

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Budget Committee

BILL: CS/CS/SB 1718

INTRODUCER: Budget Committee, Education Pre-K - 12 Committee, Senator Benacquisto and others

SUBJECT: Parent Empowerment in Education

DATE: March 3, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	deMarsh-Mathues	ED	Fav/CS
2.	Armstrong	Hamon	BEA	Fav/1 amendment
3.	Hamon	Rhodes	BC	Fav/CS
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill creates the Parent Empowerment Act. The bill would authorize a parent-driven petition process for the determination of a school turnaround option when a school is subject to intervention on the basis of poor academic performance. The availability of a parent-selected turnaround option would not apply to schools that are currently subject to intervention for the 2011-2012 or 2012-2013 school years, until the school is required to implement a second school turnaround option.

School districts are required to notify parents that they may, through a petition process, select and submit to the district school board a school turnaround option when student performance in a school has failed to improve. Safeguards are included for the accuracy and credibility of the petition process to require a majority vote, public meetings, and signature verification.

In cases where a school district fails to adopt a petition selection, the school board must submit the petition option, along with its own, to the State Board of Education (SBE). The SBE makes the final determination.

The State Board of Education would be required to adopt rules regarding the petition process, including making available a model petition format and addressing petition signature-gathering, verification, and submission to the district school board.

School districts are also required to notify parents if the classroom teachers assigned to their children have received poor performance ratings or if they are receiving classroom instruction from an out-of-field teacher. Upon request, parents would also have the right to receive actual performance evaluations of any classroom teacher involved in their child's education.

This bill makes available an option of virtual instruction by an "effective" or "highly effective" teacher for a student assigned to a classroom teacher who:

- Is teaching out-of-field; or
- Has received two consecutive annual performance evaluation ratings of "unsatisfactory", two annual performance evaluation ratings of "unsatisfactory" within a 3-year period, or three consecutive annual performance evaluation ratings of "needs improvement" or a combination of "needs improvement" and "unsatisfactory."

The provisions relating to parental notification and out-of-field assistance would apply to charter schools.

This bill substantially amends the following sections of the Florida Statutes: 1001.10, 1002.20, 1002.32, 1002.33, 1008.33, and 1012.2315, creates section 1003.07, and repeals section 1012.42, of the Florida Statutes.

II. Present Situation:

Differentiated Accountability¹

Differentiated accountability is the system used by Florida to meet conditions for participation in the federal Elementary and Secondary Education Act² that requires states to hold public schools and school districts accountable for making adequate yearly progress toward meeting state proficiency goals. Schools are categorized based upon the school's grade³ and the level and rate

¹Last fall, the U.S. Department of Education offered states the opportunity to request flexibility from certain requirements of the 1965 Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001, and the associated regulatory, administrative, and reporting requirements in exchange for rigorous and comprehensive state-developed plans. The stated purpose of the waiver is to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. In response to this initiative, Florida requested and was granted a waiver of 11 specific federal school accountability provisions. The waiver establishes an enhanced school grades accountability system to focus all accountability resources and attention on one system and attain college- and career-ready standards for all students.

² 20 U.S.C. ss. 6301 et seq.

³ s. 1008.34, F.S., requires school grades: "A," making excellent progress, "B," making above average progress, "C," making satisfactory progress, "D," making less than satisfactory progress, or "F," failing to make adequate progress.

of change in student performance in reading and mathematics, disaggregated into student subgroups.⁴

The law requires the Department of Education (DOE) to provide the most intensive intervention strategies to the lowest performing schools, which are defined as schools that have received:⁵

- An “F” grade in the most recent school year and 4 of the 6 previous years; or
- A “D” or “F” grade in the most recent school year and with three out of four of these criteria:
 - A percentage increase of students who are not reading proficient in comparison to measurements taken 5 years ago;
 - A percentage increase of students not mathematics proficient in comparison to measurements taken 5 years ago;
 - A threshold of at least 65 percent of students whom are not reading proficient; or
 - A threshold of at least 65 percent of students whom are not mathematics proficient.

Florida law requires school districts to submit a school improvement plan to the State Board of Education in the school year after a school has ranked in the lowest-performing category. The plan must include one of the following options:⁶

- Conversion of the school to a district-managed turnaround school, including implementing a Commissioner of Education-approved turnaround plan that becomes the school’s improvement plan;
- Reassignment of students to another school with progress monitoring of each reassigned student;
- Closing the school and reopening the school as a charter school with a governing board that has proven effectiveness; or
- Contracting with an outside entity that has a proven record of effectiveness to operate the school.

Teacher Assignments

In 2009, the Florida Legislature enacted legislation to address the quality of teachers assigned to the lowest performing schools.⁷ School districts may not assign to these schools a higher percentage than the school district average of temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to these schools.

District school boards are required to adopt and implement plans to help teachers teaching out-of-field, and to require participation in a certification or staff development program, with priority consideration given regarding professional development. Written notification is to be provided to parents of the students.

⁴ ch. 2009-144, L.O.F, codified in s. 1008.33, F.S. Six categories, beginning with the highest performing, comprise the differentiated accountability system: Schools Not Required to Participate in Differentiated Accountability Strategies, Prevent I, Correct I, Prevent II, Correct II, and Intervene. *See* Rule 6A-1.099811, F.A.C.

⁵ s. 1008.33(4)(b), F.S.

⁶ s. 1008.33(5)(a), F.S.

⁷ Ch. 2009-144, L.O.F., codified in section 1012.2315, F.S. Prior to this change, the provision only applied to schools designated as “D” or “F” schools. The lowest performing schools are defined in section 1008.33, F.S.

Performance Evaluations

The evaluation system for instructional personnel and school-based administrators must differentiate among four levels: highly effective; effective; needs improvement or, for instructional personnel in the first three years of employment who need improvement, developing; and unsatisfactory.⁸

Current law requires the DOE to annually publish online performance rating data, to constitute the percentage of classroom teachers, instructional personnel and school administrators receiving each performance rating aggregated by district and school.⁹

Also, school districts are required to annually report ratings to those parents whose children are assigned to a classroom teacher or school administrator who has received two consecutive annual performance reevaluation ratings of unsatisfactory; two annual performance evaluation ratings of unsatisfactory within three years; or three consecutive annual performance evaluation ratings of needs improvement or a combination of needs improvement and unsatisfactory.¹⁰

III. Effect of Proposed Changes:

Parents would be authorized, through a petition, to implement a school improvement option, provided that a majority of parents sign the petition. This expands current law which is school district-directed regarding determination of the plan option. The opportunity for parents to select a plan, however, would not be available for schools subject to intervention in the 2011-2012 or 2012-2013 school year, unless and until they are required to implement a second turnaround plan.

The petition process would involve the following:

- A school district would be required to notify, in writing, parents of eligible students when a school has failed to improve performance, and that they have the option, through a petition, to submit a turnaround choice, with notification to include:
 - Identification of each school turnaround option;
 - A description of the process for implementing school turnaround options;
 - The date and location for submission of the petition;
 - The date and location of the required public school board meeting; and
 - School district contact information.

The parent must be provided within 30 calendar days after the DOE notifies the school district that a remedy must be implemented, with implementation to begin the following school year.

Although the petition choice is non-binding on the district school board, the district school board must submit the option, along with its own turnaround choice, to the SBE, which would make the final determination.

⁸ Ch. 2011-1, L.O.F., codified in s. 1012.34(2)(e), F.S.

⁹ s. 1002.2315(5)(a), F.S.

¹⁰ s. 1012.2315(5)(b), F.S.

Provisions are included requiring that a majority of the parents of the students at a school approve the turnaround petition (indicating greater than one-half of eligible parents approve the plan), ensuring a public meeting and authorizing verification of a majority of signatures.

Signatures on a petition for a school turnaround option are required to be based upon one vote per eligible student (as represented by one parent) and one-half a vote if a parent objects in writing to the other parent's petition vote. An eligible student is a student who actually enrolled in the school or a student who will be attending the school in the following year.

Signature gatherers are prohibited from being paid by the signature, and must reveal any affiliated organizations upon request.

If a district school board does not adopt the parent-selected option, the board must submit it, along with the board's own choice, to the SBE, which will base its decision on which option appears most likely to improve performance.

The SBE must adopt rules providing for a model petition format and addressing, in a detailed manner, the petition gathering and submission process.

For students being taught by an out-of-field teacher, virtual instruction would be available from an in-field teacher with an "effective" or "highly effective" rating. For students currently instructed by teachers receiving poor performance evaluation ratings, virtual instruction would be available from an "effective" or "highly effective" teacher.

This bill provides that schools are to assign students who have been taught by a teacher who received a "needs improvement" or "unsatisfactory" rating to a teacher with a higher rating the following year.

This bill provides parents the right to receive performance evaluations of each classroom teacher assigned to the student, pursuant to s. 1012.31, F.S., which already provides that public school employee files are public records. However, current law also makes confidential and exempt employee evaluations until the end of the school year following the school year covered in the evaluation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

School districts may incur additional cost associated with the parent notification requirements in the bill. The Department of Education may also incur additional cost in reviewing appeals of turnaround options not adopted and for developing rules for the parent petition process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Budget on March 3, 2012:**

The committee substitute:

- Authorizes parents to make the initial, rather than the second selection of a turnaround plan, with the provisions of the bill inapplicable to schools currently in intervention for the 2011-2012 or the 2012-2013 school year, unless they are subject to a second turnaround plan;
- Provides greater detail regarding a timeline and the process for parental selection of a plan, including district notification to eligible parents, the petition signature gathering and supervision process, a public school board meeting to consider adoption, and final decision by the SBE;
- Requires, rather than permits, the school district to verify a majority of petition signatures, and specifies that the method for verification would be a comparison of petition signatures to student records;
- Specifies how parental disagreements regarding the turnaround option are to be resolved;
- Considers a petition signature as a certification that a parent intends to enroll his or her child in the school if the turnaround option is implemented;

- Prohibits signature gatherers from being paid per signature and requires disclosure of affiliated organizations upon request;
- Clarifies that the provisions regarding assistance to out-of-field teachers and parental notification of the virtual instruction option apply equally to charter school teachers; and
- Requires the SBE rules to include a sample petition form with certain provisions for each turnaround option, timelines for petition signature gathering, submission to the district, school board meeting considerations, and alternative ways to validate signatures.

CS by Education Pre-K – 12 on January 24, 2012:

The committee substitute:

- Provides that authority for parents to initiate the petition process is triggered only after a school has failed to improve performance under a school turnaround option;
- Requires specific notice by the school district to parents of eligible students that the school has been unable to improve performance under a school turnaround option, and that parents may petition a different option;
- Limits signatures to one parent per eligible student and defines the term “eligible student”;
- Requires the SBE to adopt standards for signature verification;
- Authorizes, but does not require, the district school board to adopt the petition-directed turnaround option and provides that where the district school board rejects the petition selection, that both choices are to be submitted to the SBE;
- Details the rule adoption required of the SBE;
- Provides that when students instructed in the classroom by out-of-field instructors opt for in-field virtual instruction, the instructors must have annual performance ratings of at least the level of “effective;” and
- Clarifies that the prohibition on a student being taught in two consecutive years by instructors with poor performance evaluation ratings in the same subject area refer only to classroom teaching.

B. Amendments:

None.