By Senator Wise

A bill to be entitled
An act relating to education personnel; providing a short title; amending s. 1012.34, F.S.; revising provisions related to the evaluation of instructional personnel and school administrators; requiring that the Department of Education approve school district evaluation systems; requiring the Department of Education to collect evaluation information from school districts and to report such information to the Governor and Legislature; providing requirements for the evaluation systems; requiring that the State Board of Education adopt a formula for school districts to use in measuring growth in learning by students; conforming provisions to changes made by the act; amending s. 1008.22, F.S.; revising provisions requiring school districts to develop and implement end-of-course assessments; amending s. 1012.22, F.S.; revising the powers and duties of the district school board with respect to school district compensation and salary schedules; requiring that certain performance criteria be included in the adopted schedules; revising the differentiated pay provisions; creating s. 1012.335, F.S.; providing definitions; revising the contract requirements for instructional personnel hired on or after a certain date; requiring that the State Board of Education adopt rules defining the term “just cause”; providing guidelines for such term; amending s. 1002.33, F.S.; requiring charter schools to adopt a salary schedule for instructional personnel
and school administrators which meets certain requirements; requiring charter schools to comply with requirements relating to personnel evaluation procedures and criteria and certain contracts; amending s. 1003.621, F.S.; providing additional requirements for personnel in academically high-performing school districts; amending s. 1012.07, F.S.; revising the methodology for determining critical teacher shortage areas; amending s. 1012.2315, F.S.; providing additional reporting requirements concerning instructional personnel and school administrator assignments; amending s. 1012.27, F.S.; revising the criteria for transfer requests by teachers; conforming provisions to changes made by the act; amending s. 1012.28, F.S.; authorizing a principal to refuse to accept the placement or transfer of instructional personnel under certain circumstances; amending s. 1012.33, F.S.; revising provisions relating to contracts with certain education personnel; requiring that a district school board’s decision to retain personnel be primarily based on the employee’s performance; repealing s. 1012.52, F.S., relating to legislative intent for teacher quality; amending s. 1012.795, F.S.; conforming provisions to changes made by the act; authorizing school districts to seek an exemption from the State Board of Education from the requirement of certain laws; authorizing the State Board of Education to adopt rules; providing for the repeal of certain
special acts or general laws of local application
related to instructional personnel in public schools
or school districts; providing an exception; providing
for severability; providing for application of a
specified provision of the act; providing effective
dates.

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

Section 1. This act may be cited as the "Race to the Top
for Student Success Act."

Section 2. Effective upon this act becoming a law, section
1012.34, Florida Statutes, is amended to read:

1012.34 Personnel evaluation Assessment procedures and
criteria.—

(1) EVALUATION APPROVAL AND REPORTING.—
(a) For the purpose of increasing student achievement by
improving the quality of instructional, administrative, and
supervisory services in the public schools of the state, the
district school superintendent shall establish procedures for
evaluating assessing the performance of duties and
responsibilities of all instructional, administrative, and
supervisory personnel employed by the school district. Each
school district shall annually report to the Department of
Education the evaluation results of its evaluation system for
instructional personnel and school administrators.

(b) The Department of Education must approve each
district’s evaluation systems for its instructional personnel
and school administrators instructional personnel assessment
The Department of Education shall monitor each district’s implementation of its instructional personnel and school administrator evaluation system for compliance with this section.

(c) By December 1 of each year, the Commissioner of Education shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives the approval and implementation status of each district’s evaluation system, including the aggregate performance results and findings from the monitoring process for: classroom teachers, but excluding substitute teachers; instructional personnel, as defined in s. 1012.01(2)(b)-(d); and school administrators.

(2) EVALUATION SYSTEM REQUIREMENTS.—The following conditions must be considered in the design of the district’s instructional personnel assessment system:

(a) The system must be designed to support effective instruction and student achievement, and the results must be used to inform district and school level improvement plans.

(b) The system must provide appropriate instruments, procedures, and criteria for continuous quality improvement of the professional skills, and the results must be used to inform the professional development of instructional personnel and school administrators.

(c) The system must include a mechanism to examine performance data from multiple sources, which includes giving parents an opportunity to provide input into employee performance evaluations assessments when appropriate.

(d) Identify In addition to addressing generic teaching competencies, districts must determine those teaching fields for
which special evaluation procedures and criteria will be developed.

(e) Differentiate among at least four levels of performance, which include the following:

1. Highly effective.
2. Effective.
3. Needs improvement or, for instructional personnel in the first 3 years of employment or in the first year of a new teaching assignment, developing.
4. Unsatisfactory.

The Commissioner of Education shall consult with experts and classroom teachers in developing the criteria for the performance levels. Each district school board may establish a peer assistance process. The plan may provide a mechanism for assistance of persons who are placed on performance probation as well as offer assistance to other employees who request it.

(f) The district school board shall Provide for training programs that are based upon guidelines provided by the department of Education to ensure that all individuals who have with evaluation responsibilities understand the proper use of the evaluation assessment criteria and procedures.

(g) Include a process for monitoring the effective and consistent use of evaluation criteria by supervisors and administrators.

(h) Include a process for evaluating the effectiveness of the system itself in improving the level of instruction and learning in the district’s schools.
In addition, each district school board may establish a peer assistance process. This process may be a part of the regular evaluation system or used to assist employees placed on performance probation, beginning teachers, or those who request assistance.

(3) EVALUATION CRITERIA.—The evaluation procedure for instructional personnel and school administrators must be primarily based on the performance of students assigned to their classrooms or schools, as provided in this section appropriate. Pursuant to this section, a school district’s performance evaluation assessment is not limited to basing unsatisfactory performance of instructional personnel and school administrators solely upon student performance, but may include other criteria approved to evaluate instructional personnel and school administrators’ performance, or any combination of student performance and other approved criteria. The procedures must comply with, but are not limited to, the following requirements:

(a) An evaluation assessment must be conducted for each employee at least once a year, except that a first-year teacher must be evaluated at least twice in the first year of teaching. The evaluation assessment must be based upon sound educational principles and contemporary research in effective educational practices. The assessment must primarily use data and indicators of improvement in student performance assessed annually as specified in s. 1008.22 and may consider results of peer reviews in evaluating the employee’s performance. Student performance must be measured by state assessments required under s. 1008.22 and by local assessments for subjects and grade levels not
measured by the state assessment program. The evaluation assessment criteria must include, but need not be limited to, indicators of that relate to the following:

1. Performance of students. The evaluation must base at least 50 percent of the results on data and indicators of student learning growth assessed annually by state assessments or, for subjects and grade levels not measured by the state assessments, by district assessments as provided in s. 1008.22(8). The school district must use the state-adopted measure of student growth for all courses associated with state assessments and must select comparable measures of student growth for other grades and subjects as provided in subsection (8).

   a. For classroom teachers, excluding substitute teachers, the student growth portion of the evaluation must include growth data, as defined in subsection (8), for students assigned to the teacher over the course of at least 3 years. If less than 3 years of data are available, the school district must include the years for which data are available and may reduce the percentage of the evaluation based on student growth to not less than 40 percent.

   b. For instructional personnel who are not classroom teachers, the student growth portion of the evaluation must include growth data on state assessments, as defined in subsection (8), for students assigned to the instructional personnel over the course of at least 3 years, or may include a combination of growth data and other measurable student outcomes that are specific to the personnel assignment, provided that the student growth data account for not less than 30 percent of the
evaluation. If less than 3 years of student growth data are available, the district must include the years for which data are available and may reduce the percentage of the evaluation based on student growth to not less than 20 percent.

c. For school administrators, the student growth portion of the evaluation must include growth data, as defined in subsection (8), for students assigned to the school over the course of at least 3 years. If less than 3 years of data are available, the district must include the years for which data are available, and may reduce the percentage of the evaluation based on student growth to not less than 40 percent.

2. Instructional practice. For classroom teachers, criteria must include indicators based on each of the Florida Educator Accomplished Practices adopted by the State Board of Education. For instructional personnel who are not classroom teachers, performance criteria must be based on indicators of the Florida Educator Accomplished Practices and may include specific job-performance expectations related to student support.

3. Instructional leadership. For school administrators, criteria must include indicators based on each of the leadership standards adopted by the State Board of Education under s. 1012.986, including the following: performance measures related to the effectiveness of the instructional personnel in the school; the administrator’s appropriate use of evaluation criteria and procedures; recruitment and retention of effective and highly effective classroom teachers; improvement in the percentage of classroom teachers evaluated at the effective or highly effective level; management of human, financial, and material resources so as to maximize the share of resources used
for direct instruction, as opposed to overhead or other purposes; and other leadership practices that result in improved student outcomes. The system must include a means to give parents and instructional personnel an opportunity to provide input into the administrator’s performance evaluation, when appropriate.

4. Professional responsibilities. This criteria must include other professional responsibilities and employment requirements, as established by the State Board of Education and through policies of the district school board.

  2. Ability to maintain appropriate discipline.
  3. Knowledge of subject matter. The district school board shall make special provisions for evaluating teachers who are assigned to teach out-of-field.
  4. Ability to plan and deliver instruction and the use of technology in the classroom.
  5. Ability to evaluate instructional needs.
  6. Ability to establish and maintain a positive collaborative relationship with students’ families to increase student achievement.
  7. Other professional competencies, responsibilities, and requirements as established by rules of the State Board of Education and policies of the district school board.

(b) All personnel must be fully informed of the criteria and procedures associated with the evaluation process before the evaluation takes place.

(c) The individual responsible for supervising the employee must evaluate the employee’s performance. The school district’s evaluation system may provide for the supervisor to
consider input from other trained evaluators. The evaluator must submit a written report of the evaluation to the district school superintendent for the purpose of reviewing the employee’s contract. The evaluator must submit the written report to the employee no later than 10 days after the evaluation takes place. The evaluator must discuss the written report of the evaluation with the employee. The employee shall have the right to initiate a written response to the evaluation, and the response shall become a permanent attachment to his or her personnel file.

(d) A school district may amend an individual’s evaluation based upon assessment data from the current year if the data become available within 60 days after the close of the school year.

(4) NOTIFICATION OF UNSATISFACTORY PERFORMANCE.—If an employee is not performing his or her duties in a satisfactory manner, the evaluator shall notify the employee in writing of such determination. The notice must describe such unsatisfactory performance and include notice of the following procedural requirements:

(a) Upon delivery of a notice of unsatisfactory performance, the evaluator must confer with the employee, make recommendations with respect to specific areas of unsatisfactory performance, and provide assistance in helping to correct deficiencies within a prescribed period of time.

(b) If the employee holds a professional service contract as provided in s. 1012.33, the employee shall be placed on performance probation and governed by the provisions of this
section for 90 calendar days following the receipt of the notice of unsatisfactory performance to demonstrate corrective action. School holidays and school vacation periods are not counted when calculating the 90-calendar-day period. During the 90 calendar days, the employee who holds a professional service contract must be evaluated periodically and apprised of progress achieved and must be provided assistance and inservice training opportunities to help correct the noted performance deficiencies. At any time during the 90 calendar days, the employee who holds a professional service contract may request a transfer to another appropriate position with a different supervising administrator, as provided in s. 1012.33; however, if a transfer is granted, it does not extend the period for correcting performance deficiencies.

2.b. Within 14 days after the close of the 90 calendar days, the evaluator must evaluate whether the performance deficiencies have been corrected and forward a recommendation to the district school superintendent. Within 14 days after receiving the evaluator’s recommendation, the district school superintendent must notify the employee who holds a professional service contract in writing whether the performance deficiencies have been satisfactorily corrected and whether the district school superintendent will recommend that the district school board continue or terminate his or her employment contract. If the employee wishes to contest the district school superintendent’s recommendation, the employee must, within 15 days after receipt of the district school superintendent’s recommendation, submit a written request for a hearing. The hearing shall be conducted at the district school board’s
election in accordance with one of the following procedures:

a. (I) A direct hearing conducted by the district school board within 60 days after receipt of the written appeal. The hearing shall be conducted in accordance with the provisions of ss. 120.569 and 120.57. A majority vote of the membership of the district school board shall be required to sustain the district school superintendent’s recommendation. The determination of the district school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment; or

b. (II) A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days after receipt of the written appeal in accordance with chapter 120. The recommendation of the administrative law judge shall be made to the district school board. A majority vote of the membership of the district school board shall be required to sustain or change the administrative law judge’s recommendation. The determination of the district school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment.

(5) (4) ADDITIONAL NOTIFICATIONS.—The district school superintendent shall notify the department of any instructional personnel who receive two consecutive unsatisfactory evaluations and who have been given written notice by the district that their employment is being terminated or is not being renewed or that the district school board intends to terminate, or not renew, their employment. The department shall conduct an investigation to determine whether action shall be taken against the certificateholder pursuant to s. 1012.795(1)(c).
(5) The district school superintendent shall develop a mechanism for evaluating the effective use of assessment criteria and evaluation procedures by administrators who are assigned responsibility for evaluating the performance of instructional personnel. The use of the assessment and evaluation procedures shall be considered as part of the annual assessment of the administrator’s performance. The system must include a mechanism to give parents and teachers an opportunity to provide input into the administrator’s performance assessment, when appropriate.

(6) LIMITATIONS.—Nothing in this section does not shall be construed to grant a probationary employee a right to continued employment beyond the term of his or her contract.

(7) ANNUAL REVIEW AND REVISIONS TO THE SCHOOL DISTRICT EVALUATION SYSTEM.—The district school board shall establish a procedure for annually reviewing instructional personnel and school administrator evaluation assessment systems to determine compliance with this section. All substantial revisions to an approved system must be reviewed and approved by the district school board before being used to evaluate assess instructional personnel and school administrators. Upon request by a school district, the department shall provide assistance in developing, improving, or reviewing an evaluation assessment system.

(8) MEASUREMENT OF STUDENT GROWTH IN LEARNING.—
(a) By June 1, 2011, the Commissioner of Education shall adopt a formula to measure individual student growth on the Florida Comprehensive Assessment Test administered under s. 1008.22(3)(c)1. The formula must take into account each student’s prior performance, grade level, and subject. In the
development of the formula, the Commissioner of Education shall consider other factors, including, but not limited to, student attendance, student disciplinary records, student disabilities, and student English language proficiency. The formula may not set different expectations for student growth based on gender, race, ethnicity, or socioeconomic status. The State Board of Education shall adopt the formula into rule by October 1, 2012.

(b) Beginning with the 2011-2012 school year, each district shall measure the growth in learning of each student using the commissioner-adopted student growth measure for courses associated with the FCAT. Beginning with the 2014-2015 school year, each school district shall measure the growth in learning for each student using a comparable measure of student growth for other grades and subjects for which the school district has selected appropriate student assessments under s. 1008.22(8). The Department of Education shall provide model student growth measures that school districts may adopt for this purpose.

(c) A school district may request through the evaluation system approval process to use a student achievement measure rather than a growth measure for courses for which achievement is a more appropriate measure of instructional personnel performance. A school district may request to use a combination of growth and achievement.

(d) A school district may request through the evaluation system approval process to include student growth demonstrated on state assessments as a percentage of the evaluation of classroom teachers who are assigned to courses not associated with state assessments, if the growth remains based upon the students assigned to the teacher and the percentage of growth
for the teacher’s assigned content area, as measured by the
district-selected assessment, is the greater percentage.

(e) For classroom teachers of courses for which the
district has not implemented appropriate assessments under s.
1008.22(8) or for which the school district has not adopted a
comparable measure of student growth under paragraphs (b)-(d),
student growth must be measured by the growth in learning of the
classroom teacher’s students on state assessments, or, for
courses in which enrolled students do not take the state
assessment, measurable learning targets must be established
based upon the goals of the school improvement plan and approved
by the school principal. A district school superintendent may
assign instructional team student learning growth to
instructional personnel in lieu of overall student learning
growth of the school in reading and mathematics based upon the
state assessment program under s. 1008.22. This paragraph
expires July 1, 2015.

(9)(8) RULEMAKING.—The State Board of Education shall adopt
rules pursuant to ss. 120.536(1) and 120.54 which establish uniform
procedures guidelines for the submission, review, and approval of district procedures for the annual
evaluation assessment of instructional personnel and school
administrators; the standards for each performance level
required under subsection (2); the measurement of student growth
in learning and associated implementation procedures required
under subsection (8); and a process for monitoring district
implementation of evaluation systems in accordance with this
section and that include criteria for evaluating professional
performance.
Section 3. Subsection (8) of section 1008.22, Florida Statutes, is amended to read:

1008.22 Student assessment program for public schools.—

(8) LOCAL ASSESSMENTS.—

(a) Measurement of the learning gains of students in all subjects and grade levels other than subjects and grade levels required for the state student achievement testing program is the responsibility of the school districts.

(b) Beginning with the 2014-2015 school year, each school district shall administer for each course offered in the district a student assessment that measures mastery of the content, as described in the state-adopted course description, at the necessary level of rigor for the course. Such assessments may include:

1. Statewide assessments under this section.
2. Other standardized assessments, including nationally recognized standardized assessments.
3. Industry certification examinations.
4. District-developed or selected end-of-course assessments.

This paragraph shall be implemented as the Commissioner of Education identifies methods to assist and support districts in the development and acquisition of assessments, as described in paragraph (c).

(c) The Commissioner of Education shall identify methods to assist and support districts in the development and acquisition of assessments required under this subsection. Methods may include the development of item banks, facilitation of the
sharing of developed tests among districts, and technical assistance in best professional practices of test development based on state-adopted curriculum standards, administration, and security.

Section 4. Paragraphs (c) and (e) of subsection (1) of section 1012.22, Florida Statutes, are amended to read:

1012.22 Public school personnel; powers and duties of the district school board.—The district school board shall:

(1) Designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees as follows, subject to the requirements of this chapter:

(c) Compensation and salary schedules.—

1. Definitions.—As used in this paragraph, the term:

a. “Salary schedule” means the schedule or schedules used to provide the base pay for district school board personnel.

b. “Adjustment” means an addition to the base salary schedule which is not a bonus, but becomes part of the employee’s permanent base salary and is considered compensation under s. 121.021(22).

c. “Supplement” means an annual addition to the base salary schedule for the term of the negotiated supplement as long as the employee continues his or her employment for the purpose of the supplement. A supplement does not become part of the employee’s continuing base salary but is considered compensation under s. 121.021(22).

d. “Grandfathered salary schedule” means the schedule or schedules adopted by a school district before July 1, 2014.
e. “Performance salary schedule” means the schedule or schedules adopted by a school district pursuant to subparagraph 3.

f. “Instructional personnel” means instructional personnel as defined in s. 1012.01(2)(a)-(d), excluding substitute teachers.

g. “School administrator” means school administrators as defined in s. 1012.01(3)(c).

2. Grandfathered salary schedule.—The district school board shall adopt a salary schedule or salary schedules to be used as the basis for paying all school employees hired before July 1, 2014. In determining the grandfathered salary schedule for instructional personnel, a district school board must base a portion of each employee’s compensation upon performance demonstrated under s. 1012.34 and shall provide differentiated pay for both instructional personnel and school administrators based upon district-determined factors, including, but not limited to, additional responsibilities, school demographics, critical shortage areas, and level of job-performance difficulties. Instructional personnel hired before July 1, 2014, shall remain on the grandfathered salary schedule for as long as the employee remains employed by the school district. However, such instructional personnel may choose, at any time, to opt into the performance salary schedule adopted under subparagraph 3. Once an individual has chosen to opt into the performance salary schedule, he or she may not return to the grandfathered salary schedule.

3. Performance salary schedule.—By July 1, 2014, the district school board shall adopt a performance salary schedule
that provides annual salary adjustments for instructional personnel and school administrators based upon performance determined under s. 1012.34. Employees hired on or after July 1, 2014, shall be compensated pursuant to the performance salary schedule once they have received appropriate evaluation for this purpose, except that an instructional employee whose evaluation uses solely student growth measures established under s. 1012.34(8)(e) shall remain under the grandfathered salary schedule until his or her teaching assignment changes or the district establishes comparable measures of student learning growth, as defined under that section and rules of the State Board of Education.

a. Base salary.—The base salary shall be established as follows:

(I) The base salary for all instructional personnel and school administrators returning subsequent to the 2014-2015 school year shall be the salary paid in the prior year, including adjustments only. The total salary and adjustments shall be prorated based upon the respective contract days for the school year.

(II) Instructional personnel or school administrators new to the district, returning to the district after a break in service without an authorized leave of absence, or appointed for the first time to a position in the district in the capacity of instructional personnel or school administrators shall be placed on the performance salary schedule in accordance with the collective bargaining contract.

b. Salary adjustments.—Salary adjustments for highly effective or effective performance shall be established as
follows:

   (I) The annual salary adjustment under the performance salary schedule for an employee rated as highly effective must be greater than the highest annual salary adjustment available to an employee of the same classification through any other salary schedule adopted by the district.

   (II) The annual salary adjustment under the performance salary schedule for an employee rated as effective must be equal to at least 50 percent and no more than 75 percent of the annual adjustment provided for a highly effective employee of the same classification.

   (III) The performance salary schedule shall not provide an annual salary adjustment for employees who receive a rating other than highly effective or effective for the year.

c. Salary supplements.—In addition to the schedules for salary adjustments, each school district shall provide a schedule for salary supplements that include, but are not limited to, the following:

   (I) Assignment to a Title-I-eligible school;

   (II) Assignment to a school in the bottom two categories of the school improvement system under s. 1008.33 such that the supplement remains in force for at least 1 year following improved performance in that school;

   (III) Certification and teaching in critical teacher shortage areas. Statewide critical teacher shortage areas shall be identified by the State Board of Education. However, the district school board may define additional areas of critical shortage within the school district and may remove areas identified by the State Board of Education that do not apply
within the school district; and

(IV) Assignment of additional academic responsibilities.

d. Cost-of-living adjustments.—A district school board may provide a cost-of-living salary adjustment if:

(I) The adjustment does not discriminate among comparable classes of employees based upon the salary schedule under which they are compensated.

(II) Does not exceed 50 percent of the annual adjustment provided to instructional personnel rated as effective.

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

If budget constraints in any given year limit a district school board’s ability to fully fund all adopted salary schedules, the performance salary schedule shall not be reduced, either on the basis of total cost or the value of individual awards, in a manner that is proportionally greater than reductions to any other salary schedules adopted by the district. The district school board shall adopt a salary schedule or salary schedules designed to furnish incentives for improvement in training and for continued efficient service to be used as a basis for paying all school employees and fix and authorize the compensation of school employees on the basis thereof.

2. A district school board, in determining the salary schedule for instructional personnel, must base a portion of each employee’s compensation on performance demonstrated under
s. 1012.34, must consider the prior teaching experience of a person who has been designated state teacher of the year by any state in the United States, and must consider prior professional experience in the field of education gained in positions in addition to district level instructional and administrative positions.

3. In developing the salary schedule, the district school board shall seek input from parents, teachers, and representatives of the business community.

4. Beginning with the 2007-2008 academic year, each district school board shall adopt a salary schedule with differentiated pay for both instructional personnel and school-based administrators. The salary schedule is subject to negotiation as provided in chapter 447 and must allow differentiated pay based on district-determined factors, including, but not limited to, additional responsibilities, school demographics, critical shortage areas, and level of job performance difficulties.

(e) Transfer and promotion.—The district school board shall act on recommendations of the district school superintendent regarding transfer and promotion of any employee. The district school board’s primary consideration in approving a promotion must be the individual’s demonstrated effectiveness under s. 1012.34.

Section 5. Section 1012.335, Florida Statutes, is created to read:

1012.335 Contracts with instructional personnel hired on or after July 1, 2011.—

(1) DEFINITIONS.—For purposes of this section, the term:
(a) “Instructional personnel” means those personnel defined in s. 1012.01(2)(a)-(d), excluding substitute teachers.

(b) “Probationary contract” means an employment contract for a period of 1 school year awarded to instructional personnel upon initial employment in a school district. Probationary contract employees may be dismissed without cause or may resign without breach of contract.

(c) “Annual contract” means an employment contract for a period of no longer than 1 school year which the district school board may choose to award or not award without cause.

(2) EMPLOYMENT.—

(a) Beginning July 1, 2011, each individual newly hired as instructional personnel by a Florida school district shall be employed based upon the requirements of this section.

(b) The district school board may issue an annual contract to instructional personnel who have successfully completed the probationary contract or may award an additional annual contract if the individual:

1. Holds a professional certificate or temporary certificate issued pursuant to s. 1012.56 and rules of the State Board of Education.

2. Has been recommended by the district school superintendent for the annual contract based upon the individual’s evaluation, as determined under s. 1012.34, and approved by the district school board.

3. Has not received two consecutive unsatisfactory evaluations under s. 1012.34, two unsatisfactory evaluations within a 3-year period under s. 1012.34, or three evaluations of needs improvement within any 5-year period under s. 1012.34.
VIOLATION OF ANNUAL CONTRACT.—Instructional personnel who accept an offer in writing from the district school board and who leave their position without prior release from the district school board are subject to the jurisdiction of the Education Practices Commission.

SUSPENSION OR DISMISSAL OF CLASSROOM TEACHERS ON ANNUAL CONTRACT.—Instructional personnel who have an annual contract may be suspended or dismissed at any time during the term of the contract for just cause as provided in subsection (5). The district school board must notify the instructional personnel in writing whenever charges are made against the instructional personnel, and the district school board may suspend him or her without pay. However, if the charges are not sustained, the instructional personnel shall be immediately reinstated and his or her back pay shall be paid. In order to contest the charges, the instructional personnel must, within 15 days after receipt of the written notice, submit a written request for a hearing to the district school board. The district school board or a subcommittee thereof shall conduct a direct hearing within 60 days after receipt of the written appeal. The hearing shall be conducted in accordance with ss. 120.569 and 120.57. A majority vote of the membership of the district school board is required to sustain the superintendent’s recommendation. The district school board’s determination is final as to the sufficiency or insufficiency of the grounds for suspension without pay or dismissal. Any decision that is adverse to the instructional personnel may be appealed by the instructional personnel pursuant to s. 120.68 if the appeal is filed within 30 days after the decision of the district school board.
(5) **JUST CAUSE.**—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to define the term “just cause.” Just cause includes, but is not limited to:

(a) Immorality.
(b) Misconduct in office.
(c) Incompetency.
(d) Gross insubordination.
(e) Willful neglect of duty.
(f) Being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude.
(g) Unsatisfactory performance, as described in s. 1012.34.

Section 6. Paragraph (b) of subsection (16) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(16) **EXEMPTION FROM STATUTES.**—

(b) Additionally, a charter school shall be in compliance with the following statutes:

1. Section 286.011, relating to public meetings and records, public inspection, and criminal and civil penalties.
2. Chapter 119, relating to public records.
3. Section 1003.03, relating to the maximum class size, except that the calculation for compliance pursuant to s. 1003.03 shall be the average at the school level.
4. Section 1012.22(1)(c), relating to compensation and salary schedules.
5. Section 1012.33(5), relating to workforce reductions.
6. Section 1012.335, relating to contracts with instructional personnel hired on or after July 1, 2011.
7. Section 1012.34, relating to performance evaluations for instructional personnel and school administrators.

Section 7. Paragraph (h) of subsection (2) of section 1003.621, Florida Statutes, is amended to read:

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

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

(h) Sections 1012.22(1)(c) and 1012.27(2), relating to differentiated compensation and salary schedules and public school personnel, respectively; s. 1012.34, relating to personnel evaluation procedures and criteria; and ss. 1012.33 and 1012.335, relating to contracts with instructional personnel, staff, supervisors, and school administrators pay and performance-pay policies for school administrators and instructional personnel. Professional service contracts are subject to the provisions of ss. 1012.33 and 1012.34.

Section 8. Section 1012.07, Florida Statutes, is amended to read:

1012.07 Identification of critical teacher shortage areas.—

(1) As used in ss. 1009.57, 1009.58, and 1009.59, The term
“critical teacher shortage area” means high-need content areas
applies to mathematics, science, career education, and high-
priority high priority location areas identified by the State
Board of Education may identify career education programs having
critical teacher shortages. The State Board of Education shall
adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to
annually identify other critical teacher shortage areas, and high
priority location areas. The state board must shall also
consider current and emerging educational requirements and
workforce demands teacher characteristics such as ethnic
background, race, and sex in determining critical teacher
shortage areas. School grade levels may also be designated
critical teacher shortage areas. Individual district school
boards may identify and submit other critical teacher shortage
areas. Such submissions shortages must be aligned to current and
emerging educational requirements and workforce demands in order
to be certified and approved by the State Board of Education.
High priority location areas shall be in high-density, low-
economic urban schools, and low-density, low-economic rural
schools, and schools identified as lowest performing under s.
1008.33(4)(b) shall include schools which meet criteria which
include, but are not limited to, the percentage of free lunches,
the percentage of students under Chapter I of the Education
Consolidation and Improvement Act of 1981, and the faculty
attrition rate.

(2) This section shall be implemented only to the extent as
specifically funded and authorized by law.

Section 9. Subsection (5) of section 1012.2315, Florida
Statutes, is amended to read:
1012.2315 Assignment of teachers.—

(5) REPORTS REPORT.—

(a) The Department of Education shall annually report the percentage of classroom teachers and school administrators by district and by school based on performance ratings reported by each school district under s. 1012.34. The data must be reported via the department’s website in a manner that is accessible by the public.

(b) Each school district shall annually report to the parent of any student who is assigned to a classroom teacher or school administrator having a performance rating of “unsatisfactory,” “needs improvement,” or a combination of “unsatisfactory” or “needs improvement” for 3 consecutive years or more. Schools graded “D” or “F” shall annually report their teacher-retention rate. Included in this report shall be reasons listed for leaving by each teacher who left the school for any reason.

Section 10. Subsections (1) and (2) of section 1012.27, Florida Statutes, are amended to read:

1012.27 Public school personnel; powers and duties of district school superintendent.—The district school superintendent is responsible for directing the work of the personnel, subject to the requirements of this chapter, and in addition the district school superintendent shall perform the following:

(1) POSITIONS, QUALIFICATIONS, AND NOMINATIONS.—

(a) Recommend to the district school board duties and responsibilities which need to be performed and positions which need to be filled to make possible the development of an
adequate school program in the district.

(b) Recommend minimum qualifications of personnel for these various positions, and nominate in writing persons to fill such positions.

The district school superintendent's recommendations for filling instructional positions at the school level must consider nominations received from school principals of the respective schools. Before transferring a teacher who holds a professional teaching certificate from one school to another, including a transfer requested under s. 1012.33, the district school superintendent shall consult with the principal of the receiving school and allow the principal to review the teacher's records, including student performance demonstrated under s. 1012.34, and interview the teacher. If, in the judgment of the principal, students would not benefit from the placement, an alternative placement may be sought. A principal may refuse the placement in accordance with s. 1012.28(6).

(2) COMPENSATION AND SALARY SCHEDULES.—Prepare and recommend to the district school board for adoption a salary schedule or salary schedules in accordance with s. 1012.22. The district school superintendent must recommend a salary schedule for instructional personnel which bases a portion of each employee's compensation on performance demonstrated under s. 1012.34. In developing the recommended salary schedule, the district school superintendent shall include input from parents, teachers, and representatives of the business community. Beginning with the 2007-2008 academic year, the recommended salary schedule for classroom teachers shall be consistent with
the district’s differentiated pay policy based upon s. 1012.22.

Section 11. Present subsection (6) of section 1012.28, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

1012.28 Public school personnel; duties of school principals.—

(6) A principal may refuse to accept the placement or transfer of instructional personnel by the district school superintendent to his or her school unless the instructional personnel has a performance rating of “effective” or “highly effective” under s. 1012.34.

Section 12. Paragraph (a) of subsection (1), paragraphs (a) and (f) of subsection (3), and subsection (5) of section 1012.33, Florida Statutes, are amended to read:

1012.33 Contracts with instructional staff, supervisors, and school principals.—

(1)(a) Each person employed as a member of the instructional staff in any district school system shall be properly certified pursuant to s. 1012.56 or s. 1012.57 or employed pursuant to s. 1012.39 and shall be entitled to and shall receive a written contract as specified in this section. All such contracts, except continuing contracts as specified in subsection (4), shall contain provisions for dismissal during the term of the contract only for just cause. Just cause includes, but is not limited to, the following instances, as defined by rule of the State Board of Education: immorality, misconduct in office, incompetency, two consecutive annual performance ratings of “unsatisfactory” under s. 1012.34, gross insubordination, willful neglect of duty, or being convicted or
found guilty of, or entering a plea of guilty to, regardless of
adjudication of guilt, any crime involving moral turpitude.

(3)(a) Each district school board shall provide a
professional service contract as prescribed herein. Each member
of the instructional staff who completed the following
requirements prior to July 1, 1984, shall be entitled to and
shall be issued a continuing contract in the form prescribed by
rules of the state board pursuant to s. 231.36, Florida Statutes
(1981). Each member of the instructional staff who completes the
following requirements on or after July 1, 1984, shall be
entitled to and shall be issued a professional service contract
in the form prescribed by rules of the state board as provided
herein:

1. The member must hold a professional certificate as
prescribed by s. 1012.56 and rules of the State Board of
Education.

2. The member must have completed 3 years of probationary
service in the district during a period not in excess of 5
successive years, except for leave duly authorized and granted.

3. The member must have been recommended by the district
school superintendent for such contract and reappointed by the
district school board based on effective or highly effective
successful performance demonstrated under s. 1012.34 of duties
and demonstration of professional competence.

4. For any person newly employed as a member of the
instructional staff after June 30, 1997, the initial annual
contract shall include a 97-day probationary period during which
time the employee’s contract may be terminated without cause or
the employee may resign without breach of contract.
(f) The district school superintendent shall notify an
employee who holds a professional service contract on July 1,
1997, in writing, no later than 6 weeks prior to the end of the
evaluation postschool conference period, of performance
deficiencies which may result in termination of employment, if
not corrected during the subsequent evaluation period year of
employment (which shall be granted for an additional year in
accordance with the provisions in subsection (1)). Except as
otherwise hereinafter provided, this action shall not be subject
to the provisions of chapter 120, but the following procedures
shall apply:

1. On receiving notice of unsatisfactory performance, the
employee, on request, shall be accorded an opportunity to meet
with the district school superintendent, or his or her designee,
for an informal review of the determination of unsatisfactory
performance.

2. An employee notified of unsatisfactory performance may
request an opportunity to be considered for a transfer to
another appropriate position, with a different supervising
administrator, for the subsequent year of employment. If the
request for the transfer is granted and is consistent with s.
1012.28(6), the district school superintendent shall annually
report to the department the total number of employees
transferred pursuant to this subparagraph, where they were
transferred, and the annual performance level of the employee as
determined under s. 1012.34 what, if any, remediation was
implemented to remediate the unsatisfactory performance.

3. During the subsequent evaluation period year, the
employee shall be provided assistance and inservice training
opportunities to help correct the noted performance deficiencies. The employee shall also be evaluated periodically so that he or she will be kept apprised of progress achieved.

4. Not later than 6 weeks prior to the close of the postschool conference period of the subsequent year, the district school superintendent, after receiving and reviewing the recommendation required by s. 1012.34, shall notify the employee, in writing, whether the performance deficiencies have been corrected. If so, a new professional service contract shall be issued to the employee. If the performance deficiencies have not been corrected, the district school superintendent may notify the district school board and the employee, in writing, that the employee shall not be issued a new professional service contract; however, if the recommendation of the district school superintendent is not to issue a new professional service contract, and if the employee wishes to contest such recommendation, the employee will have 15 days from receipt of the district school superintendent’s recommendation to demand, in writing, a hearing. In such hearing, the employee may raise as an issue, among other things, the sufficiency of the district school superintendent’s charges of unsatisfactory performance. Such hearing shall be conducted at the district school board’s election in accordance with one of the following procedures:

a. A direct hearing conducted by the district school board within 60 days of receipt of the written appeal. The hearing shall be conducted in accordance with the provisions of ss. 120.569 and 120.57. A majority vote of the membership of the district school board shall be required to sustain the district school superintendent’s recommendation. The determination of the
district school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment; or

   b. A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days of receipt of the written appeal in accordance with chapter 120. The recommendation of the administrative law judge shall be made to the district school board. A majority vote of the membership of the district school board shall be required to sustain or change the administrative law judge’s recommendation. The determination of the district school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment.

   (5) If should a district school board has have to choose from among its personnel who are on continuing contracts or professional service contracts as to which should be retained at a school or in the school district, such decisions shall be based upon the performance evaluation under s. 1012.34, with primary consideration given to those personnel within the affected area whose students’ growth in learning is greater made pursuant to the terms of a collectively bargained agreement, when one exists. If no such agreement exists, the district school board shall prescribe rules to handle reductions in workforce.

Section 13. Section 1012.52, Florida Statutes, is repealed.

Section 14. Paragraph (h) of subsection (1) of section 1012.795, Florida Statutes, is amended to read:

   1012.795 Education Practices Commission; authority to discipline.—
(1) The Education Practices Commission may suspend the educator certificate of any person as defined in s. 1012.01(2) or (3) for up to 5 years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the holder may return to teaching as provided in subsection (4); may revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for up to 10 years, with reinstatement subject to the provisions of subsection (4); may revoke permanently the educator certificate of any person thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; may suspend the educator certificate, upon an order of the court or notice by the Department of Revenue relating to the payment of child support; or may impose any other penalty provided by law, if the person:

(h) Has breached a contract, as provided in s. 1012.33(2) or s. 1012.335.

Section 15. (1) Any school district that receives a grant of at least $75 million from a private foundation for the purpose of improving the effectiveness of teachers within the school district may seek an annual exemption from the State Board of Education from requirements of the amendments made by this act to ss. 1012.22 and 1012.34, Florida Statutes.

(2) In order to receive approval from the State Board of Education for an exemption under this section, a school district
must demonstrate to the State Board of Education that it is implementing the following:

(a) A teacher appraisal system that uses student performance as the single greatest component of the teacher’s evaluation.

(b) A teacher compensation system that awards salary increases based on sustained student performance.

(c) A teacher contract system that awards contracts based on student performance.

(3) The State Board of Education shall annually renew a school district’s exemption if the school district provides a progress report that demonstrates that the school district continues to meet the requirements of subsection (2).

(4) The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to establish the procedures for applying for an exemption under this section.

Section 16. The provisions of any special act or general law of local application relating to contracts for instructional personnel in public schools or school districts in effect on or before the effective date of this act are repealed, with the exception of chapter 75-384, Laws of Florida.

Section 17. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 18. The amendments made by this act to s. 1012.33, Florida Statutes, apply to contracts newly entered into.
extended, or readopted on or after July 1, 2011, and to all
contracts entered into on or after July 1, 2014.

Section 19. Except as otherwise expressly provided in this
act and except for this section, which shall take effect upon
this act becoming a law, this act shall take effect July 1,
2011.