

Committee on Education Pre-k - 12

CS/CS/SB 736 — Educational Personnel

by Budget Committee; Education Pre-K-12 Committee; and Senators Wise, Lynn, Gaetz, and Hays

This bill (Chapter 2011-1, L.O.F.) revises the evaluation, compensation, and employment practices for classroom teachers, other instructional personnel, and school administrators to refocus the education system on what is best for students. The bill aligns with Florida's successful Race to the Top application to which 62 of the 67 school districts and 53 local unions have supported and agreed to implement.

Performance Evaluations

The current evaluation system for classroom teachers, other instructional personnel, and school administrators relies on a completely subjective review and does not sufficiently, if at all, take the performance of students into consideration in determining the effectiveness of instructional staff and school leaders. The bill revises the evaluation system to focus on student performance.

For instructional personnel who are not classroom teachers, a school district may include specific job-performance expectations related to student support and use growth data and other measurable student outcomes specific to the individual's assignment, as long as the growth accounts for at least 30 percent of the evaluation.

Performance of Students

The bill reinforces Race to the Top, which requires 50 percent of the evaluation for classroom teachers and other instructional personnel to be based on student performance for students assigned to them over a 3-year period. The bill specifies that 50 percent of a school administrator's evaluation is based upon the performance of the students assigned to the school over a 3-year period.

If less than 3 years of student growth data is available for an evaluation, the district must include the years for which data is available and may reduce the percentage of the evaluation based on student growth to not less than 40 percent for classroom teachers and school administrators and not less than 20 percent for other instructional personnel.

Learning Growth Model

The Commissioner of Education would establish a learning growth model for the Florida Comprehensive Assessment (FCAT) and other statewide assessments to measure the effectiveness of a classroom teacher or school administrator based on what a student learns. The model would use the student's prior performance, while considering factors that may be outside a teacher's control, such as a student's attendance, disability, or English language proficiency. However, the model may not take into consideration a student's gender, race, ethnicity, or socioeconomic status.

School districts are required to measure student learning growth based on the performance of students on the state-required assessments for classroom teachers, other instructional personnel, and school administrator evaluations. School districts would be required to use the state's learning growth model for FCAT-related courses beginning in the 2011-2012 school year. School districts must use comparable measures of student growth for other grades and subjects with the department's assistance, if needed. Additionally, districts would be permitted to request alternatives to the growth measure if justified.

Evaluation Criteria

The remainder of a classroom teacher's evaluation is based on instructional practice and professional responsibilities. School districts may use peer review as part of the evaluation. The evaluation system must differentiate among four levels: highly effective; effective; needs improvement or, for instructional personnel in the first three years of employment who need improvement, developing; and unsatisfactory. The Commissioner of Education would be required to consult with instructional personnel, school administrators, education stakeholders, and experts in developing the performance levels for the evaluation system.

For instructional personnel who are not classroom teachers, the remainder of the evaluation would consist of instructional practice and professional responsibilities, and may include specific job expectations related to student support.

The remainder of a school administrator's evaluation would include the recruitment and retention of effective or highly effective teachers, improvement in the percentage of classroom teachers evaluated at the effective or highly effective level, other leadership practices that result in improved student outcomes, and professional responsibilities.

School districts, beginning with the 2014-2015 school year, must administer local assessments that are aligned to the standards and measure student mastery of the content. The school district can use statewide assessments, other standardized assessments, industry certification examinations, or district-developed or selected end-of-course assessments.

Until July 1, 2015, a district that has not implemented an assessment for a course or has not adopted a comparable measure of student growth may use two alternative growth measures to determine a classroom teacher's student performance: student growth on statewide assessments or measurable learning targets in the school improvement plan. Additionally, a district school superintendent may assign to an instructional team, the student learning growth of the team's students on statewide assessments.

The bill requires newly hired teachers to be evaluated at least twice in the first year of teaching.

Performance Pay

The current salary system is divorced from the effectiveness of the classroom teacher, other instructional personnel, or school administrators. Instead, salary decisions are made on the basis

of longevity. The bill comports with Race to the Top by tying the most significant gains in salary to effectiveness demonstrated under the evaluation.

Beginning with instructional personnel or school administrators hired on or after July 1, 2014, the evaluation will determine an individual's eligibility for a salary increase. The salaries of quality teachers, other instructional personnel, and school administrators would grow more quickly, while those of poor performing employees would not.

The new salary schedule would require a base salary schedule for classroom teachers, other instructional personnel, and school administrators with the following salary increases:

- An employee who is highly effective, as determined by his or her evaluation, would receive a salary increase that must be greater than the highest annual salary adjustment available to that individual through any other salary schedule adopted by the school district.
- An employee who is effective, as determined by his or her evaluation, would receive a salary increase between 50 and 75 percent of the annual salary increase provided to a highly effective employee.
- An employee under any other performance rating would not be eligible for a salary increase.

Current instructional personnel and school administrators could remain on their existing salary schedule, as long as they remain employed by the school district or have an authorized leave of absence. They may also opt to participate in the new performance salary schedule, but the option is irrevocable. Current instructional personnel who want to move to the new performance salary schedule would relinquish their professional service contract.

The bill is consistent with Race to the Top by requiring school districts to provide opportunities for instructional personnel and school administrators to earn additional salary supplements for assignment to a high priority location (e.g., an eligible Title I school or low-performing school), certification and teaching in critical teacher shortage areas, or assignment of additional academic responsibilities.

Beginning with instructional personnel hired on or after July 1, 2011, a district school board may not use advanced degrees in setting the salary schedule unless the advanced degree is held in the individual's areas of certification.

When budget constraints limit a school board's ability to fully fund all adopted salary schedules, the bill prohibits the school board from disproportionately reducing performance pay schedules.

Employment

The current system requires school districts to award tenure to a teacher after as little as three years of teaching. This employment is automatically renewed unless the teacher is "charged"

with unsatisfactory performance. It takes two or more years to terminate an ineffective teacher. Tenure protects ineffective instructional personnel at the expense of students. The bill furthers the goals of Race to the Top by basing employment decisions on the evaluation of instructional personnel.

The bill eliminates tenure with the exception for those instructional personnel who already possess a professional service contract or continuing contract. Instead, instructional personnel without tenure would be employed on an annual contract, subject to renewal by the district school board. This provision is designed to give school districts greater flexibility in meeting student instructional needs by retaining effective employees and quickly removing poor performing employees.

The probationary contract is extended from 97 days to one year. An employee on a probationary contract may resign or be dismissed without creating a breach of the contract.

Upon successful completion of a probationary contract, a classroom teacher may receive an annual contract. This includes instructional personnel who move from another state or district. Instructional personnel may receive an annual contract if he or she:

- Holds a temporary or professional certificate as prescribed by s. 1012.56, F.S., and State Board of Education rules; and
- Is recommended by the superintendent for the contract and approved by the district school board.

A school district may renew an annual contract; however, a district would be prohibited from renewing an annual contract if the individual receives:

- Two consecutive unsatisfactory evaluations;
- Two unsatisfactory evaluations within a 3-year period; or
- Three consecutive needs improvement or a combination of unsatisfactory and needs improvement evaluations.

Instructional personnel with an annual contract may be suspended or dismissed for just cause. If charges against an employee are not sustained, he or she would be immediately reinstated with back pay.

Instructional personnel who are currently on professional service or continuing contracts would retain their status unless the individual receives two consecutive unsatisfactory evaluations, two unsatisfactory evaluations within a 3-year period, or three consecutive needs improvement evaluations or a combination of unsatisfactory and needs improvement evaluations. In that situation, a school district is not required to automatically renew the professional service contract or continuing contract. Likewise, the above evaluation results would constitute just cause for terminating a professional service or continuing contract.

Performance evaluation results would also be used in making decisions related to the transfer and placement of employees and workforce reductions. Specifically, the bill repeals last in, first out (LIFO) policies that base retention decisions on seniority. Instead, the individual's evaluation will inform the school district's retention decisions.

Finally, each school district must annually report to the parent of a student who is assigned to a classroom teacher or school administrator with two consecutive unsatisfactory evaluations, two unsatisfactory evaluations within a 3-year period, or three consecutive needs improvement or a combination of unsatisfactory or needs improvement.

Other

The bill holds charter schools to the same standard as other public schools with respect to performance evaluations for instructional personnel and school administrators, assessments, performance pay and salary schedules, and workforce reductions.

For school districts that received an exemption under Race to the Top, the bill grants an annual renewable exemption to the requirements for performance pay and the weight given to student growth in performance evaluations, provided specific criteria are met. The exemption sunsets August 1, 2017, unless reenacted by the Legislature.

In conformance with the bill's new contracting provisions, the bill repeals certain special laws or general laws of local application regarding contracting provisions for instructional personnel and school administrators in public schools.

These provisions were approved by the Governor and take effect July 1, 2011, except as otherwise provided.

Vote: Senate 26-12; House 80-39