

**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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

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**BILL:** PCS/CS/SB 200 (808686)

**INTRODUCER:** Appropriations Subcommittee on Education; Education Committee; Senator Berman and others

**SUBJECT:** Student Retention

**DATE:** March 11, 2021

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	ED	<b>Fav/CS</b>
2.	Underhill	Elwell	AED	<b>Recommend: Fav/CS</b>
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

PCS/CS/SB 200 authorizes a parent or guardian to request that his or her K-8 public school student be retained, for the 2021-2022 school year, in the grade level to which the student was assigned at the beginning of the 2020-21 school year. Specifically, the bill:

- Requires parents or guardians to submit a retention request in writing to the school principal by June 30, 2021;
- Requires the principal to consider the retention request if timely filed and inform the student's teachers of the request;
- Allows, in lieu of retention, the development of an education plan with the intent of helping the student return to grade level readiness;
- Allows the parent or guardian to have the final decision regarding the promotion or retention of the student;
- Allows a middle school student who is retained to retake high school credits toward grade forgiveness, if the student earned a grade of "C" or lower in the high school level course; and
- Requires school districts to report to the Department of Education the number of retained students under this act.

The bill has no impact on state revenues or expenditures.

The bill takes effect upon becoming a law.

## II. Present Situation:

### Student Progression

Each district school board must establish a plan for student progression from one grade to another based on the student's mastery of the Next Generation Sunshine State Standards.<sup>1</sup> The plan must, among other things:

- Emphasize student reading proficiency in grades K-3 and provide targeted instructional support for students with identified deficiencies.
- Use results of statewide, standardized assessments and end-of-course assessments to advise high school students of any identified deficiencies and to provide appropriate preparatory instruction.
- Provide for timely information to a student's teacher and parent evaluation results of progress monitoring in grades K-12.
- Provide requirements and notification procedures regarding student participation in whole-grade promotion, midyear promotion<sup>2</sup>, or subject-matter acceleration.<sup>3</sup>

### Statewide Standardized Assessments

The primary purpose of the student assessment program is to provide student academic achievement and learning gains data to students, parents, and schools. The program is designed to, in part:

- Assess the achievement level and annual learning gains of each student in English Language Arts and mathematics and the achievement level in all other subjects assessed.
- Identify the educational strengths and needs of students and the readiness of students to be promoted to the next grade level or to graduate from high school.<sup>4</sup>

Each student must participate in the statewide, standardized assessment program in grades 3 through 10.<sup>5</sup> Students who do not achieve a Level 3 or above on the statewide, standardized English Language Arts (ELA) assessment, the statewide, standardized Mathematics assessment, or the Algebra I EOC assessment must be evaluated to determine the nature of the student's difficulty, the areas of academic need, and strategies for providing academic supports to improve the student's performance.<sup>6</sup>

Any student in grades K-3 who exhibits a substantial deficiency<sup>7</sup> in reading must be provided interventions immediately following the identification of the reading deficiency.<sup>8</sup>

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<sup>1</sup> Sections 1003.41 and 1008.25, F.S. The plan must focus specifically on ELA, math, science, and social studies standards.

<sup>2</sup> Midyear promotion means promotion of a retained student at any time during the year of retention once the student has demonstrated ability to read at grade level. Section 1008.25(5)(c)8., F.S.

<sup>3</sup> Section 1008.25(2), F.S.

<sup>4</sup> Section 1008.22(1), F.S.

<sup>5</sup> Sections 1008.22, F.S and 1008.25(4)(a), F.S.

<sup>6</sup> Section 1008.25(4)(a), F.S.

<sup>7</sup> Determination of a substantial deficiency is based upon screening, diagnostic, progress monitoring, or assessment data; statewide assessments; or teacher observations. Section 1008.25(5)(a), F.S. School districts are required determine the criteria used by the district to identify K-3 students with a substantial deficiency in reading. Fla. Admin. Code R. 6A-10.053(9)(c)3.

<sup>8</sup> Section 1008.25(5)(a), F.S.

### ***Student Retention***

Florida law specifies that no student may be assigned to a grade level based solely on age or other factors that constitute social promotion.<sup>9</sup>

To be promoted to grade 4, a student must score a Level 2 or higher on the statewide, standardized ELA assessment required for grade 3. The student must be retained if the student's reading deficiency is not remedied by the end of grade 3, by scoring a Level 2 or higher on the statewide, standardized assessment required for grade 3.<sup>10</sup>

The district school board may only exempt students from mandatory retention in grade 3 for good cause. A student who is promoted to grade 4 with a good cause exemption must be provided intensive reading instruction and intervention. Good cause exemptions are limited to students in grade 3 and relate to limited English proficiency students, students with disabilities, the use of alternative assessments or portfolios, and students previously retained in grades K-3.<sup>11</sup>

In the 2018-2019 school year, 28,436 students were promoted to grade 4 based on a good cause exemption.<sup>12</sup>

Based on data from the Florida Department of Education (DOE),<sup>13</sup> there was an overall 43 percent reduction in statewide K-12 student retention rates for the 2019-20 school year compared to the previous 5-year average. The reduction in statewide K-8 retention rates for the same period was 50 percent. Students in grade 3 had the most significant reduction in retention rates, with a 77 percent reduction in grade 3 student retentions in 2019-20 compared to the previous 5-year average. See table below for a breakdown of the data provided from the DOE.

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<sup>9</sup> Section 1008.25(6)(a), F.S.

<sup>10</sup> Section 1008.25(5)(b), F.S.

<sup>11</sup> Section 1008.25(6)(b), F.S.

<sup>12</sup> Pursuant to Florida Department of Education Emergency (DOE) Order No. 2020-EO-01, spring K-12 statewide assessment test administrations for the 2019-20 school year were canceled. DOE, *Emergency Order No. 2020-EO-01, March 23, 2020* available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>. Therefore, 3rd grade good cause exemption data are not available for the 2019-20 school year. Florida Department of Education, *3rd Grade Promotions: Good Cause Exemption 2018-19* available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/students.shtml>, and DOE, *3rd Grade Promotions: Good Cause Exemption 2014-15 to 2017-18* available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/archive.shtml> (last visited Jan. 27, 2021).

<sup>13</sup> Senate staff analysis of DOE, *Retention Rates by District 2019-20* available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/students.shtml>, and DOE, *Retention Rates by District 2014-15 to 2018-19* available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/archive.shtml> (last visited Jan. 27, 2021).

Grade	Total Retained 5-year Average 2014-15 to 2018-19	Percent Retained 5-year Average 2014-15 to 2018-19	Total Retained 2019-20	Percent Retained 2019-20	Percent Reduction in Retained Students 2014-19 to 2019-20
K	6,894	3.40%	4,710	2.33%	32%
1	7,647	3.63%	4,830	2.34%	37%
2	4,941	2.31%	2,862	1.38%	42%
3	16,841	7.55%	3,805	1.74%	77%
4	2,289	1.06%	669	0.32%	71%
5	1,464	0.68%	521	0.24%	64%
6	2,621	1.25%	1,719	0.77%	34%
7	3,525	1.70%	2,370	1.09%	33%
8	5,445	2.61%	4,260	1.94%	22%
9	7,714	3.60%	4,670	2.14%	39%
10	8,776	4.21%	6,115	2.89%	30%
11	7,852	4.06%	4,651	2.36%	41%
12	11,351	5.83%	8,270	4.08%	27%
<b>Total</b>	<b>87,360</b>	<b>3.21%</b>	<b>49,452</b>	<b>1.80%</b>	<b>43%</b>

### COVID-19 Public Health Emergency

In response to the COVID-19 emergency, the DOE issued an Executive Order (EO),<sup>14</sup> which cancelled remaining K-12 state assessments for the 2019-2020 school year.<sup>15</sup> The EO also authorized school districts and other educational entities to evaluate students for promotion, graduation, and final course grades for the 2019-2020 school year, without consideration of the assessments that were cancelled.<sup>16</sup>

Resulting state guidance relating to the cancellation of state assessments specified that, because the Grade 3 ELA FSA was a key component districts used to make promotion decisions, and such data would not be available due to the cancellation of statewide assessments for the 2019-2020 school year, promotion decisions should be made in consultation with parents, teachers, and school leaders based on the students' classroom performance and progress monitoring data. The guidance also specified that parents should have the ability to request retention of their child in the current grade for the 2020-2021 year.<sup>17</sup>

<sup>14</sup> Florida Department of Education, *Emergency Order No. 2020-EO-01, March 23, 2020* available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>.

<sup>15</sup> *Id.*, Section 4. Assessment, Accountability and Promotion, March 23, 2020 available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>.

<sup>16</sup> Florida Department of Education, Coronavirus (COVID-19), K-12 Public, Private & Charter Schools, Assessments, Accountability and Promotion <http://www.fldoe.org/em-response/schools.stml> (last visited Jan. 27, 2021).

<sup>17</sup> DOE, *Q&A Guidance*, <http://www.fldoe.org/core/fileparse.php/19861/urlt/FDOE-COVID-QAI.pdf> at p. 2.

### **III. Effect of Proposed Changes:**

The bill authorizes a parent or guardian to request that his or her K-8 public school student be retained, for the 2021-2022 school year, in the grade level to which the student was assigned at the beginning of the 2020-21 school year.

The bill specifies that a parent or guardian who wishes for his or her K-8 student to be retained must submit a retention request in writing to the school principal, specifying the academic reason for the retention. Only retention requests received by the principal on or before June 30, 2021, must be considered.

The bill requires that the principal inform the student's teacher and collaboratively discuss the request with the parent or guardian. In lieu of retention, a customized education plan may be developed for the student to return to grade level readiness by the end of the next academic year.

The bill specifies that the parent or guardian has the final decision whether to retain the student.

The bill allows a middle school student who is retained to retake high school credits toward grade forgiveness, if the student earned a grade of "C" or lower in the high school level course.

The bill requires school districts to report to the Department of Education the number of students retained pursuant to this act for all or part of the 2021-2022 school year.

The bill may likely provide parents with greater authority to determine that their child should be retained in the 2021-2022 school year. However, this authority is granted only for the 2021-2022 school year, unless extended by legislative action.

The bill takes effect upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

E. Other Constitutional Issues:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

PCS/CS/SB 200 has no impact on state revenues or expenditures for fiscal year 2021-2022. However, to the extent the bill increases student retention, it could affect the number of FTE projected for funding as students may remain in the public K-12 system longer.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

The bill creates an unnumbered section of Florida Law.

IX. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Recommended CS/CS by Appropriations Subcommittee on Education on March 10, 2021**

The committee substitute:

- Adds that in addition to a parent, a guardian may also make a retention request.
- Changes the request from being automatically granted by the superintendent to being a request that shall be considered by the school principal in consultation with the teachers.
- Adds that the submitted request must specify the academic reason for the retention.
- Adds a provision that in lieu of retention, the principal in consultation with the teacher and parent or guardian may develop an education plan for the student to return to grade level readiness by the end of the next academic year.

- Retains the provision that the parent has final determination if their child is retained.
- Allows a middle school student who is retained to retake high school credits toward grade forgiveness.
- Removes the prohibition that a student retained does not qualify for a midyear promotion.

**CS by Education on February 3, 2021**

The committee substitute:

- Limits the retention request eligibility for K-8 students, rather than K-12 students.
- Modifies the request deadline from June 1, 2021 to June 30, 2021.
- Removes the requirement in the bill for school districts to administer midyear and annual statewide assessments to students retained under this act.
- Removes the option of midyear promotion eligibility for students retained under this act.
- Modifies from June 1, 2022 to June 30, 2022, the school district reporting date to the Department of Education.
- Omits the repeal of the act on June 30, 2022; however the act is created only within Florida Law.

**B. Amendments:**

None.