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**DATE:** March 1, 2002

**HOUSE OF REPRESENTATIVES  
COUNCIL FOR LIFELONG LEARNING  
ANALYSIS**

**BILL #:** CS/HB 1259  
**RELATING TO:** Pupil Progression  
**SPONSOR(S):** Committee on Education Innovation and Representative(s) Arza  
**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) EDUCATION INNOVATION YEAS 14 NAYS 0
  - (2) COUNCIL FOR LIFELONG LEARNING YEAS 13 NAYS 3
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

Beginning with the upcoming academic year, CS/HB 1259 requires the academic improvement plan of a student with a reading deficiency to describe the student's specific areas of deficiency in phonemic awareness, phonics, fluency, comprehension, and vocabulary; the desired levels of performance in these areas; and the instructional and support services to be provided to meet the desired levels of performance.

This bill requires a student with a substantial reading deficiency, which is determined by a local or statewide assessment conducted in grades K-3 or through teacher observations, to be provided with intensive reading instruction. The student's reading proficiency must be reassessed by a local assessment or through teacher observations at the beginning of the grade following the intensive reading instruction. Beginning with the upcoming academic year, the student must be retained if his or her reading deficiency is not remedied by the 3<sup>rd</sup> grade, as demonstrated by scoring at Level 2 or higher on the 3<sup>rd</sup> grade reading portion of the FCAT.

Beginning with the upcoming academic year, the parent of a student with a substantial reading deficiency must be notified in writing of the current services that are provided to the student; the proposed supplemental instructional services that will be provided to the student in order to remedy the reading deficiency; and the mandatory 3<sup>rd</sup> grade retention requirement.

This bill authorizes a school board to exempt a student from mandatory retention for good cause and defines good cause exemptions.

The cost of providing or enhancing the services under this bill is unknown. According to the Department of Education, the costs associated with the remediation and retention of third grade students may be funded through the Supplemental Academic Instruction fund. The total costs associated with retentions may be reduced for students who are able to rejoin their cohort group through remediation efforts and for those students who leave the Florida public school system.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |  |   |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

This bill does not appear to support the principle of Less Government because it requires school districts to provide additional years of instruction to students who are retained.

B. PRESENT SITUATION:

**Student Progression**

Section 232.245, F.S., stipulates that it is the Legislature's intent that each student's progression from one grade to another be determined, in part, by proficiency in reading, writing, science, and mathematics; and that school districts facilitate these proficiencies and report a student's academic progress to his or her parents. According to s. 232.245(2), F.S., each school board must establish a comprehensive program for student progression, which must include:

- Standards for evaluating each student's performance, including how well he or she masters the Sunshine State Standards approved by the State Board of Education.
- Specific levels of performance in reading, writing, science, and mathematics for each grade level, including the levels of performance on the FCAT, that a student must receive remediation or be retained within an intensive program that is different from the previous year's program and that takes into account the student's learning style.

Pursuant to s. 232.245(2)(b), F.S., no student may be assigned to a grade level based solely on age or other factors that constitute social promotion. However; the State Board of Education is required to adopt rules to prescribe limited circumstances in which a student may be promoted without meeting the specific assessment performance levels prescribed by the district's student progression plan. These rules must specifically address the promotion of students with limited English proficiency and students with disabilities.

Section 232.245(3), F.S., requires the following for each student:

- Each student must participate in the FCAT.
- Each student who does not meet specific levels of performance as determined by the school board in reading, writing, science, and mathematics for each grade level, or who does not meet specific levels of performance, determined by the Commissioner of Education, on the FCAT at selected grade levels, must be provided with additional diagnostic assessments to determine the nature of the student's difficulty and areas of academic need.
- The school in which the student is enrolled must develop, in consultation with the student's parent or legal guardian an academic improvement plan designed to assist the student in meeting state and district expectations for proficiency.

- Each academic improvement plan must include the provision of intensive remedial instruction in the areas of weakness.
- Upon subsequent evaluation, if the documented deficiency has not been corrected in accordance with the academic improvement plan, the student may be retained.

### **Students with Substantial Deficiencies in Reading Skills**

Section 232.245(4), F.S., requires certain standards for students with substantial deficiencies in reading skills:

- Any student who exhibits substantial deficiency in reading skills, based on locally determined assessments conducted before the end of grade 1 or 2, or based on a teacher's recommendation, must be given intensive reading instruction immediately following the identification of the reading deficiency.
- The student's reading proficiency must be reassessed by a locally determined assessment or based on a teacher's recommendation at the beginning of the grade following the intensive reading instruction, and the student must continue to be given intensive reading instruction until the reading deficiency is remedied.
- If the student's reading deficiency, as determined by the locally determined assessment at grades 1 and 2 or by the 3<sup>rd</sup> grade FCAT, is not remedied by the end of the 4<sup>th</sup> grade, and if the student scores below the specific level of performance on the FCAT in reading, the student must be retained.
- A school board may exempt a student from mandatory retention for good cause.

The Department of Education reports that 188,696 4<sup>th</sup> grade students took the reading portion of the FCAT in 2001. Of those students, 58,496 (31%) students scored at Level 1 and only 5,194 students were retained.

Pursuant to s. 232.245(5), F.S., each school district must annually report to the parent or legal guardian of each student the progress of the student towards achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The school district must report to the parent or legal guardian the student's results on the FCAT. The evaluation of each student's progress must be based on the student's classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting must be provided to the parent or legal guardian in writing in a format adopted by the school board.

#### **C. EFFECT OF PROPOSED CHANGES:**

Beginning with the upcoming academic year, CS/HB 1259 requires the academic improvement plan of a student with a reading deficiency to describe the student's specific areas of deficiency in phonemic awareness, phonics, fluency, comprehension, and vocabulary; the desired levels of performance in these areas; and the instructional and support services to be provided to meet the desired levels of performance. Schools must provide for the frequent monitoring of the student's progress in meeting the desired levels of performance. Additionally, this bill requires school boards to assist schools and teachers to implement proven research-based reading activities that are successful in teaching reading to low performing students.

This bill requires a student with a substantial reading deficiency, which is determined by a local or statewide assessment conducted in grades K-3 or through teacher observations, to be provided with intensive reading instruction. The student's reading proficiency must be reassessed by a local assessment or through teacher observations at the beginning of the grade following the intensive reading instruction. Beginning with the upcoming academic year, the student must be retained if his

or her reading deficiency is not remedied by the 3<sup>rd</sup> grade, as demonstrated by scoring at Level 2 or higher on the 3<sup>rd</sup> grade reading portion of the FCAT. The Department of Education reports that 29% of students did not score at Level 2 or higher on the 3<sup>rd</sup> grade reading portion of the FCAT in 2001.

Beginning with the upcoming academic year, the parent of a student with a substantial reading deficiency must be notified in writing of the current services that are provided to the student; the proposed supplemental instructional services that will be provided to the student in order to remedy the reading deficiency; and the mandatory 3<sup>rd</sup> grade retention requirement.

This bill authorizes a school board to exempt a student from mandatory retention for good cause. Good cause exemptions are limited to the following:

- Limited English proficient students who have had less than two years of instruction in an English for Speakers of Other Languages program.
- Students with disabilities whose individual education plan (IEP) indicates that participation in the statewide assessment program is not appropriate, consistent with the requirements of State Board of Education rule.
- Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education.
- Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the Sunshine State Standards in reading equal to at least a Level 2 performance on the FCAT.
- Students with disabilities who participate in the FCAT and who have an IEP or a Section 504 plan that reflects that the students have received intensive remediation in reading for more than two years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, 1<sup>st</sup> or 2<sup>nd</sup> grade.

Students who demonstrate an acceptable level of reading performance through an alternative reading assessment or through a student portfolio may be granted a good cause exemption from mandatory retention if the following criteria are met. A student's teacher must first submit documentation to the principal that demonstrates that the student's academic record warrants the student's promotion. The principal must then review and discuss the teacher's recommendation with the teacher and decide whether the student should be promoted. If the principal determines that the student should be promoted, the principal must submit a written recommendation to the superintendent. The superintendent must then accept or reject the principal's recommendation in writing.

Beginning with the current academic year, this bill requires school districts to annually publish in the local newspaper and submit a report in writing to the State Board of Education by September 1 of each year, the following information on the prior academic year:

- The provisions of this bill relating to public school student progression and the school board's policies and procedures on student retention and promotion.
- By grade, the number and percent of all students in grades 3 through 10 performing at Levels 1 and 2 on the reading portion of the FCAT.
- By grade, the number and percent of all students retained in grades 3 through 10.
- Information on the total number of students that were promoted for good cause, by each category of good cause listed above.
- Any revisions to the school board's policy on student retention and promotion from the prior year.

This bill provides the State Board of Education with the authority to implement any of the following powers in order to enforce the provisions of this bill:

- Require the chair of a school board or a superintendent to testify before the State Board of Education regarding the implementation of this bill's provisions.
- Request and receive information, data, and reports from school districts relating to student performance, student retention, and good cause exemptions.
- Report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that a school district has not complied with law or State Board of Education rule and recommend action to be taken by the Legislature.
- Withhold a portion of a superintendent's salary until the State Board of Education has determined the school district's compliance with the intent and provisions of this bill.

Lastly, this bill requires school boards to allocate remedial and supplemental instruction resources to students in the following priorities:

- Students who are deficient in reading by the end of 3<sup>rd</sup> grade.
- Students who fail to meet performance levels required for promotion consistent with a school board's student progression plan.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends s. 232.245, F.S., to revise student retention criteria when certain documented academic deficiencies have not been corrected; revise criteria for student retention based on reading deficiency; and defines language that allows school boards from exempting students from mandatory retention for good cause.

**Section 2:** Establishes an effective date upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The cost of providing or enhancing the services under this bill is unknown. According to the Department of Education, the costs associated with the remediation and retention of third grade students may be funded through the Supplemental Academic Instruction fund. The total costs associated with retentions may be reduced for students who are able to rejoin their cohort group through remediation efforts and for those students who leave the Florida public school system.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

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

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional provisions.

B. RULE-MAKING AUTHORITY:

This bill requires the State Board of Education, rather than the Commissioner of Education, to adopt rules in order to implement the provisions of this bill.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 19, 2002, the Committee on Education Innovation adopted a strike-everything amendment that primarily differs from the original bill in the following ways:

- Requires the academic improvement plan of a student with a reading deficiency to describe the student's specific areas of deficiency in phonemic awareness, phonics, fluency, comprehension, and vocabulary; the desired levels of performance in these areas; and the instructional and support services to be provided to meet the desired levels of performance.

- Requires schools to provide frequent monitoring of a student's progress in meeting the desired levels of performance.
- Requires school boards to assist schools and teachers in implementing proven research-based reading activities that are successful in teaching reading to low performing students.
- Requires that the parent of a student with a substantial reading deficiency be notified in writing of the current services that are provided to the student; the proposed supplemental instructional services that are provided to the student in order to remedy the reading deficiency; and the mandatory 3<sup>rd</sup> grade retention requirement.
- Requires a student to be retained if his or her reading deficiency is not remedied by the 3<sup>rd</sup> grade as demonstrated by scoring at Level 2 or higher on the 3<sup>rd</sup> grade reading portion of the FCAT.
- Prioritizes remedial and supplemental instruction resources provided to students.

The Committee on Education Innovation reported the bill favorably as a committee substitute.

VI. SIGNATURES:

COMMITTEE ON COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Staff Director:

Ryan Visco

Daniel Furman

AS REVISED BY THE COUNCIL FOR LIFELONG LEARNING:

Prepared by:

Council Director:

Ryan Visco

Patricia Levesque