

Committee Substitute for Senate Bill No. 2092

An act relating to education; amending s. 20.15, F.S.; revising the divisions of the Department of Education to replace the Division of Colleges and Universities with the Division of Workforce Education and to include the Division of Finance and Operations; providing name designations for the director of each division; amending s. 145.19, F.S., relating to salary increases based on increase for state career service employees, to include district school board member salaries; amending s. 1001.10, F.S., relating to the Commissioner of Education's powers and duties, to include organizing and naming the structural units of the Department of Education and appointing staff to carry out department functions; amending s. 1001.395, F.S.; revising the manner in which compensation of district school board members is determined; specifying base salary amounts; amending s. 1002.33, F.S., relating to charter schools; updating terminology; clarifying the standard for review of charter school applications; clarifying charter renewal provisions; requiring the governing body to participate in certain governance training; clarifying charter school facility fee exemptions; amending s. 1003.428, F.S.; revising provisions governing credit requirements for high school graduation; removing language relating to credit recovery courses; requiring policies to assist students in meeting high school graduation requirements; providing guidelines for district school board grade forgiveness policies; amending s. 1003.51, F.S.; providing additional time for initial educational assessments of youths assigned to Department of Juvenile Justice education programs; amending s. 1003.62, F.S.; postponing termination of a charter school district pilot program in certain counties; amending s. 1012.225, F.S., relating to Merit Award Program plans; revising eligibility requirements for receipt of a merit-based pay supplement; providing for retroactive application; providing an effective date.

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

Section 1. Subsections (3) and (4) of section 20.15, Florida Statutes, are amended to read:

20.15 Department of Education.—There is created a Department of Education.

(3) DIVISIONS.—The following divisions of the Department of Education are established:

- (a) Division of Community Colleges.
- (b) Division of Public Schools.
- (c) Division of Workforce Education ~~Colleges and Universities~~.

- (d) Division of Vocational Rehabilitation.
- (e) Division of Blind Services.
- (f) Division of Accountability, Research, and Measurement.
- (g) Division of Finance and Operations.

(4) DIRECTORS.—The directors of all divisions shall be appointed by the commissioner subject to approval by the state board. The director of each division may be designated as “Deputy Commissioner” or “Chancellor.”

Section 2. Subsection (2) of section 145.19, Florida Statutes, is amended to read:

145.19 Annual percentage increases based on increase for state career service employees; limitation.—

(2) Each fiscal year, the salaries of all officials listed in this chapter, s. 1001.395, and s. 1001.47 shall be adjusted. The adjusted salary rate shall be the product, rounded to the nearest dollar, of the salary rate granted by the appropriate section of this chapter, s. 1001.395, or s. 1001.47 multiplied first by the initial factor, then by the cumulative annual factor, and finally by the annual factor. The Department of Management Services shall certify the annual factor and the cumulative annual factors. Any special qualification salary received under this chapter, s. 1001.47, or the annual performance salary incentive available to elected superintendents under s. 1001.47 shall be added to such adjusted salary rate. The special qualification salary shall be \$2,000, but shall not exceed \$2,000.

Section 3. Subsection (1) of section 1001.10, Florida Statutes, is amended to read:

1001.10 Commissioner of Education; general powers and duties.—The Commissioner of Education is the chief educational officer of the state and the sole custodian of the K-20 data warehouse, and is responsible for giving full assistance to the State Board of Education in enforcing compliance with the mission and goals of the seamless K-20 education system. To facilitate innovative practices and to allow local selection of educational methods, the State Board of Education may authorize the commissioner to waive, upon the request of a district school board, State Board of Education rules that relate to district school instruction and school operations, except those rules pertaining to civil rights, and student health, safety, and welfare. The Commissioner of Education is not authorized to grant waivers for any provisions in rule pertaining to the allocation and appropriation of state and local funds for public education; the election, compensation, and organization of school board members and superintendents; graduation and state accountability standards; financial reporting requirements; reporting of out-of-field teaching assignments under s. 1012.42; public meetings; public records; or due process hearings governed by chapter 120. No later than January 1 of each year, the commissioner shall report to the Legislature and the State Board of Education all approved waiver requests in the preceding year. Additionally, the commissioner has the following general powers and duties:

(1) To organize and name the structural units of the Department of Education and appoint staff necessary to carry out his or her powers and duties and functions of the department in a manner that meets legislative intent and promotes both efficiency and accountability.

The commissioner’s office shall operate all statewide functions necessary to support the State Board of Education and the K-20 education system, including strategic planning and budget development, general administration, and assessment and accountability.

Section 4. Section 1001.395, Florida Statutes, is amended to read:

1001.395 District school board members; compensation.—Each member of the district school board shall receive a base salary, the amounts indicated in this section, based on the population of the county the district school board member serves. In addition, compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate. The product of such calculation shall be added to the base salary to determine the adjusted base salary. The adjusted base salaries of district school board members shall be increased annually as provided for in s. 145.19.

| <u>Pop. Group</u> | <u>County Pop. Range</u> | | <u>Base Salary</u> | <u>Group Rate</u> |
|-------------------|--------------------------|----------------|--------------------|-------------------|
| | <u>Minimum</u> | <u>Maximum</u> | | |
| <u>I</u> | <u>-0-</u> | <u>9,999</u> | <u>\$5,000</u> | <u>\$0.08330</u> |
| <u>II</u> | <u>10,000</u> | <u>49,000</u> | <u>5,833</u> | <u>0.020830</u> |
| <u>III</u> | <u>50,000</u> | <u>99,999</u> | <u>6,666</u> | <u>0.016680</u> |
| <u>IV</u> | <u>100,000</u> | <u>199,999</u> | <u>7,500</u> | <u>0.008330</u> |
| <u>V</u> | <u>200,000</u> | <u>399,999</u> | <u>8,333</u> | <u>0.004165</u> |
| <u>VI</u> | <u>400,000</u> | <u>999,999</u> | <u>9,166</u> | <u>0.001390</u> |
| <u>VII</u> | <u>1,000,000</u> | | <u>10,000</u> | <u>0.000000</u> |

District school board member salaries negotiated on or after November of 2006 shall remain in effect up to the date of the 2007-2008 calculation provided pursuant to s. 145.19.

~~(1) Each district school board shall annually determine the salary of its members at the first regular meeting following the organizational meeting held pursuant to s. 1001.371. The proposed salary to be adopted shall be noticed at the time of the meeting notice and shall not be increased during the meeting. The salary adopted by the district school board shall be in effect during the succeeding 12 months.~~

~~(2) This section shall apply to any district school board member elected or reelected at the November 2002 general election or any subsequent general election and to any person appointed to fill a vacancy in the office of any such member.~~

Section 5. Paragraphs (b), (c), (e), and (f) of subsection (6), paragraph (b) of subsection (7), paragraph (k) of subsection (9), and paragraph (d) of subsection (18) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.—

(6) APPLICATION PROCESS AND REVIEW.—Charter school applications are subject to the following requirements:

(b) A sponsor ~~district school board~~ shall receive and review all applications for a charter school. Beginning with the 2007-2008 school year, a sponsor ~~district school board~~ shall receive and consider charter school applications received on or before August 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the sponsor ~~district school board~~. A sponsor ~~district school board~~ may receive applications later than this date if it chooses. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of an application upon the promise of future payment of any kind.

1. In order to facilitate an accurate budget projection process, a sponsor ~~district school board~~ shall be held harmless for FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a ~~district school board or other~~ sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.

2. In order to ensure fiscal responsibility, an application for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support, and an expense projection that includes full accounting of the costs of operation, including start-up costs.

3. A sponsor ~~district school board~~ shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the sponsor ~~district school board~~ and the applicant mutually agree in writing to temporarily postpone the vote to a specific date, at which time the sponsor ~~district school board~~ shall by a majority vote approve or deny the application. If the sponsor ~~district school board~~ fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (c). If an application is denied, the sponsor ~~district school board~~ shall, within 10 calendar days, articulate in writing the specific reasons, based upon good cause, supporting ~~for~~ its denial of the charter application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education supporting those reasons.

4. For budget projection purposes, the ~~district school board or other~~ sponsor shall report to the Department of Education the approval or denial of a charter application within 10 calendar days after such approval or denial. In the event of approval, the report to the Department of Education shall include the final projected FTE for the approved charter school.

5. Upon approval of a charter application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted unless the sponsor allows a waiver of this provision for good cause.

(c) An applicant may appeal any denial of that applicant's application or failure to act on an application to the State Board of Education no later than 30 calendar days after receipt of the ~~sponsor's district school board's~~ decision or failure to act and shall notify the ~~sponsor district school board~~ of its appeal. Any response of the ~~sponsor district school board~~ shall be submitted to the State Board of Education within 30 calendar days after notification of the appeal. Upon receipt of notification from the State Board of Education that a charter school applicant is filing an appeal, the Commissioner of Education shall convene a meeting of the Charter School Appeal Commission to study and make recommendations to the State Board of Education regarding its pending decision about the appeal. The commission shall forward its recommendation to the state board no later than 7 calendar days prior to the date on which the appeal is to be heard. The State Board of Education shall by majority vote accept or reject the decision of the ~~sponsor district school board~~ no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The Charter School Appeal Commission may reject an appeal submission for failure to comply with procedural rules governing the appeals process. The rejection shall describe the submission errors. The appellant may have up to 15 calendar days from notice of rejection to resubmit an appeal that meets requirements of State Board of Education rule. An application for appeal submitted subsequent to such rejection shall be considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the ~~sponsor's district school board's~~ denial of the charter application. The State Board of Education shall remand the application to the ~~sponsor district school board~~ with its written decision that the ~~sponsor district school board~~ approve or deny the application. The ~~sponsor district school board~~ shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

(e) The ~~sponsor district school board~~ shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review in the district court of appeal.

(f)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed, or whose charter contracts have been terminated by their sponsors.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the

reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint the members of the Charter School Appeal Commission. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in conjunction with their service. One-half of the members must represent currently operating charter schools, and one-half of the members must represent sponsors ~~school districts~~. The commissioner or a named designee shall chair the Charter School Appeal Commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

(7) CHARTER.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing body of the charter school and the sponsor, following a public hearing to ensure community input.

(b)1. A charter may be renewed provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished and that none of the grounds for nonrenewal established by paragraph (8)(a) has been documented. In order to facilitate long-term financing for charter school construction, charter schools operating for a minimum of 3 ~~2~~ years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. Such long-term charter is subject to annual review and may be terminated during the term of the charter.

2. The 15-year charter renewal that may be granted pursuant to subparagraph 1. shall be granted to a charter school that has received a school grade of "A" or "B" pursuant to s. 1008.34 in 3 of the past 4 years and is not in a state of financial emergency or deficit position as defined by this section. Such long-term charter is subject to annual review and may be terminated during the term of the charter pursuant to subsection (8).

(9) CHARTER SCHOOL REQUIREMENTS.—

(k) The governing body of the charter school shall be responsible for:

1. Ensuring that the charter school has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to paragraph (g), who shall submit the report to the governing body.

2. Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.

3. Monitoring a financial recovery plan in order to ensure compliance.

4. Participating in governance training approved by the department that must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.

(18) FACILITIES.—

(d) Charter school facilities are exempt from assessments of fees for building permits, except as provided in s. 553.80, fees for building and occupational licenses, ~~and impact fees, or service availability fees, and assessments for special benefits.~~

Section 6. Subsections (2) and (4) of section 1003.428, Florida Statutes, are amended to read:

1003.428 General Requirements for high school graduation; revised.—

(2) The 24 credits may be earned through applied, integrated, and combined courses approved by the Department of Education and shall be distributed as follows:

(a) Sixteen core curriculum credits:

1. Four credits in English, with major concentration in composition, reading for information, and literature.

2. Four credits in mathematics, one of which must be Algebra I, a series of courses equivalent to Algebra I, or a higher-level mathematics course. School districts are encouraged to set specific goals to increase enrollments in, and successful completion of, geometry and Algebra II.

3. Three credits in science, two of which must have a laboratory component.

4. Three credits in social studies as follows: one credit in American history; one credit in world history; one-half credit in economics; and one-half credit in American government.

5. One credit in fine or performing arts, which may include speech and debate.

6. One credit in physical education to include integration of health. Participation in an interscholastic sport at the junior varsity or varsity level for two full seasons shall satisfy the one-credit requirement in physical education if the student passes a competency test on personal fitness with a score of "C" or better. The competency test on personal fitness must be developed by the Department of Education. A district school board may not require that the one credit in physical education be taken during the 9th grade year. Completion of one semester with a grade of "C" or better in a marching band class, in a physical activity class that requires participation in marching band activities as an extracurricular activity, or in a dance class shall satisfy one-half credit in physical education or one-half credit in performing arts. This credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an individual education plan (IEP) or 504 plan. Completion of 2 years in a Reserve Officer Training Corps (R.O.T.C.) class, a significant component of which is drills, shall satisfy the one-credit requirement in physical education and the one-credit requirement in performing arts. This credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an individual education plan (IEP) or 504 plan.

(b) Eight credits in majors, minors, or electives:

1. Four credits in a major area of interest, such as sequential courses in a career and technical program, fine and performing arts, or academic content area, selected by the student as part of the education plan required by s. 1003.4156. Students may revise major areas of interest each year as part of annual course registration processes and should update their education plan to reflect such revisions. Annually by October 1, the district school board shall approve major areas of interest and submit the list of majors to the Commissioner of Education for approval. Each major area of interest shall be deemed approved unless specifically rejected by the commissioner within 60 days. Upon approval, each district's major areas of interest shall be available for use by all school districts and shall be posted on the department's website.

2. Four credits in elective courses selected by the student as part of the education plan required by s. 1003.4156. These credits may be combined to allow for a second major area of interest pursuant to subparagraph 1., a minor area of interest, elective courses, or intensive reading or mathematics intervention courses, or credit recovery courses as described in this subparagraph.

a. Minor areas of interest are composed of three credits selected by the student as part of the education plan required by s. 1003.4156 and approved by the district school board.

b. Elective courses are selected by the student in order to pursue a complete education program as described in s. 1001.41(3) and to meet eligibility requirements for scholarships.

c. For each year in which a student scores at Level 1 on FCAT Reading, the student must be enrolled in and complete an intensive reading course the following year. Placement of Level 2 readers in either an intensive reading course or a content area course in which reading strategies are delivered shall be determined by diagnosis of reading needs. The department shall provide guidance on appropriate strategies for diagnosing and meeting the varying instructional needs of students reading below grade level. Reading courses shall be designed and offered pursuant to the comprehensive reading plan required by s. 1011.62(8).

d. For each year in which a student scores at Level 1 or Level 2 on FCAT Mathematics, the student must receive remediation the following year. These courses may be taught through applied, integrated, or combined courses and are subject to approval by the department for inclusion in the Course Code Directory.

~~e.—Credit recovery courses shall be offered so that students can simultaneously earn an elective credit and the recovered credit.~~

(4) Each district school board shall establish standards for graduation from its schools, which must include:

(a) Successful completion of the academic credit or curriculum requirements of subsections (1) and (2).

(b) Earning passing scores on the FCAT, as defined in s. 1008.22(3)(c), or scores on a standardized test that are concordant with passing scores on the FCAT as defined in s. 1008.22(9).

(c) Completion of all other applicable requirements prescribed by the district school board pursuant to s. 1008.25.

(d) Achievement of a cumulative grade point average of 2.0 on a 4.0 scale, or its equivalent, in the courses required by this section.

Each district school board shall adopt policies designed to assist students in meeting the requirements of this subsection. These policies may include, but are not limited to: forgiveness policies, summer school or before or after school attendance, special counseling, volunteers or peer tutors, school-sponsored help sessions, homework hotlines, and study skills classes. Forgiveness policies for required courses shall be limited to replacing a grade of "D" or "F," or the equivalent of a grade of "D" or "F," with a grade of "C" or higher, or the equivalent of a grade of "C" or higher, earned subsequently in the same or comparable course. Forgiveness policies for elective courses shall be limited to replacing a grade of "D" or "F," or the equivalent of a grade of "D" or "F," with a grade of "C" or higher, or the equivalent of a grade of "C" or higher, earned subsequently in another course. The only exception to these forgiveness policies shall be made for a student in the middle grades who takes any high school course for high school credit and earns a grade of "C," "D," or "F" or the equivalent of a grade of "C," "D," or "F." In such case, the district forgiveness policy must allow the replacement of the grade with a grade of "C" or higher, or the equivalent of a grade of "C" or higher, earned

subsequently in the same or comparable course. In all cases of grade forgiveness, only the new grade shall be used in the calculation of the student's grade point average. Any course grade not replaced according to a district school board forgiveness policy shall be included in the calculation of the cumulative grade point average required for graduation.

Section 7. Paragraph (e) of subsection (2) of section 1003.51, Florida Statutes, is amended to read:

1003.51 Other public educational services.—

(2) The State Board of Education shall adopt and maintain an administrative rule articulating expectations for effective education programs for youth in Department of Juvenile Justice programs, including, but not limited to, education programs in juvenile justice commitment and detention facilities. The rule shall articulate policies and standards for education programs for youth in Department of Juvenile Justice programs and shall include the following:

(e) Assessment procedures, which:

1. Include appropriate academic and career assessments administered at program entry and exit that are selected by the Department of Education in partnership with representatives from the Department of Juvenile Justice, district school boards, and providers.

2. Require district school boards to be responsible for ensuring the completion of the assessment process.

3. Require assessments for students in detention who will move on to commitment facilities, to be designed to create the foundation for developing the student's education program in the assigned commitment facility.

4. Require assessments of students sent directly to commitment facilities to be completed within the first 10 school days ~~week~~ of the student's commitment.

The results of these assessments, together with a portfolio depicting the student's academic and career accomplishments, shall be included in the discharge package assembled for each youth.

Section 8. Subsection (7) of section 1003.62, Florida Statutes, is amended to read:

1003.62 Academic performance-based charter school districts.—The State Board of Education may enter into a performance contract with district school boards as authorized in this section for the purpose of establishing them as academic performance-based charter school districts. The purpose of this section is to examine a new relationship between the State Board of Education and district school boards that will produce significant improvements in student achievement, while complying with constitutional and statutory requirements assigned to each entity.

(7) PILOT PROGRAM CHARTER SCHOOL DISTRICTS; GRANDFATHER PROVISION.—The State Board of Education shall use the criteria approved in the initial charter applications issued to the school districts of Volusia, Hillsborough, Orange, and Palm Beach Counties to renew those pilot program charter school districts in accordance with this subsection. No additional pilot program charter school districts shall be approved, and the pilot program consists solely of school districts in Volusia, Hillsborough, Orange, and Palm Beach Counties. The termination of the charter school districts pilot program is effective ~~July 1, 2010. July 1, 2007, or upon the end of a 5-year renewal contract issued by the State Board of Education to the Volusia County, Hillsborough County, Orange County, or Palm Beach County school district prior to July 1, 2003, whichever is later.~~

Section 9. Paragraph (a) of subsection (2) of section 1012.225, Florida Statutes, as created by chapter 2007-3, Laws of Florida, is amended to read:

1012.225 Merit Award Program for Instructional Personnel and School-Based Administrators.—

(2) PAY SUPPLEMENTS STRUCTURE.—Merit Award Program plans shall provide for the annual disbursement of merit-based pay supplements to high-performing employees in the manner described in this subsection.

(a) Each Merit Award Program plan must designate the top instructional personnel and school-based administrators to be outstanding performers and pay to each such employee who remains employed by a Florida public school or who retired after qualifying for the award, by September 1 of the following school year, a merit-based pay supplement of at least 5 percent of the average teacher's salary for that school district not to exceed 10 percent of the average teacher's salary for that school district. The amount of a merit award may not be based on length of service or base salary. Pay supplements shall be funded from moneys appropriated by the Legislature under this section and from any additional funds that are designated by the district for the Merit Award Program. School districts are not required to implement this section unless the program is specifically funded by the Legislature. By October 1 of each year, each school district shall provide documentation to the Department of Education concerning the expenditure of legislative appropriations for merit-based pay, and shall refund undisbursed appropriations to the department. If such undisbursed funds are not remitted to the department by November 1, the department shall withhold an equivalent amount from the district's allocation of appropriations made under s. 1011.62.

Section 10. This act shall take effect upon becoming a law except that the amendment to s. 1002.33(18)(d), Florida Statutes, by this act, shall apply retroactively to July 1, 1996.

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.