, communication, observation, report writing, and interviewing techniques.<sup>21</sup>

Individuals holding a Class "G" statewide firearm license must annually complete four hours of firearms recertification training taught by a licensed firearms instructor as a condition to license renewal.<sup>22</sup> Such training includes a review of legal aspects of firearms use and when to use a gun, operational firearms safety and mechanical training, and range-based firearms requalification.<sup>23</sup> In lieu of proof of statewide firearms recertification training, such personnel may submit:

- Proof of current certification as a law enforcement officer or correctional officer and completion of law enforcement firearms requalification training annually during the previous two years of the licensure period;
- Proof of current certification as a federal law enforcement officer and receipt of law enforcement firearms training administered by a federal law enforcement agency annually during the previous two years of the licensure period; or
- A Florida Criminal Justice Standards and Training Commission Instructor Certificate, National Rifle Association Private Security Firearm Instructor Certificate, or a firearms instructor certificate issued by a federal law enforcement agency and proof of having completed

<sup>17</sup> Section 790.06, F.S.

<sup>18</sup> Section 1006.12(2)(a) and (c), F.S.

<sup>19</sup> Section 1006.12(2)(b) and (d), F.S.

<sup>20</sup> Section 493.6303(4)(a), F.S.

<sup>21</sup> Florida Department of Agriculture and Consumer Services, *Security Officer Training Curriculum Guide* (July 2010) [hereinafter *Security Officer Training*].

<sup>22</sup> Section 493.6113(

<sup>23</sup> *Security Officer Training*, *supra* note 20.

requalification training during the previous two years of the licensure period.<sup>24</sup>

### **Effect of Proposed Changes**

The bill authorizes a public school principal to designate a member of a school district's personnel to carry a concealed weapon or firearm on school district property. Similar authority is provided to district school superintendents regarding school district administration buildings. Weapons or firearms may only be carried in a concealed manner while performing official school duties. For purposes of such designation, "school" means any public elementary school, middle school, junior high school, or secondary school. See Drafting Issues or Other Comments.

Designated personnel must submit to the authorizing principal or superintendent proof of completion of private security officer licensing training and annual statewide firearms license recertification training. As is currently authorized, proof of state or federal law enforcement certification or specified firearms certifications may be submitted in lieu of proof of statewide firearms license recertification training. Such personnel are not required to obtain the licenses associated with required training. The bill does not require designated personnel to hold a CWP, establish a badge or license identifying those designated to carry a weapon or firearm, or establish an application process or other standards for selecting personnel to designate. See Drafting Issues or Other Comments.

The bill exempts designated personnel from penalties related to unlawful possession of a weapon or firearm; allowing a minor access to a firearm; and rude, careless, angry, or threatening exhibition of a firearm or weapon on school property or at school functions. See Drafting Issues or Other Comments.

Currently, school boards have discretion to determine the number of school safety officers to commission and the schools in which to deploy them. The bill requires each school board to commission a school safety officer for each school in the school district, except for schools in which the principal has authorized school district personnel to carry a concealed weapon or firearm. The bill requires the superintendent to recommend, and the school board to appoint, the school safety officers. See Fiscal Comments.

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

**Section 1.** Amends s. 790.115, F.S., relating to Possessing or discharging firearms on school property prohibited; authorizes a school principal or school superintendent to designate school district personnel to carry a concealed weapon or firearm on school district property; specifies requirements.

**Section 2.** Amends s. 1006.12, F.S., relating to School resource officers and school safety officers; requires school boards to commission a school safety officer for each district school, except for schools in which the principal has authorized school district personnel to carry a concealed weapon or firearm.

**Section 3.** Amends s. 435.04, F.S., relating to Level 2 screening standards; conforms provisions.

**Section 4.** Amends s. 790.251, F.S., relating to Protection of the right to keep and bear arms in motor vehicles; conforms provisions.

**Section 5.** Amends s. 921.0022, F.S., relating to Criminal Punishment Code; conforms provisions.

**Section 6.** Amends s. 1012.315, F.S., relating to Disqualification from employment; conforms provisions.

**Section 7.** Provides an effective date of July 1, 2013.

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<sup>24</sup> Section 493.6113(3)(b), F.S.  
STORAGE NAME: h1097.KTS.DOCX  
DATE: 3/21/2013

## 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:

See Fiscal Comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill requires each school board to commission a school safety officer for each school in the school district, except for schools in which the principal has authorized personnel to carry a concealed weapon or firearm. School boards are not granted authority to adopt district-wide requirements or an approval process for designating personnel to carry a concealed weapon or firearm. Thus, each principal gets to manage the process ad hoc.

The costs incurred by school boards to hire school safety officers are directly dependent upon whether a school principal is willing to designate personnel to carry a concealed weapon or firearm and personnel are willing to accept such designation and whether a school safety officer is otherwise assigned to that school.

School districts annually receive categorical safe schools funding, which may be used for various purposes related to school safety.<sup>25</sup> School boards may enter into mutual aid agreements with one or more law enforcement agencies. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, if mutually agreed to.<sup>26</sup>

School district personnel who are designated to carry a concealed weapon or firearm must complete 40 hours of private security officer licensing training and an annual four hour statewide firearms license recertification course. A sampling of training provider websites indicates a cost of \$150 for private security officer license training<sup>27</sup> and \$99 for statewide firearms license recertification.<sup>28</sup> The bill does not specify whether the personnel or the school district bears the cost of such training.

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<sup>25</sup> Section 1011.62(6)(b)2., F.S.; *see, e.g.*, specific appropriations 6 and 84, ss. 1 and 2., ch. 2012-118, L.O.F.

<sup>26</sup> Section 1006.12(2)(b) and (d), F.S.

<sup>27</sup> ASK Bodyguard Training, *Prices*, <http://www.floridadlicensetraining.com/florida-d-license-prices/> (last visited March 21, 2013).

<sup>28</sup> Onsite Tactical Training Institute, *Class "G" Recertification*, <http://ostti.com/glicrecert.php> (last visited March 21, 2013).

### 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:

Lines 49-67: The bill authorizes a public school principal to designate a member of a school district's personnel to carry a concealed weapon or firearm on school district property. Although current law authorizes school officials to approve one's possession of a weapon or firearm "in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop," it provides no standards for a principal to rely for designating personnel under the bill. The bill does require designated personnel to complete private security officer training and statewide firearms license recertification training, but they are not required to obtain the licenses associated with the training. The bill does not require designated personnel to hold a CWP, establish an alternative identification for those designated to carry a weapon or firearm, or establish an application process or additional standards for vetting personnel similar to that required for a CWP. School boards are not directed to adopt district-wide requirements or an approval process for designating personnel to carry a concealed weapon or firearm. Thus, each principal gets to manage the process ad hoc. This could subject school districts and principals to liability if the actions of designated personnel result in harm to a student or others, especially if it cannot be shown that sufficient standards and procedures were in place for selecting personnel based upon their background, skills, and temperament.

Lines 49-53: The bill exempts designated personnel from penalties related to unlawful possession of a weapon or firearm; allowing a minor access to a firearm; and rude, careless, angry, or threatening exhibition of a weapon or firearm on school property or at school functions. Thus, there are no penalties for designated personnel who unlawfully exhibit a weapon or firearm or allow a minor to access a firearm while carrying it on school property. Limiting this exemption to unlawful possession would allow designated personnel to carry a weapon or firearm on school property, while still subjecting them to penalties for unlawful exhibition of a weapon or firearm or allowing a minor access to a firearm.

Lines 49-53 and 65-67: The bill authorizes a public school principal to designate a member of a school district's personnel to carry a concealed weapon or firearm on "school district property." The bill defines "school" as any public elementary school, middle school, junior high school, or secondary school and limits the carrying of a concealed weapon or firearm by designated personnel to "official school duties." However, use of the term "school district property" appears to grant the principal broader authority to designate personnel to carry a concealed weapon or firearm not just at the school the principal oversees, but any school property throughout the district.

Lines 54-58: Because the carrying of a concealed weapon is not limited to school hours, it appears that this would also be allowable at school events or any other time designated personnel are conducting official school duties.

Lines 58-61: Designated personnel must complete private security officer licensing training and annual statewide firearms license recertification training. These trainings do not involve simulated or "live fire" training in active shooter situations or defensive shooting tactics. While having an armed individual at

the school could deter active shooters from selecting that school as a target, some training in active shooter situations would be beneficial to personnel who are designated to carry weapons or firearms at the school, should the scenario arise.

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

Not applicable.







Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing PCB: K-12 Subcommittee  
 2 Representative Adkins offered the following:

**Amendment (with title amendment)**

Remove lines 11-21 and insert:

3  
 4  
 5  
 6 Section 1. Notwithstanding any provision of law to the contrary  
 7 in ss. 1012.22 and 1012.34, Florida Statutes, regarding the  
 8 performance salary schedule and personnel evaluation procedures  
 9 and criteria:

10 (1) At least 50 percent of a classroom teacher's or school  
 11 administrator's performance evaluation, or 40 percent if less  
 12 than 3 years of student performance data are available, shall be  
 13 based upon learning growth or achievement of the teacher's  
 14 students, or, for a school administrator, the students attending  
 15 that school; the remaining portion shall be based upon factors  
 16 identified in district-determined, state-approved evaluation  
 17 system plans. Student achievement measures for courses  
 18 associated with statewide assessments may only be used if a  
 19 statewide growth formula has not been approved for that  
 20 assessment or, for courses associated with school district



Amendment No.1

21 assessments, if achievement is demonstrated to be a more  
22 appropriate measure of teacher performance.

23

24

25

26

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27

**T I T L E   A M E N D M E N T**

28

Remove line 4 and insert:

29

instructional personnel and school administrator performance

30

evaluations;

31

1                                    A bill to be entitled  
 2            An act relating to public school personnel; providing  
 3            requirements for measuring student performance in  
 4            instructional personnel performance evaluations;  
 5            providing requirements for the performance evaluation  
 6            of personnel for purposes of the performance salary  
 7            schedule; providing an effective date.

8  
 9    Be It Enacted by the Legislature of the State of Florida:

10  
 11            Section 1. Notwithstanding any provision of law to the  
 12            contrary, for purposes of the performance salary schedule in s.  
 13            1012.22, Florida Statutes, and personnel evaluation procedures  
 14            and criteria in s. 1012.34, Florida Statutes:

15            (1) At least 50 percent of a classroom teacher's  
 16            performance evaluation shall be based on the student learning  
 17            growth, or student achievement if student learning growth cannot  
 18            be measured, that solely reflects such growth or achievement of  
 19            the students assigned to that teacher, and the remaining portion  
 20            shall be based on factors identified in district-determined,  
 21            state-approved evaluation system plans.

22            (2) The student performance data used in the performance  
 23            evaluation of nonclassroom instructional personnel shall be  
 24            based on student outcome data that reflects the actual  
 25            contribution of such personnel to the performance of the  
 26            students assigned to the individual in the individual's areas of  
 27            responsibility.

28            (3) For purposes of the performance salary schedule in s.

PCB KTS 13-04

ORIGINAL

2013

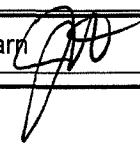
29 | 1012.22, Florida Statutes, the student assessment data in the  
30 | performance evaluation must be from statewide assessments or  
31 | district-determined assessments as required in s. 1008.22(8),  
32 | Florida Statutes, in the subject areas taught.

33 |       Section 2. This act shall take effect July 1, 2013.

34 |

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB KTS 13-04 Public School Personnel  
**SPONSOR(S):** K-12 Subcommittee  
**TIED BILLS:** IDEN./SIM. BILLS: CS/SB 980

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-12 Subcommittee		Beagle GB	Ahearn 

**SUMMARY ANALYSIS**

Currently, at least 50 percent of instructional personnel and school administrator performance evaluations must be based upon student performance. Student learning growth, with certain exceptions, must be used to determine student performance. Learning growth must be measured by statewide assessments and, for subjects and grade levels not tested by statewide assessments, school district assessments. If approved by the Department of Education, student performance on a school district assessment may be measured by a student achievement measure, a combination of student learning growth and achievement, or a combination of student learning growth on a school district assessment and on FCAT Reading or Mathematics.

Until July 1, 2015, if a school district has not implemented an assessment and student learning growth formula for a course, two alternative growth measures may be used -- student learning growth on statewide assessments or measurable learning targets. Learning targets must be identified by the school principal based upon the goals of the school improvement plan. Additionally, a district school superintendent may assign student learning growth on statewide assessments to an instructional team. Some school districts have identified all instructional personnel at the school as an instructional team, resulting in teachers being evaluated on students or subjects they never taught.

Student learning growth for students assigned to nonclassroom instructional personnel is measured by statewide assessments; however, a combination of growth data and measurable student outcomes unique to the personnel assignment may be used, provided that growth data accounts for at least 30 percent of the evaluation.

The bill requires that classroom teacher performance evaluations be based solely upon the performance of students assigned to the classroom teacher and that all classroom teachers be evaluated using either a learning growth or student achievement measure.

In evaluating nonclassroom instructional personnel, the bill requires school districts to use student outcome data that reflects the employee's actual contribution to the performance of students in his or her area of responsibility.

In addition, the bill reiterates that the student assessment data used in the performance evaluation must be from statewide assessments or school district assessments in the subject areas taught in order for an employee to be included in the performance salary schedule.

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

The bill takes effect July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Educator Performance Evaluations

###### Background

In August 2010, Florida was one of 11 states and the District of Columbia awarded federal Race to the Top grant funds.<sup>1</sup> The Florida Department of Education (DOE) received \$700 million to implement various education reforms, including reforms to instructional personnel<sup>2</sup> and school administrator<sup>3</sup> performance evaluations.<sup>4</sup> Sixty-two of 67 school districts, 209 charter schools in 27 of the participating districts, and three university lab schools are participating in Race to the Top.<sup>5</sup> Fifty local teachers unions agreed to collaborate with their school districts in implementing these reforms.<sup>6</sup> The Legislature enacted the Student Success Act in May 2011, which, among other things, codified Florida's Race to the Top performance evaluation reforms into state law.<sup>7</sup>

Among other things, the Student Success Act required school district performance evaluation systems to differentiate among four levels of performance:

- Highly effective;
- Effective;
- Needs improvement, or for instructional personnel in their first three years of employment who need improvement, developing; and
- Unsatisfactory.<sup>8</sup>

At least 50 percent of each instructional personnel's performance evaluation must be based upon student performance. Student learning growth, with certain exceptions, is the primary measure of student performance used to evaluate these employees. Learning growth must be measured by statewide assessments and, for subjects and grade levels not tested by statewide assessments, school district assessments.<sup>9</sup>

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<sup>1</sup> American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009); Press Release, U.S. Department of Education, *Nine States and the District of Columbia Win Second Round Race to the Top Grants* (Aug. 24, 2010), <http://www.ed.gov/news/press-releases/nine-states-and-district-columbia-win-second-round-race-top-grants> (last visited Feb. 5, 2013).

<sup>2</sup> Instructional personnel include classroom teachers; student services personnel, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel. Section 1012.01(2), F.S. Although substitute teachers are classified as classroom teachers, the law specifically excludes them from performance evaluation requirements. Section 1012.34(3)(a), F.S.

<sup>3</sup> Section 1012.34(1)(a), F.S. School administrators include school principals, school directors, career center directors, and assistant principals. Section 1012.01(3), F.S.

<sup>4</sup> U.S. Department of Education, *Race to the Top Funding Status*, <http://www2.ed.gov/programs/racetothetop/funding.html> (last visited Feb. 5, 2013); Florida Department of Education, *Florida's Race to the Top: hearing before the House Education Comm.* (Jan. 13, 2011).

<sup>5</sup> Participating lab schools are the Florida Atlantic University, Florida A & M University, and University of Florida lab schools. The Baker, Dixie, Hamilton, Palm Beach, and Suwannee County school districts are not participating in the grant. Email, Florida Department of Education, Legislative Affairs Director (Nov. 16, 2012).

<sup>6</sup> Florida Department of Education, *Florida's Race to the Top Memorandum of Understanding: hearing before the House K-20 Competitiveness Subcomm.* (Feb. 23, 2011).

<sup>7</sup> Section 2, ch. 2011-1, L.O.F., codified at s. 1012.34, F.S. (2011); see Florida Department of Education, *Florida's Race to the Top Memorandum of Understanding for Phase 2*, at 10-13 (May 3, 2010), available at <http://www.fldoe.org/arra/pdf/phase2mou.pdf>.

<sup>8</sup> Section 1012.34(2)(e), F.S.

<sup>9</sup> Sections 1012.34(3)(a)1. and 1008.22(8), F.S.

School district assessments must be implemented no later than the 2014-15 school year. School districts may use nationally recognized standardized assessments, industry certification examinations, and district-developed assessments.<sup>10</sup> DOE has provided technical assistance and used Race to the Top funds for the development of test item banks, a test platform, and grants to school districts for developing assessments for hard-to-measure courses that can be shared across the state.<sup>11</sup>

### **Student Learning Growth Measures**

Student learning growth formulas tied to statewide or school district assessments must be used to determine the amount of learning growth a student makes in the year he or she is assigned to the instructional personnel.<sup>12</sup> The Commissioner of Education was required to adopt a student learning growth formula for the Florida Comprehensive Assessment Test (FCAT), which he did for Reading and Mathematics in June 2011.<sup>13</sup> The commissioner must select additional formulas as appropriate for the remainder of the statewide assessments, i.e., FCAT Science, FCAT Writing, and statewide, standardized end-of-course assessments in Algebra I, Geometry, and Biology I; however, formulas for these assessments have not been adopted.<sup>14</sup>

Measurement of student learning growth must be based upon at least three school years of student data. If less than three years of data is available for an employee, the school district must include available data and may reduce the weight attributed to student learning growth from 50 percent to not less than 40 percent for classroom teachers and not less than 20 percent for nonclassroom instructional personnel.<sup>15</sup>

### Classroom Teachers

Measurement of student learning growth for classroom teacher evaluations varies according to the subjects and grades taught by the teacher, as follows:<sup>16</sup>

- For classroom teachers of courses tested by a statewide assessment, student learning growth on such assessments must be used.<sup>17</sup>
- For classroom teachers of courses measured by a school district assessment, student learning growth on such assessments must be used; however, school districts may request DOE-approval to use:

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<sup>10</sup> Sections 1008.22(8) and 1012.34(7)(b), F.S. The Commissioner of Education must identify methods to support school districts in the development or acquisition of assessments. Such methods include developing test item banks, facilitating the sharing of assessments among districts, acquiring assessments from state and national curriculum-area organizations, and technical assistance. Section 1008.22(8)(c), F.S.

<sup>11</sup> Florida Department of Education, *American Recovery and Reinvestment Act, Procurements*, <http://www.fldoe.org/arra/procurements.asp> (last visited Feb. 5, 2013). DOE awarded Race to the Top grants to fund seven projects by four Florida school districts to develop assessments for hard-to-measure courses. These projects include assessments of Physical Education and Health Education, Grades K – 8: Miami-Dade County; Physical Education and Health Education, Grades 9 – 12: Hillsborough County; Performing Arts: Chorus and Drama: Polk County; Performing Arts: Band and Instrumental: Polk County; Visual Arts: Miami-Dade County; World Languages (other than Spanish): Duval County; and Career and Technical Education: Hillsborough County. Florida Department of Education, *Race to the Top Assessments Information Sheet*, at 1 (June 2011), available at <http://www.fldoe.org/arra/racetothetop/assessments/pdf/InfoSheet-RTTT.pdf>. Field testing of these assessments will begin in Spring 2013-14. Florida Department of Education, *Race to the Top Assessments Timeline* (Aug. 2011), available at <http://www.fldoe.org/arra/racetothetop/assessments/pdf/Timeline-RTTT.pdf>.

<sup>12</sup> Section 1012.34(7)(a)-(b), F.S.

<sup>13</sup> *Id.*, Letter from Commissioner Smith to Student Learning Growth Implementation Committee (June 1, 2011), available at <http://www.fldoe.org/committees/pdf/CommissionerSmithCommittee.pdf>.

<sup>14</sup> Section 1012.34(7)(a), F.S.

<sup>15</sup> Section 1012.34(3)(a)1.a.-c., F.S.

<sup>16</sup> School districts must implement assessments for subjects not tested by statewide assessments by the 2014-15 school year. See s. 1008.22(8), F.S.

<sup>17</sup> Section 1012.34(7)(a)-(b), F.S.



- A student achievement measure or a combination of student learning growth and achievement; or<sup>18</sup>
- A combination of student learning growth on a school district assessment and on FCAT Reading or Mathematics, as long as learning growth on the district assessment is given greater weight.<sup>19</sup>

Until July 1, 2015, if a school district, for courses not tested on statewide assessments, has not implemented an assessment or a student learning growth formula for that assessment, the district may use two alternative growth measures -- student learning growth on statewide assessments or measurable learning targets. Learning targets must be identified by the school principal based upon the goals of the school improvement plan. Additionally, a district school superintendent may assign student learning growth on statewide assessments to an instructional team, i.e., classroom teachers who serve a common group of students.<sup>20</sup>

Some school districts have used school-wide or instructional team student performance data on FCAT Reading and Mathematics to evaluate classroom teachers of courses for which a district assessment has not been implemented or courses tested by a statewide assessment for which no student learning growth formula has been adopted. This has resulted in teachers being evaluated based upon students or subjects they never taught.<sup>21</sup>

#### Nonclassroom Instructional Personnel

Nonclassroom instructional personnel include student services personnel, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel.<sup>22</sup> Student learning growth for students assigned to nonclassroom instructional personnel is measured by statewide assessments; however, a combination of growth data and measurable student outcomes unique to the personnel assignment may be used, provided that growth data accounts for at least 30 percent of the evaluation.<sup>23</sup>

#### **Performance Salary Schedule**

The Student Success Act requires each school district to adopt a performance salary schedule for instructional personnel and school administrators by July 1, 2014. Instructional personnel and school administrators hired on or after July 1, 2014, and instructional personnel on annual contracts as of July 1, 2014, must be placed on the performance salary schedule.<sup>24</sup> Under the performance salary schedule, annual salary adjustments may only be given to employees rated highly effective or effective on annual performance evaluations.<sup>25</sup>

#### Effect of Proposed Changes

The bill notwithstanding any existing statutory provision contrary to the bill's provisions for purposes of performance evaluation procedures and criteria and the performance salary schedule.

<sup>18</sup> Section 1012.34(7)(c), F.S.

<sup>19</sup> Section 1012.34(7)(d), F.S.

<sup>20</sup> Section 1012.34(7)(e), F.S.

<sup>21</sup> See, e.g., Leon County Public Schools, *Leon Educator Assessment and Development System*, at 193-195 (Oct. 2011), available at [http://www.leonschools.net/docs/LCS\\_LEADS\\_BOOKLET\\_01\\_17\\_12.pdf](http://www.leonschools.net/docs/LCS_LEADS_BOOKLET_01_17_12.pdf); see, e.g., Pinellas County Schools, *Pinellas County Teacher Evaluation System*, at 13-16 (Dec. 2011), available at

[https://www.pcsb.org/images/stories/PCS\\_Teacher\\_Evaluation\\_System.pdf](https://www.pcsb.org/images/stories/PCS_Teacher_Evaluation_System.pdf).

<sup>22</sup> Section 1012.01(2), F.S.

<sup>23</sup> Section 1012.34(3)(a)1.b., F.S.

<sup>24</sup> Section 1012.22(1)(c)4. and 5., F.S.

<sup>25</sup> Section 1012.22(1)(c)5.b., F.S.

The bill requires that classroom teacher performance evaluations be based solely upon the performance of students assigned to the classroom teacher and that all classroom teachers be evaluated using either a learning growth or student achievement measure. This change, in effect, eliminates the use of instructional team or school-wide student performance data in evaluating classroom teachers. Accordingly, classroom teachers should only be evaluated based upon the students they teach.

Furthermore, this change allows school districts to use student achievement measures to evaluate classroom teachers of courses tested by a statewide assessment for which no student learning growth formula has been adopted, e.g., Algebra I, Geometry, and Biology I. This is currently not authorized.

In evaluating nonclassroom instructional personnel, the bill requires school districts to use student outcome data that reflects the employee's actual contribution to the performance of students in his or her area of responsibility. This enables school districts to cease using student learning growth data on statewide assessments to evaluate these employees, if such data does not reflect his or her contribution to student performance. Thus, districts may devise student performance measures that more accurately reflect the roles and responsibilities of these employees.

The bill provides that the student assessment data in the performance evaluation must be from statewide assessments or school district assessments, as applicable in the subject areas taught in order for an employee to be eligible for performance pay awards.

**B. SECTION DIRECTORY:**

**Section 1.** Creates an unnumbered section of law; specifies requirements regarding measurement of student performance for performance evaluation and performance-pay purposes.

**Section 2.** Provides that the bill takes effect July 1, 2013.

**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:**

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**

Not applicable.