

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

Prepared By: Education Pre-K - 12 Committee

BILL: SB 2432

INTRODUCER: Senator Wise

SUBJECT: PECO Trust Fund/DOE

DATE: March 25, 2007      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	<b>Pre-meeting</b>
2.			EF	
3.				
4.				
5.				
6.				

**I. Summary:**

This bill creates the Increased Utilization Account within the Public Education Capital Outlay and Debt Service Trust Fund (PECO) in the Department of Education.

This trust fund bill is linked to SB 2070, such that the implementation of this bill is contingent on the passage of the linked bill. SB 2070 provides the allocation formula, the deposit of funds, and the allocation by the Commissioner of Education to school districts that increase facility capacity through the use of nontraditional calendars.

The Increased Utilization Account is subject to the review and termination provisions of the statutes and the State Constitution.

This bill creates section 1013.6401 of the Florida Statutes.

**II. Present Situation:**

**The Public Education Capital Outlay and Debt Service Trust Fund(PECO)**

Section 1013.64, F.S., addresses funds for comprehensive educational plant needs, and provides for specific allocations from the PECO fund. The Legislature is required to give priority consideration to funds for remodeling, renovation, maintenance, repairs, and site improvement for existing satisfactory facilities for appropriations allocated to district school boards from the total amount of PECO.<sup>1</sup>

<sup>1</sup> s. 1013.64(1)(a), F.S.

Prior to spending funds from PECO or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any ancillary plant or any other new construction, renovation, or remodeling of ancillary space, each district school board is required to meet all educational plant space needs of its elementary, middle, and high schools.<sup>2</sup>

Section 1013.64(6)(b)1., F.S., limits district school boards to specified amounts when using funds from the following for any new construction of educational plant space:

- PECO;
- School District and Community College District Capital Outlay and Debt Service Trust Fund;
- Classrooms First Program funds;
- Effort Index Grant funds;
- Non-voted two mill levy of ad valorem property taxes;
- Classrooms for Kids funds; or
- District Effort Recognition funds.

### **Trust Funds: Passage, Termination and Re-creation**

Pursuant to s. 19(f)(1), art. III, of the State Constitution, passage of any trust fund bill requires a three-fifths vote of the membership of each house of the Legislature, in a separate bill for that purpose only. A trust fund terminates no more than four years after the effective date of the act authorizing its creation.<sup>3</sup>

Regarding executive branch trust funds, prior to the regular session of the Legislature immediately preceding the date on which a executive or judicial branch trust fund is scheduled to be terminated, the agency responsible for its administration, and the Governor is required to recommend to the Senate President and the House Speaker whether the trust fund should be allowed to terminate or should be re-created.<sup>4</sup> Section 215.3206(2), F.S., requires all cash balances and income of the trust fund to be deposited into the General Revenue Fund, if the trust fund is terminated, and not immediately re-created.

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

This bill creates the Increased Utilization Account in the Public Education Capital Outlay and Debt Service Trust Fund (PECO) in the Department of Education. As provided in linked bill Senate Bill 2070, allocations are to be distributed to eligible schools that have increased their FTE facility capacity by at least 20 percent from using an alternative, nontraditional calendar in the following amounts:

- Up to \$250 per total FTE generated within the school; and
- Up to \$200 per total FTE to the school district per eligible school site for up to five years for each eligible school, contingent on funding availability.

<sup>2</sup> s. 1013.64(6)(a), F.S.

<sup>3</sup> s. 19(f)(2), art. III, of the State Constitution.

<sup>4</sup> s. 215.3206, F.S.

The Increased Utilization Account is subject to review and termination provisions of the statutes and the State Constitution. Therefore, the Increased Utilization Account, unless terminated sooner, terminates on July 1, 2011. Authority is provided for re-creation of the trust fund.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

It is unclear whether this separate trust fund bill is required, to the extent that the Increased Utilization Account is structured within an existing trust fund, in this case, PECO. This program involves a redirection of funding, rather than a new, stand alone revenue stream. Therefore, it appears that the provisions of s. 19(f)(1), art. III, of the State Constitution, including both the three-fifths vote of membership of both houses of the Legislature, and the review and termination or re-creation requirements, may be unnecessary.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill redirects 15 percent of the PECO funds to school districts that increase facility capacity through adoption of an alternative calendar.

Unexpended balances would remain in the account, and may create a build up of funds, as authority is not provided in the bill for the balances to revert back to PECO at the end of each fiscal year.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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