

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: CS/SB 856

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Broxson

SUBJECT: Education

DATE: April 25, 2017

REVISED: \_\_\_\_\_

|    | ANALYST           | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|-------------------|----------------|-----------|------------------|
| 1. | <u>Benvenisty</u> | <u>Graf</u>    | <u>ED</u> | <b>Favorable</b> |
| 2. | <u>Ferrin</u>     | <u>Ferrin</u>  | <u>GO</u> | <b>Fav/CS</b>    |
| 3. | _____             | _____          | <u>RC</u> | _____            |

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 856 clarifies that a district school board must issue contracts on an annual basis to instructional personnel hired on or after July 1, 2011, by specifying that, except under certain circumstances, the district school board may not:

- Award an annual contract based on a contingency or condition that is not expressed in s. 1012.335, F.S.; or
- Alter or limit its authority to award or not award an annual contract as provided in s. 1012.335, F.S.

The bill takes effect upon becoming law.

**II. Present Situation:**

Instructional personnel provide direct instructional services or direct instructional support to K-12 students.<sup>1</sup> Instructional personnel include:<sup>2</sup>

- Classroom teachers;<sup>3</sup>
- Staff who provide student personal services (e.g., guidance counselors, social workers, career specialists, and school psychologists);
- Librarians and media specialists;

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<sup>1</sup> Section 1012.01(2), F.S.

<sup>2</sup> *Id.* at (2)(a)-(e).

<sup>3</sup> Classroom teachers include substitute teachers. Section 1012.01(2)(a), F.S.

- Other instructional staff (e.g., learning resource specialists);<sup>4</sup> and
- Education paraprofessionals.<sup>5</sup>

Three types of contracts are used to employ instructional personnel in Florida: continuing contracts,<sup>6</sup> professional service contracts<sup>7</sup>, and annual contracts.<sup>8</sup>

An annual contract is an employment contract for a period of no longer than one school year that a district school board may choose to award or not award without cause.<sup>9</sup> As of July 1, 2011, instructional personnel under an annual contract and personnel hired thereafter may only be employed on an annual contract basis.<sup>10</sup> The first annual contract for newly hired instructional personnel is a one-year probationary contract, which may be terminated without cause or from which the employee may resign without breach of contract.<sup>11</sup> “Newly hired instructional personnel” include employees new to the profession or employees with experience who are new to the school district.<sup>12</sup>

Upon successful completion of the one-year probationary contract, district school boards may award subsequent annual contracts if the employee:<sup>13</sup>

- Holds an active professional certificate or temporary certificate issued pursuant to Florida law and rules of the State Board of Education.
- Has been recommended by the superintendent based upon his or her performance evaluation, and approved by the district school board.
- Has not received two consecutive annual performance evaluation ratings of unsatisfactory, two annual performance evaluation ratings of unsatisfactory within a 3-year period, or three consecutive annual performance evaluation ratings of needs improvement or a combination of needs improvement and unsatisfactory pursuant to Florida law.

### III. Effect of Proposed Changes:

The bill clarifies that a district school board must issue contracts on an annual basis to instructional personnel hired on or after July 1, 2011, by specifying that, except under certain circumstances, the district school board may not:

- Award an annual contract based on a contingency or condition that is not expressed in s. 1012.335, F.S.; or
- Alter or limit its authority to award or not award an annual contract as provided in s. 1012.335, F.S.

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<sup>4</sup> *Id.* at (2)(d).

<sup>5</sup> Educational paraprofessionals are individuals who are under the direct supervision of an instructional staff member, aiding in the instructional process. *Id.* at (2)(e). The term includes classroom paraprofessionals in regular instruction, exceptional education paraprofessionals, career education paraprofessionals, adult education paraprofessionals, library paraprofessionals, physical education and playground paraprofessionals, and other school-level paraprofessionals. *Id.*

<sup>6</sup> Section 1012.33(3)(a)1.-3., F.S. (2010).

<sup>7</sup> Section 231.36(1) and (3)(a)1.-4., F.S. (1981).

<sup>8</sup> Section 1012.335(1)(a), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at (2)(a)-(b), F.S.

<sup>11</sup> *Id.* at (1)(c).

<sup>12</sup> Section 1012.335(1)-(2), F.S. For the purpose of awarding annual contracts, the term “instructional personnel” does not include substitute teachers. Section 1012.335(1)(b), F.S.

<sup>13</sup> *Id.* at (2)(c).

Additionally, the bill specifies that the provisions enumerated above only apply to collective bargaining agreements entered into or renewed by a district school board on or after this legislation is enacted. Accordingly, instructional personnel hired after the effective date of this bill may not be awarded an annual contract based on a contingency or condition that is not currently authorized in law.

The bill takes effect upon becoming law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties or municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1012.335 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Governmental Oversight and Accountability on April 24, 2017:**

The amendment creates an exception for a county as defined in s. 125.011(1), F.S.<sup>14</sup>

- B. **Amendments:**

None.

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

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<sup>14</sup> Miami-Dade County is the only county that meets the criteria set forth in s. 125.011(1), F.S.