By the Committee on Education Pre-K - 12; and Senator Wise

581-01884A-11

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 the Commissioner of Education to select formulas for school districts to use in measuring growth in learning by students; requiring the State Board of Education to adopt formulas; 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; providing that certain individuals who are hired as
instructional personnel are ineligible for contracts issued under s. 1012.33, F.S.; 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 that a certain specified
 provision of law does not apply to any rulemaking
required to administer the act; 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 system. 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 evaluation systems must 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 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 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 who need improvement, developing.
4. Unsatisfactory.

The Commissioner of Education shall consult with experts and classroom teachers in developing the criteria for the performance levels. In developing the criteria for the performance levels, the Commissioner of Education shall consult with a person appointed by each of the following associations: the Florida School Boards Association, the Florida Association of District School Superintendents, and the Florida Education Association. 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 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 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 must be conducted for each
employee at least once a year, except that a newly hired classroom teacher must be evaluated at least twice in the first year of teaching in the school district. 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 criteria must include, but need are not be limited to, indicators 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 assessment process before the evaluation assessment takes place.

(c) The individual responsible for supervising the employee must evaluate assess the employee’s performance. The evaluation system may provide for the evaluator to consider input from other personnel trained under paragraph (2)(f). The evaluator must submit a written report of the evaluation assessment 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 assessment takes place. The evaluator must discuss the written report of the evaluation assessment with the employee. The employee shall have the right to initiate a written response to the evaluation assessment, and the response shall become a permanent attachment to his or her personnel file.

(d) An evaluator may amend an employee’s evaluation based upon assessment data from the current school year if the data becomes available within 90 days after the close of the school year. The evaluator must then comply with the procedures set forth in paragraph (c).

(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; however, if a transfer is granted, it does not extend the period for correcting performance deficiencies.

Within 14 days after the close of the 90 calendar days, the evaluator must assess 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) 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 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 select 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 commissioner shall select additional formulas as appropriate for the remainder of the statewide assessments included in s. 1008.22, beginning the 2011-2012 school year, and continue to select formulas as new assessments are implemented into the state system. The State Board of Education shall adopt all formulas into rule, and shall adopt the formula for the FCAT 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. Each district shall implement additional growth measures selected by the commissioner under
paragraph (a) as they become available. 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
assessments, 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.

(9) RULEMAKING.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 which, that establish uniform procedures guidelines for the submission, review, and approval of district evaluation systems and reporting requirements procedures for the annual evaluation assessment of instructional personnel and school administrators; the standards for each performance level required under subsection (2) to ensure sufficient differentiation in performance on the evaluation to measure the effectiveness of an employee and consistency in meaning across school districts; the measurement of student growth in learning and associated implementation procedures required under subsection (8); a process to permit instructional personnel to review the class roster for accuracy and to correct any mistakes relating to the identity of students for whom the individual is responsible; and a process for monitoring school district implementation of evaluations 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.—

CODING: Words stricken are deletions; words underlined are additions.
(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.
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, or employees who choose to move from the grandfathered
salary schedule to the performance salary schedule 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 instructional personnel or school administrators who opt into the performance salary schedule shall be the salary paid in the prior year, including adjustments only, in accordance with the collective bargaining contract, if such contract exists.

   (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, if such contract exists.

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.—A district school board may not use
advanced degrees in setting a salary schedule for instructional
personnel or school administrators hired on or after July 1, 2011, unless the advanced degree is held in the individual’s
area of certification and is only a salary supplement.

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 superintendent’s primary consideration in recommending an individual for 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.

(3) 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.

(4) 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.

(6) LIMITATION.—An individual newly hired by a school district under this section as instructional personnel is ineligible for any contract issued under s. 1012.33.

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
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 location areas identified by the State Board of Education. The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to annually identify critical teacher shortage areas and high-priority location areas. The state board shall also consider current and emerging educational requirements and workforce demands 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 must be aligned to current and emerging educational requirements and workforce demands in order to be certified to 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.—

CODING: Words stricken are deletions; words underlined are additions.
(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), paragraph (a) 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, two annual performance ratings of “unsatisfactory” within a 3-year period under s. 1012.34, three annual performance ratings of
“needs improvement” within any 5-year period 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.

(5) If a district school board has 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 evaluation 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. Chapter 2010-279, Laws of Florida, does not
apply to any rulemaking required to administer this act.

Section 17. 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 18. 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 19. 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 20. 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.