

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 Education Pre-K - 12 Appropriations Committee

BILL: PCS/SB 1368 (700952)

INTRODUCER: Education Pre-K - 12 Appropriations Committee

SUBJECT: Education

DATE: March 19, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Armstrong</u>	<u>Hamon</u>	<u>EA</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>WPSC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill conforms applicable statutes to the appropriations provided in the Senate proposed budget which makes appropriations for Prekindergarten through grade 12 education for the 2010-2011 fiscal year.

This bill amends statutes relating to funding the Florida Education Finance Program (FEFP) and statutes that authorize and/or limit the expenditure of such funds for programs and initiatives, including class size, district discretionary millage, voluntary prekindergarten, charter schools, instructional materials, library automation, virtual education, acceleration programs and courses, superintendent and school board member salaries, regional education consortia, school district budgets, advance distribution of funds, special facilities projects, and fixed capital outlay.

This bill creates section 1002.46, providing for school districts to contract with community colleges to provide high school students access to Florida college courses to be delivered virtually. Also, the bill creates section 1006.281 providing for instructional materials to be delivered in electronic format.

The bill also makes a number of technical adjustments and incorporates the FEFP calculations by reference.

This bill substantially amends sections 212.055, 1001.395, 1001.451, 1001.47, 1001.50, 1002.32, 1002.33, 1002.37, 1002.45, 1002.55, 1002.63, 1002.71, 1003.03, 1003.03, 1003.492, 1006.28, 1006.29, 1006.33, 1006.34, 1006.40, 1007.23, 1008.34, 1010.06, 1011.03, 1011.60, 1011.62,

1011.67, 1011.66, 1011.68, 1011.71, 1011.73, 1012.33, 1012.72, 1013.62, 1013.64 and creates sections 1002.46 and 1006.281, of the Florida Statutes.

II. Present Situation:

Class Size

In November 2002, s. 1, Art. IX of the State Constitution was amended to provide that by the beginning of the 2010 school year the maximum number of students assigned to a teacher who teaches core-curricula courses in public school classrooms shall be as follows:

- Prekindergarten through grade 3, the number of students may not exceed 18;
- Grades 4 through 8, the number of students may not exceed 22; and
- Grades 9 through 12, the number of students may not exceed 25.

The amendment required that beginning with the 2003-2004 fiscal year, the Legislature must provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the number of students per classroom does not exceed the maximum required by the beginning of the 2010 school year.

Implementation

Section 1003.03(2)(b), F.S., establishes an implementation schedule for reducing the average number of students per classroom by at least two students per year as follows:

- 2003-2004 through 2005-2006 at the district level;
- 2006-2007 through 2009-2010¹ at the school level; and
- 2010-2011 and thereafter, at the classroom level.

To implement the class size reduction provisions of the constitutional amendment, the Legislature created an operating categorical fund for the following purposes:²

- If the district has not met the constitutional maximums specified, or has not reduced its class size by the required average two students per year toward the constitutional maximums, the categorical funds must be used to reduce class size; and
- If the district has met the constitutional maximums or has successfully made the average two student reduction towards meeting those maximums, the funds may be used for any lawful operating expenditure. Priority, however, shall be given to increase salaries of classroom teachers and to implement the differentiated pay provisions in s. 1012.22, F.S.

In addition, in order to provide capital outlay funds to school districts for school construction for class size reduction, the Legislature created the Classrooms for Kids program to allocate funds appropriated for this purpose.³ A district is required to spend these funds only on the

¹ Ch. 2009-59, L.O.F.

² s. 3, ch. 2003-391, L.O.F., codified in s. 1011.685, F.S.

³ s. 4, ch. 2003-391, L.O.F., codified in s. 1013.735, F.S.

construction, renovation, remodeling, or repair of educational facilities, or the purchase or lease-purchase of relocatables that are in excess of the projects and relocatables identified in the district’s five-year work program adopted before March 15, 2003.⁴

To date, the Legislature has appropriated over \$13 billion in the Class Size Reduction categorical for operations and \$2.5 billion for facilities funding for the Classrooms for Kids program.⁵ The following provides historical funding amounts appropriated by the Legislature for operations and school construction to meet the constitutional class size requirements:

Year	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Operating Funds	\$ 468,198,634	\$ 972,191,216	\$1,507,199,696	\$2,108,529,344	\$2,640,719,730	\$2,729,491,033	\$2,845,578,849
Facilities Funds	\$ 600,000,000	\$ 100,000,000	\$ 83,400,000	\$1,100,000,000	\$ 650,000,000	\$0	\$0
Total	\$1,068,198,634	\$1,072,191,216	\$1,590,599,696	\$3,208,529,344	\$3,290,719,730	\$2,729,491,033	\$2,845,578,849

A district must consider specific options to implement the class size requirements and the average two-student-per-year reduction, including: adopting policies to encourage students to take dual enrollment courses and courses from the Florida Virtual School; repealing district school board policies that require students to have more than 24 credits to graduate from high school; maximizing the use of instructional staff; using innovative methods to reduce the cost of school construction; adopting alternative methods of class scheduling, such as block scheduling; and redrawing school attendance zones to better utilize under-capacity schools.⁶

Accountability and Compliance

If a school district has not reduced average class size by two students as required in s. 1003.03 (2), F.S., at the time of the third Florida Education Finance Program (FEFP) calculation, the DOE must calculate an amount from the district’s class size reduction operating funds which is proportionate to the amount of class size reduction not accomplished.⁷ This calculated amount is then transferred from the district’s operating budget to the district’s fixed capital outlay account. In a year when appropriations are reduced, the Commissioner of Education may recommend a waiver of up to 50 percent of the transfer of funds from operating to facilities appropriations for districts that fail to meet the class size limitation.⁸

Before a transfer occurs, a district may appeal to the DOE for a waiver.⁹ The Commissioner may subsequently recommend an adjustment to the transfer calculations if the district demonstrates a valid reason for its inability to comply. Appeals and adjustments that have been recommended by the Commissioner include: district reporting errors; an inability to hire teachers; unexpected student enrollment growth; and the impact of budget cuts on reducing class size.¹⁰ The Legislative Budget Commission may then approve an alternate amount of funds to be

⁴ *Id.*

⁵ DOE presentation to the Senate Pre-K–12 Education Appropriations Committee, January 21, 2010, on file with the committee.

⁶ s. 1003.03(3), F.S.

⁷ s. 1003.03 (4), F.S.

⁸ Ch. 2009-3, L.O.F.

⁹ DOE presentation to the Senate Pre-K-12 Education Committee, February 16, 2010, received on February 12, 2010, on file with the committee.

¹⁰ DOE bill analysis of SJR 1828, March 6, 2009, on file with the committee.

transferred, if the Commissioner and the State Board of Education determine that a district is unable meet the class size reduction requirements despite appropriate efforts to do so.¹¹

During fiscal years 2003-2004 through 2007-2008, after district appeals, a cumulative total of \$6,660,001 has been transferred from the class size reduction operating categorical to district class size reduction fixed capital outlay.¹² The greatest level of funding transferred in any one year was \$3,273,943 in FY 2006-2007. For 2008-2009, the DOE determined that prior to appeals, 39 traditional public schools (1.26 percent) in 17 school districts had not reduced their school level average by two students.¹³ There were no traditional public schools out of compliance after the appeals process; no funds were transferred from the class size reduction operating categorical to fixed capital outlay in 2008-2009.¹⁴ For 2009-2010, the DOE determined that prior to appeals, 72 traditional public schools had not reduced their school level average by two students. There were 16 traditional public schools out of compliance after the appeals process. Nine school districts had at least one school out of compliance.¹⁵ On February 9, 2010, the State Board of Education approved the Commissioner of Education's recommendation to transfer \$267,263 from the class size reduction operating categorical to fixed capital outlay.¹⁶ The transfer was reviewed and approved by the Legislative Budget Commission on February 18, 2010.

For the 2009-2010 school year,¹⁷ the percentage of traditional schools over the school average class size was 2.04 percent in prekindergarten through grade 3, 0.23 percent in grades 4 through 8, and 0.28 percent in grades 9 through 12.

Challenges and Considerations

The law requires the DOE to provide the Legislature and school districts with a simulated 2010-2011 class size reduction calculation for noncompliance.¹⁸ Based on the simulation, the following reflects the number and percentage of individual classrooms in traditional schools with students over the constitutional class size maximums:

- 100,440 classrooms or 32.43 percent in prekindergarten through grade 3;
- 77,607 classrooms or 28.59 percent in grades 4 through 8; and
- 56,564 classrooms or 37.02 percent in grades 9 through 12.

¹¹ s. 1003.03(4)(a)2., F.S.

¹² DOE presentation to the Senate Pre-K-12 Education Committee, February 16, 2010, received on February 12, 2010, on file with the committee. This calculation applies to traditional public schools.

¹³ DOE bill analysis of SJR 1828 (2009), March 6, 2009, on file with the committee.

¹⁴ DOE presentation to the Senate Pre-K-12 Education Committee, February 16, 2010, received on February 12, 2010, on file with the committee.

¹⁵ *Id.*

¹⁶ Telephonic conference with DOE, February 15, 2010.

¹⁷ DOE presentation to the Senate Pre-K-12 Education Committee, February 16, 2010, received on February 12, 2010, on file with the committee.

¹⁸ s. 1003.03(4)(e), F.S. The simulation must occur at the time of the third Florida Education Finance Program (FEFP) calculation.

The DOE estimates that \$131,451,874 in district funds would revert to General Revenue based on calculations at the classroom level:¹⁹

- \$50,305,492 for classrooms out of compliance in prekindergarten through grade 3;
- \$39,324,970 for classrooms out of compliance in grades 4 through 8; and
- \$41,821,412 for classrooms out of compliance in grades 9 through 12.

This suggests that school districts would have a significant challenge in meeting the constitutional maximum class size requirements by the beginning of the 2010-2011 school year.

As indicated by a number of practitioners, even if some districts are able to achieve the required maximum class sizes by 2010-2011, logistical concerns would potentially still exist. For example, if a school would have all classrooms in each grade at the maximum class size at the beginning of the school year, and then one additional student would enroll one month after the start of the school year, to continue to meet the constitutional requirement, the district would need to hire a new teacher for an additional class of students. This would potentially cause significant disruption for displaced and reassigned students, parents, teachers, and would potentially contribute to facility utilization problems and other planning issues.

The 2009 Legislature revised the accountability provisions by changing the calculation for district accountability beginning in 2010-2011 and thereafter. The revised accountability requirement provides that the class size reduction operating categorical funds may not be provided for students who are over the allowed number of students assigned to a teacher.²⁰ A simulated calculation was also required that reduced class size reduction funding for any student over the constitutional maximum in an individual classroom. The simulation yielded a \$131 million penalty that would be deducted from the Class Size Reduction categorical if the compliance information remains unchanged during the 2010-2011 fiscal year. It has been generally known that some districts may accept this penalty in 2010-2011, in lieu of making other revisions to district operations, such as the hiring of sufficient numbers of teachers which would be much more costly than the penalty, or other adjustments, such as rezoning, which would be highly unacceptable in many local communities.

Charter schools are not exempt from the constitutional class size requirement. However, on March 14, 2008, two charter schools challenged the authority of the DOE to apply the maximum class size statute to charter schools in the absence of a rule. On December 17, 2008, a final order was issued determining that the class size statute did not to apply to charter schools pursuant to the provisions in s. 1002.33(16), F.S., which exempts charter schools from all provisions of the School Code with certain exceptions.²¹ Because of this ruling, no funding transfers were calculated for non-compliant charter schools for 2008-2009 and 2009-10, even though charter schools receive full funding from the state for the class size reduction categorical.

¹⁹ DOE presentation to the Senate Pre-K-12 Education Committee, February 16, 2010, received on February 12, 2010, on file with the committee.

²⁰ s. 14, ch. 2009-59, L.O.F., codified in s. 1003.03(4), F.S.

²¹ *The Renaissance Charter School, Inc., and the Lee Charter Foundation, Inc., v. Department of Education*, DOAH Case No. 08-1309RU.

Senate and House Joint Resolutions

Currently, joint resolutions in the Legislature, Senate Joint Resolution 2 and House Joint Resolution 7039, propose an amendment to the constitution that would revise the requirements for class size. If the legislative resolution passes and the amendment is approved by the voters in the November 2010 general election, class size requirements would be revised retroactive to the beginning of the 2010-2011 school year. The revised class size requirements would be:

Beginning with the 2010-2011 school year, the school level average number of students per teacher may not exceed the following limits:

- Prekindergarten through the 3rd grade, 18 students;
- 4th grade through the 8th grade, 22 students; and
- 9th grade through the 12th grade, 25 students.

Also, the maximum number of students who can be assigned to a teacher in an individual classroom shall not exceed the following:

- Prekindergarten through the 3rd grade, the number of students may not exceed 21;
- 4th grade through the 8th grade, the number of students may not exceed 27; and
- 9th grade through the 12th grade, the number of students may not exceed 30.

In addition, the amendment provides that virtual education classes would not be subject to class size requirements.

School District Millage - Required Local Effort

Section 1011.62(4), Florida Statutes, indicates that the Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year and that not later than July 19, the Commissioner of Education is to compute and certify a millage rate which, when applied to 95 percent of the estimated state total taxable value for school purposes, will generate the prescribed aggregate required local effort for that year for all districts. In addition, the required local effort from a school district's required local effort millage will produce no more than 90 percent of the district's total Florida Education Finance Program calculation as determined in the July calculation. Required Local Effort is fully equalized in the FEFP: state funds offset the level of local revenue produced from the prescribed required local millage up to the level of calculated funding per student so that each district earns its entitlement with a combination of state and required local effort funds. For 2009-2010, the required local effort millage is 5.288 mills.

Section 1011.62(4)(e), Florida Statutes, requires districts to levy a prior period funding adjustment millage. This millage is levied by a district when the taxable value declines after the required local effort millage rate has been set for that year. When this happens the local required effort funds for that year are insufficient to fully fund its budget. The prior period adjustment millage is set at the rate needed to generate an amount equal to the unrealized local required effort revenue in the prior year.

School District Millage - Discretionary

Section 1011.71, Florida Statutes, provides that, in addition to the required local effort millage levy, each district school board may levy a nonvoted current operating discretionary millage. The Legislature is to prescribe annually in the appropriations act the maximum amount of such millage a district may levy.

In addition to the discretionary millage levy for operations, each school board may levy not more than 1.5 mills (reduced from 1.75 mills in 2008-2009) against the taxable value for school purposes for district schools to fund fixed capital outlay. However, if the revenue from the 1.5 mills is insufficient to meet the payments due under a lease purchase agreement entered into before June 30 2009, or to meet other critical district fixed capital outlay needs, the board, in addition to the 1.5 mills, may levy up to 0.25 mills for fixed capital outlay in lieu of levying an equivalent amount of discretionary mills for operations as provided in the General Appropriations Act. Expenditure of the revenue from the 1.5 mill levy is limited to the following:

1. New construction and remodeling projects included in the district's educational plant survey, sites and site improvement or expansion to new sites, existing sites, auxiliary facilities, athletic facilities, or ancillary facilities.
2. Maintenance, renovation, and repair of existing school plants or of leased facilities to correct deficiencies.
3. The purchase, lease-purchase, or lease of school buses.
4. Effective July 1, 2008, the purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, having a useful life of at least 5 years, and used to support district-wide administration or state-mandated reporting requirements.
5. Payments for educational facilities and sites due under a lease-purchase agreement entered into by a district school board, not exceeding, in the aggregate, an amount equal to three-fourths of the proceeds from the millage levied by a district school board.
6. Payment of certain loans.
7. Payment of costs directly related to complying with state and federal environmental statutes, rules, and regulations governing school facilities.
8. Payment of costs of leasing relocatable educational facilities, of renting or leasing educational facilities and sites, or of renting or leasing buildings or space within existing buildings.
9. Payment of the cost of school buses when a school district contracts with a private entity to provide student transportation services if the district meets certain requirements.
10. Payment of the cost of the opening day collection for the library media center of a new school.

If the revenue from the millage authorized is insufficient to make payments due under a lease-purchase agreement entered into prior to June 30, 2008, by a district school board for educational facilities and sites, an amount up to 0.25 mills of the taxable value for school purposes within the school district shall be legally available for such payments.

In addition, effective July 1, 2008 a school district may expend up to \$100 per unweighted full-time equivalent student from the revenue generated by the capital millage levy to fund, in addition to the authorized expenditures, expenses for the following:

1. The purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.
2. Payment of the cost of premiums for property and casualty insurance necessary to insure school district educational and ancillary plants. Operating revenues that are made available through the payment of property and casualty insurance premiums from revenues generated from capital improvement millage may be expended only for nonrecurring operational expenditures of the school district.

Violations of the capital millage expenditure provisions will result in an equal dollar reduction in the Florida Education Finance Program (FEFP) funds for the violating district in the fiscal year following the audit citation.

In 2009-2010, school boards, by a super majority vote, may levy an additional 0.250 mills of discretionary millage to meet critical operating or critical fixed capital outlay needs. If the millage is levied for operations it is equalize to the state average amount per student. In order to continue this millage levy after the 2010-2011 fiscal year it must be approved by the voters at the next general election. (43 districts levied the additional critical needs millage for operations and 2 for capital in 2009-2010.)

In addition to the maximum required and non-voted discretionary millage levied, a school district may levy, by local referendum or in a general election, additional millage for school operational purposes up to an amount that, when combined with the non-voted millage levied does not exceed the 10-mill limit established in s. 9(b), Art. VII of the State Constitution. Such levy is to be for a maximum of 4 years and is to be counted as part of the 10-mill limit established in s. 9(b), Art. VII of the State Constitution. Funds generated by such additional millage do not become a part of the calculation of the Florida Education Finance Program.

For 2009-2010, the following represents the maximum non-voted millage authorized under section 1011.71, Florida Statutes:

For Current Operations

- 5.288 Required Local Effort –equalized in the foundation formula of the FEFP
- 0.748 Discretionary – by board decision, up to .25 mills of which may be levied for fixed capital outlay. If fully levied for operations, it is equalized to the state average amount per student.
- 0.250 Additional Discretionary -- for critical operations or for critical fixed capital, requires a super majority vote of the board

For Capital Outlay

- 1.5 Discretionary - in 2009-2010, 47 districts levied the maximum; 13 districts levied between 1.0 and 1.5 mills; and 7 districts levied less than 1.0 mill.

Voluntary Prekindergarten Education Program

Under sections 1002.55 and 1002.63, Florida Statutes, staffing for students in the Voluntary Prekindergarten Program is 10 students and one instructor who meets requirements for the CDA credential or higher, and any class of 11 or more students, up to 18, must have an additional instructor who is not required to hold a CDA credential.

In addition, each early learning coalition may retain and expend no more than 4.85 percent of the funds paid by the coalition to private prekindergarten providers and public schools. These Funds retained by an early learning coalition may be used only for administering the Voluntary Prekindergarten Education Program and may not be used for the school readiness program or other programs.

Charter School Funding

Section 1002.33(17), Florida Statutes, provides that students enrolled in charter schools shall be reported and funded through the Florida Education Finance Program in accordance with an agreement between the charter school and the sponsor school district..

Section 1002.33(20), Florida Statutes, requires the sponsor district to provide certain administrative and educational services to charter schools. A total administrative fee for the provision of these services is calculated and may be withheld by the sponsor on up to 5 percent of the Florida Education Finance Program and categorical program funds, defined in paragraph (17)(b) for all students. However, a sponsor may only withhold up to a 5-percent administrative fee for enrollment for up to and including 500 students. For charter schools with a population of 501 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for certain capital outlay purposes. Sponsors are not to charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum 5-percent administrative fee.

Charter School Capital Outlay

Section 1013.62, Florida Statutes, provides eligibility and expenditure requirements for charter school capital outlay appropriations. Generally, to be eligible, a charter school must have been in operation for 3 or more years, be an expansion of a feeder chain within a district, or have been accredited by the Commission on Schools of the Southern Association of Colleges and Schools; have financial stability; have satisfactory student achievement; have received final approval from the sponsor; and serve students in facilities not provided by the sponsor. Charter schools may use capital outlay funds for the purchase of real property; school construction; purchase, lease-purchase, or lease of school facilities; purchase of vehicles for student transportation; or renovation or repair of school-owned or leased school facilities. The 2009-2010 appropriation for charter school capital outlay is \$56,112,466.

A charter school is not eligible for a capital outlay funding allocation if it was created by the conversion of a public school and operates in facilities provided by the charter school's sponsor for a nominal fee, or at no charge, or it is directly or indirectly operated by the school district.

Section 1002.33(15), Florida Statutes, provides that in order to reduce the school and classroom overcrowding and to offset the high cost of educational facilities the formation of business partnerships schools or satellite learning centers and municipal-operated schools through charter school status. A charter school-in-the-workplace may be established when a business provides the school facility to be used; enrolls students based upon a random lottery that involves all of the children of employees of that business or corporation who are seeking enrollment and enrolls students according racial/ethnic balance. Any portion of a facility used for a public charter school shall be exempt from ad valorem taxes, for the duration of its use as a public school

Instructional Materials

Florida law currently requires the district school boards to provide adequate instructional materials for all students and prescribes a detailed process for adopting such materials purchased with state funds. In s. 1006.20, Florida Statutes, “adequate instructional materials” is defined to mean a sufficient number of hard-backed or soft-backed textbooks or sets of materials serving as a basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature. On or before July 1 each year, the commissioner is required to certify to each district school superintendent the estimated allocation of state funds for instructional materials for the fiscal year. Each district school board must purchase current instructional materials to provide each student in kindergarten through grade 12 with a textbook or other instructional material as a major tool of instruction in the core courses. These purchases are to be made within the first 2 years of the effective date of the adoption cycle.

Many publishers or manufacturers of adopted instructional materials establish a price and sell their instructional materials as a “bundled” item which means the hard-backed or soft-backed textbook is accompanied (shrink-wrapped) with other supplemental materials such as CD-ROMs, software, or other forms of electronic media. As provided in s. 1006.28, F.S., districts are required to purchase adopted instructional materials through the publisher’s Florida depository and report their instructional material purchases to the Department of Education.

Section 1006.40, Florida Statutes provides that district school boards must use at least 50 percent of the funds allocated to purchase instructional materials on the state-adopted list and may use the remaining 50 percent of the annual allocation to purchase materials, including library and reference books and nonprint materials, not included on the state-adoption list and for the repair and renovation of textbooks and library books. (s. 1006.40, F.S.)

For 2009-2010, \$216,031,121 was appropriated for district instructional materials. For funding flexibility, to aid with limited resources, section 1011.62(6) allowed school boards to transfer any balance of instructional materials funds, after all instructional materials purchases were completed, but no sooner than March 1, to the classroom for instructional purposes. Also, s.1011.67, Florida Statutes, authorizes accelerated distribution of instructional materials funds by the Department of Education to school districts (50% on July 10, 35% on October 10, 10% on January 10, and 5% on June10) to assist in timely obligation and purchase of textbooks.

Library Automation

There are four different automated library systems and services in Florida that provide centralized automated library services for different constituents as follows:

- Florida Center for Library Automation (FCLA) – State University System
- College Center for Library Automation (CCLA) – Florida College System
- SUNLINK – K-12 public schools
- Florida Electronic Library (FEL) – Florida public libraries

Each system provides, in part, access to commercial electronic resources through subscription contracts with publishers and providers. Currently, there is ad hoc coordination among the systems and no assurances that all students have the necessary access to ensure equitable learning opportunities in similar courses across secondary and postsecondary coursework.

School District Virtual Instruction Program

Section 1002.45, Florida Statutes, creates the school district virtual instruction program to provide virtual instruction full-time for K-12 students or part-time for 9-12 at-risk students only, either through a district contract with the Florida Virtual School (FLVS) or the establishment of an FLVS franchise; an agreement with another school district; or a contract with an approved provider. FTE are funded through the Florida Education Finance Program, and funding for providers is established by a negotiated contract with the school district.

Bonus Funding for Student Performance for Certain Courses and Diplomas

Section 1011.62(1), Florida Statutes, provides bonus full-time equivalents (FTE) for funding in the Florida Education Finance Program (FEFP), for academic acceleration programs for student performance as follows:

- .16 FTE per student for passed International Baccalaureate examinations.
- .16 FTE per student for passed Advanced International Certificate of Education examinations. (Half for middle school equivalent programs)
- .16 FTE per student for passed College Board Advanced Placement examinations.
- .3 FTE for International Baccalaureate diplomas.
- .3 FTE for Advanced International Certificate of Education diplomas.
- .3 FTE for Industry- Certification courses and high school diploma (\$15 million cap)

For the acceleration courses, the bonus for each examination passed is a 100% bonus relative to the funds provided for each student for the course. The bonus for each student for the diploma is roughly equivalent to the funding provided for two courses for a student.

Generally, teachers of these programs earn from the FTE bonus payments, a \$50 bonus for each student who passes each exam and/or a \$500 bonus for one student in a D or F school who passes an exam with bonus funds per teacher capped at \$2,000.

The FTE bonuses in the FEFP provide more funding than is needed by a district to operate the program, pay for the exams, and provide the required teacher bonuses.

In addition, the Florida Virtual School receives a .114 FTE supplement for each public school FTE reported. The bonus is an 11.4% funding supplement to base FEFP funding.

School Grades/School Recognition Program

The system for determining school grades, in addition to FCAT scores, graduation rates, and other performance outcomes, includes the participation rate of all students enrolled in accelerated courses. The school grade is the basis for determination of School Recognition funding awards. Generally, schools that improve a letter grade or earn an "A" are eligible.

Industry Certified Career Education Program

Section 1003.492, Florida Statutes, provides a program for career academies for high school students to become professionally certified in high-demand technical fields in the regional economy, graduate, and be employed or continue their education. If the career academy student takes the appropriate courses in the industry areas, certified by the Agency for Workforce Innovation, and graduates from high school, the school district earns a bonus of .3 FTE, or roughly \$1,100 per student.

Salaries

District School Boards

Section 1001.395, Florida Statutes provides a formula for calculating the salaries of district school board members. The salary of each member is based on the population of the county the district school board member serves. Additional adjustments to base salaries of district school board members are determined annually with a formula prescribed in s. 145.19, Florida Statutes.

For Fiscal Year 2009-2010, s. 1001.395, Florida Statutes, required school board member salaries to be the lesser of the calculated salary or the beginning teacher salary for the district. In addition, s. 1001.395, Florida Statutes, authorizes school board members to voluntarily reduce their salaries. For Fiscal Year 2009-2010, the calculated school board member salaries range from a low of \$23,247 in Liberty County to a high of \$40,932 in Dade, Broward, Hillsborough, Orange, and Palm Beach counties.

Many states authorize little or no compensation for school board members.

Elected District School Superintendents

Section 1001.47, Florida Statutes, provides direction for the determination of elected district school superintendent salaries. The salary of each elected superintendent is calculated formulaically based on the population of the county in which the superintendent serves. Generally, additional adjustments to base salaries of superintendents are determined annually with the formula prescribed in s. 145.19, Florida Statutes. A district school board, by majority

vote, may approve a salary in excess of the amount calculated. An additional \$2,000 per year special qualification salary is to be paid by district school boards for each elected district school superintendent who has met certification requirements established by the Department of Education. In addition, upon successful completion of the leadership development and performance compensation program, the department shall pay an annual performance salary incentive to an elected superintendent of not less than \$3,000 nor more than \$7,500 based upon the superintendent's performance evaluation.

For Fiscal Year 2009-2010, s. 1001.47, Florida Statutes, required elected superintendent salaries to be reduced by 2 percent. In addition, s. 1001.47, Florida Statutes, authorizes elected superintendents to voluntarily reduce their salaries. For 2009-10, the calculated elected superintendent salaries range from a low of \$87,695 in Liberty County to a high of \$169,775.

School Superintendents – Appointed by School Board

Section 1001.50, Florida Statutes provides direction for school district superintendents employed under Art. IX of the State Constitution. Superintendents appointed by the school board are the executive officer of the district school board and are not subject to the provisions of law, either general or special, relating to tenure of employment or contracts of other school personnel. The appointed district school superintendent's duties relating to the district school system are as provided by law and rules of the State Board of Education. The district school board is to enter into a contract of employment with the district school superintendent and is to adopt rules relating to the superintendent's appointment.

The district school board is to pay to the district school superintendent a reasonable annual salary. The board is required to take into account the following factors when determining reasonable compensation: district population; the rate and character of population growth; the size and composition of the student body; the geographic extent of the district; the number and character of the schools; and the educational qualifications and professional experience of the candidate. The appointed district school superintendent may participate in the courses of continuing professional education provided in the special qualification certification program and the leadership development and performance compensation program. The district school board may use successful completion of these programs as a factor in determining the amount of compensation to be paid.

Section 1001.50(6), Florida Statutes, capped superintendents' remuneration at \$225,000 annually. Section 1001.50(6), Florida Statutes, encouraged district school boards and appointed district school superintendents to review the superintendents annual remuneration for the 2009-2010 fiscal year and mutually agree to a reduction of at least 5 percent.

Regional Education Consortia

Section 1001.451, Florida Statutes, provides that each school district and each non-district member of a regional consortium service organization is eligible to receive an incentive grant of \$50,000 to be used for the delivery of services in their region. For 2009-2010, if the total amount appropriated was less than the amount necessary to provide \$50,000 per member, then the member districts would receive a prorated amount.

District Summary Budget Advertisement

School districts are required to advertise their summary tentative fiscal year budget, including proposed millage levies in a newspaper of general circulation or, if not available, post it on the courthouse door. The advertisement must include a number of graphs that provide historical comparisons and demographic information for selected budget items.

Advance Payment of FEFP Funds

Section 1011.66 authorizes the Department of Education to make an advance payment in the first quarter of the fiscal year, of state FEFP funds to school districts whose ad valorem funds are greater than 40% of the total FEFP, up to a maximum of 15% of the district's total FEFP funding. For some districts, this is equal to the entire state funding portion of the FEFP, which is paid in the first quarter. Alternately, if these districts did not receive the advance payment from the state, they would use local fund balances, borrow from other district sources, or use short-term borrowing from financial institutions until local ad valorem funds would begin to be received in November.

Length of the School Year

Section 1011.60, Florida Statutes, defines the length of the school year as 180 actual teaching days or the equivalent on an hourly basis as specified by rules of the State Board of Education.

Fixed Capital Outlay Special Facilities Program

Section 1013.64, F.S. creates the Special Facilities Construction Program, in which small school districts that have urgent construction needs but inadequate resources within a 3-year period from currently authorized capital outlay revenue, may request funding for a specific construction project. To be approved for funding, the request must meet a number of criteria and take into account a number of factors, including recommendation in the most recent survey and final recommendation by the Special Facility Construction committee. Per testimony provided to the Senate Pre-K -12 Education Appropriations Committee, the process would benefit from statutory clarification.

III. Effect of Proposed Changes:

This bill makes the following revisions:

Class Size

For the 2010-2011 fiscal year, assuming no change to the constitutional language:

- the bill requires the compliance calculation for 2010-2011 to be based on the February student membership survey instead of the October survey. The calculation will be based on the class size standards in effect following the November 2010 General Election.

- Fiscal sanctions for non-compliance are revised to deduct base student allocation funding in addition to the class size reduction allocation funding for students that exceed the maximum.
- The March 1 and February 15 deadlines for certain budget actions do not apply for the 2010-2011 fiscal year.

For the 2010-2011 fiscal year, assuming the constitutional amendment is adopted by the voters in November, the bill amends section 1003.03, Florida Statutes, to be effective retroactively and includes the following:

- Beginning with the 2010-2011 school year, the school level average number of students per teacher may not exceed the following limits:
 - Prekindergarten through the 3rd grade, 18 students;
 - 4th grade through the 8th grade, 22 students; and
 - 9th grade through the 12th grade, 25 students.
- Also, the maximum number of students who can be assigned to a teacher in an individual classroom shall not exceed the following:
 - Prekindergarten through the 3rd grade, the number of students may not exceed 21;
 - 4th grade through the 8th grade, the number of students may not exceed 27; and
 - 9th grade through the 12th grade, the number of students may not exceed 30.

In addition:

- Compliance calculations will be based on the October student membership survey, except in 2010-2011 they will be based on the February survey, and the March 1 and February 15 deadlines for certain budget actions do not apply for the 2010-2011 fiscal year.
- Retroactive to the beginning of the 2010-2011 fiscal year, the compliance calculation will be comprised of two determinations by grade group for prekindergarten to 3, grades 4 to 8, or grades 9 to 12:
 - if the schools within the district have achieved the school level average (18, 22, or 25), and
 - if individual classrooms within schools in the district have achieved the classroom maximums (21, 27, or 30)
- Fiscal sanctions for non-compliance will deduct base student allocation funding and the class size reduction allocation funding for students that exceed the maximums.
- The bill repeals the requirement for funding the annual average two-student-per-year reductions to base year class size to achieve the constitutional class size limits.
- Provides that the constitutional class size requirements do not apply to virtual classes.

Also, the bill requires charter schools to comply with class size requirements.

School District Millage – Discretionary

- Removes the November 2010 general election voter referendum requirement to continue the .25 mill critical needs millage levy, which districts may use for operations or capital. This would potentially affect district funding in 2011-2012.

Voluntary Prekindergarten Education Program

- Increases the regular school year class size from 1:10 to 1:12. If a classroom has 21 or more students, up to 24, it must have a second instructor with a Child Development Associate (CDA) credential.
- Reduces the coalition administrative percentage from 4.85% to 4.5%

Charter School Funding

- Provides that Charter Schools in the Workplace are not eligible for an allocation from Charter School Capital Outlay funding because the facility is provided by the business partnership. This provision makes the state policy consistent with conversion charter schools where the facility is provided by the sponsor.
- Limits the school district administrative fee to 5% of the first 500 students in a system of charter schools, instead of the first 500 students in each school.
- Limits the school district administrative fee to 5% of the first 250 students in a charter school, instead of the first 500 students,

Virtual Materials, and Learning Management Systems

- Requires that all high school materials for any instructional materials adoption after 2012-2013 be primarily adopted and delivered in electronic format.
- Beginning with 2012-2013, not less than 10% of the instructional materials allocation shall be used to purchase electronic instructional materials.
- Bidders shall furnish electronic specimen copies for all instructional materials submitted.
- Publishers of instructional materials must price bundled and unbundled materials individually.
- Provides for the development of school district Learning Management Systems.

Instructional Materials

- Modifies district flexibility to allow instructional hardware purchases after March 1, 2011, if the district has purchased all necessary materials aligned to the Next Generation Sunshine State Standards and benchmarks and that meet statutory requirements of content and learning.
- Removes accelerated payment provisions for Instructional Materials categorical funds.

Library Automation

- High school students taking accelerated courses are to be provided access to electronic library resources at community colleges and universities.

Virtual Education

- Districts may contract with community colleges as an approved provider for the virtual instruction program for students in grades 9 through 12. Colleges may not report the FTE for funding in the Community College Program Fund (CCPF). The bill provides that college virtual instructors meet the certification requirements for virtual instructional staff.
- Individual high school core-curricular courses may be offered virtually to meet class size requirements.

Bonus Funding for Student Performance for Certain Courses and Diplomas

- The bonus FTE value for International Baccalaureate, Advanced International Certificate of Education, and College Board Advanced Placement examinations is reduced from 0.16 to 0.1. The reduced bonus FTE value provides more than 60 percent bonus funding in addition to the standard level of funding provided for these courses.
- This change in the bonus FTE values applies to the bonuses earned in 2009-2010 to be funded from the 2010-2011 FEFPP appropriation.
- Bonus payments to teachers for International Baccalaureate, Advanced International Certificate of Education, and College Board Advanced Placement eligible courses are reduced by 50 percent as follows:
 - From \$50 to \$25 for each student who earns a passing score.
 - From \$500 to \$250 for at least one student who earns a passing score in a school with a “D” or “F” grade.
 - From \$2,000 to \$1,000 maximum award per teacher.
- Eliminates the 0.114 public school bonus FTE for the Florida Virtual School.

School Grades/School Recognition Program

- For school grading, the bill eliminate points for students taking AP, IB, AICE, and industry certification courses who do not successfully complete the course (to eliminate the incentive to place students in courses who are not ready).

Industry-Certified Career Education Program

- Industry-certified .3 FTE bonus funds for students who become certified and graduate are to be paid to the program where earned.
- The list of industry certifications is to be approved by AWI and DOE.

Salaries

- Requires district school board member salaries in 2010-2011 to be the same level as the salaries of legislators.
- Maintains elected superintendents' salaries at the 2009-2010 level and encourages appointed superintendents with board consensus to do the same.

Regional Education Consortia

- Makes permanent that, if the total amount appropriated for the consortia is less than the amount necessary to provide \$50,000 per member, then the member districts will receive a prorated amount.

District Summary Budget Advertisement

- As a cost saving measure, the bill adjusts the advertisement requirement by including tentative district budget information online and removing the graphs that provide historical comparisons and demographic information for selected budget items.

Advance Payment of FEFP Funds

- Repeals the first quarter advance payment of state funds to school districts that have more than 40% of their FEFP funding provided by ad valorem funds.

Fixed Capital Outlay Special Facilities Program

- Requires Special Facilities construction projects to be recommended in a survey that is conducted and approved by the Department of Education.
- Revises the Special Facility Construction committee membership to not include school district members who qualify for appropriations for the program.

Length of the School Year

- Removes the Department of Education Rule required rule.

Other Technical Adjustments

- Includes a protection that no subsequent calculations of the FEFP after the appropriation may result in negative state funds.
- Amends language for the ESE student factor for student transportation.
- Modifies language to more correctly reference discretionary millage for the Florida Virtual School and lab schools.
- Clarifies the Wealth Adjustment offset calculation of the Sparsity Supplement by not including MAP funds.
- Clarifies the exemption for prior years of service requirement for pay purposes for teachers employed after retirement.
- Corrects statutory reference in s. 1011.73(2) for the 4 year millage levy.
- Clarifies millage restrictions relative to the school district capital outlay sales surtax.
- Authorizes an off-site instructor for a traditional classroom in a virtual environment to be the instructor of record for purposes of FTE reporting.

Florida Education Finance Program Calculation Workpapers

The bill incorporates the calculations of the Florida Education Finance Program for the 2010-2011 fiscal year public schools budget by reference, in order to display the calculations used by the Legislature, consistent with the requirements of the Florida Statutes, in making appropriations for the Florida Education Finance Program.

Effective Date

The bill provides the effective date as July 1, 2010.

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:

The bill conforms the statutes to the K-12 public schools budget. The bill provides school districts additional fiscal flexibility by giving priority to funding for the core mission of teaching and learning and less emphasis on funding noncore functions. In addition, the bill makes adjustments and reductions to special allocations in the funding formula to maximize funding in the base allocation for all districts. The bill also provides for fiscal efficiencies and limits unnecessary spending.

In addition, the bill modifies the classroom ratio for the regular school year voluntary prekindergarten program from 1 to 10 to 1 to 12. For classrooms with 21 or more students, up to 24, the second instructor is also required to have a Child Development Associate (CDA) credential. The bill reduces the administrative rate for coalitions from 4.85 to 4.5%.

The bill also provides implementing language for full compliance with class size, if the constitution remains unchanged, or retroactively to the beginning of the 2010-2011 fiscal year, if a legislative joint resolution passes and the voters approve a constitutional amendment that revises the requirement to the school level average of 18 for prekindergarten to grade 3, 22 for grades 4 to 8, and 25 for grades 9 to 12, and individual classroom maximums of 24 (21+3) for prekindergarten to grade 3, 27 (22+5) for grades 4 to 8, and 30 (27+3) for grades 9 to 12.

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.)

None.

B. Amendments:

None.