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# **Schools & Learning Council Meeting Packet**

**April 10, 2007  
9:00 am – 12:00 pm  
212 Knott**

**Marco Rubio  
Speaker**

**Joe H. Pickens  
Council Chair**



# The Florida House of Representatives

## Schools & Learning Council

Marco Rubio  
Speaker

Joe H. Pickens  
Chair

**Meeting Agenda**  
**Tuesday, April 10, 2007**  
**212 Knott**  
**9:00 am – 12:00 pm**

**I. Roll Call**

**II. Consideration of the Following Bill(s):**

HB 155 Relief/Claudia & Jeffrey Kautz/Palm Beach County by Seiler

HB 187 School Bus Safety by Vana

HB 379 Use of School District Millage by Poppell

HB 511 Uses of the District School Tax by Kendrick

HB 621 University Building and Facility Designations by McKeel

Public K-12 Education -- PCS for HB 653

Florida Retirement System -- PCS for HB 685

HB 799 K-8 Virtual School Program by Weatherford

HB 897 Relief/Michelle Allen & Estate of Brooke Ingoldsby/Pinellas County

School Board by Peterman

HB 905 State University Student Fees by Dean

HB 1257 Educational Facilities by Richardson

HB 1371 Governor's School for Science and Technology by Altman

HB 1507 Tuition Rates at Community Colleges and State Universities by

Altman

**III. Closing Comments / Meeting Adjourned**



**STORAGE NAME:** h0155.SLC  
**DATE:** April 6, 2007

April 6, 2007

**SPECIAL MASTER'S FINAL REPORT**

The Honorable Marco Rubio  
Speaker, The Florida House of Representatives  
Suite 420, The Capitol  
Tallahassee, Florida 32399-1300

Re: HB 155 - Representative Seiler  
Relief of Claudia and Jeffrey Kautz v. Palm Beach County School Board

**THIS IS AN EQUITABLE CLAIM PURSUED PURSUANT TO A SETTLEMENT AGREEMENT SEEKING AN ADDITIONAL \$900,000 FOR NEGLIGENCE AGAINST THE PALM BEACH COUNTY SCHOOL BOARD RESULTING IN THE DEATH OF DIANA KAUTZ.**

**FINDINGS OF FACT:**

**Issues:**

Was the Palm Beach County school bus driver negligent in failing to stop at a stop sign; and if so, to what degree was the 15 year-old victim comparatively negligent in failing to wear her seatbelt?

**Facts:**

On November 11, 2004, at 3:19 p.m., 15 year-old Diana Kautz was ejected from a school bus when the driver, an agent for the Palm Beach County School Board, failed to stop at a stop sign and collided with an oncoming vehicle. The bus driver admitted to "fainting" prior to the accident. (Deposition of Maria Abrahantes, Dec. 8, 2005 59:25- 60:1). The victim, Diana Kautz, was ejected and suffered multiple blunt force injuries resulting in her death. The driver was also ejected but did not sustain fatal injuries. The remaining eight minors were either treated on the scene or transported to the hospital. The bus was equipped with seatbelts, however, none of the occupants were wearing their seatbelts.

**PROCEDURAL BACKGROUND OF CASE:**

Suit was filed on June 22, 2005. The case was settled Oct. 9, 2006 for an initial award of \$200,000. As part of the settlement the defendant agreed not to oppose or contest the Claims Bill requesting the additional \$900,000. (Document book, hereinafter, "D.B.," tab 5). However, the agreement not to



oppose such a bill does not negate the otherwise meritorious defenses. The evidence for consideration was submitted in the form of a joint document book by the attorney's for both parties. Both parties agreed at the claims hearing to the admissibility of the documents contained therein.

CONCLUSIONS OF LAW:

House Rule 5.6 provides for the Speaker of the House to appoint a Special Master to conduct a hearing for the requested claim. Pursuant to the aforementioned authority, guidelines have been promulgated that state a claims hearing requires the same burden as a trial, (plaintiff must prove claim by a preponderance of the evidence). The Special Master is to draw upon evidence received pursuant to the Florida Rules of Evidence and make findings of fact and conclusions of law.

Both parties have stipulated to the admissibility and consideration of the police reports. From a review confined to the evidence admitted for consideration, there is sufficient evidence to conclude the bus driver negligently failed to stop at a posted stop sign that led to the collision. However, there is also sufficient evidence to conclude that victim Kautz was negligent for failing to wear her seat belt.

Negligence

In a case alleging negligence, the plaintiffs must prove the defendant breached a legal duty that caused injury. Turlington v. Tampa Electric Co., 62 Fla. 398, 403-404 (Fla. 1911). A school bus driver has a duty to operate the vehicle in a reasonable manner to ensure the safe transportation of the passengers. Burnett v. Allen, 114 Fla. 489, 497 (Fla. 1934).

Maria Abrahantes's failure to stop at the stop sign was a breach of her duty to safely operate the vehicle. See Burentt, at 497. The resulting accident led to the demise of Ms. Kautz and the injuries of the other passengers.

Comparative Negligence

The state, county, agent, or employee of a school district is not liable in an action for personal injury by a school bus passenger solely because the injured party was not wearing a safety belt when such buses are equipped with safety belts. §316.6145(2), F.S. (2006). However, failure to wear a seat-belt may only be used for the issue of determining comparative negligence. Ridley v. Safety Kleen Corp., 693 So.2d 934, 941 (Fla. 1996). Fla. Stat. §768.81(2) (2006) provides that any contributory fault chargeable to the claimant diminishes proportionately the amount awarded as damages for an injury attributable to the claimant's contributory fault, but does not bar recovery.

The defense can meet its burden by showing seat-belts were contained in the vehicle and could have been used. Zurline v. Levesque, 642 So. 2d 1169, 1170 (4<sup>th</sup> DCA 1994). The burden then shifts to the plaintiff to present contrary evidence as to the

belt's operability. Id.

Ms. Kautz is comparatively negligent for failing to use the available seatbelt. See Ridely, at 941. She would not have been ejected from the vehicle and sustained the fatal injuries had she been wearing her seatbelt. At the most, the evidence suggests she may have suffered less substantial injuries related to the impact of the collision with the oncoming vehicle, (i.e. whiplash, cuts, etc). The structure of the bus maintained its integrity with the exception of the door coming ajar. There was no evidence presented that the seat dislodged or that the seatbelts would not have restrained the flight of the victim from the seat.

Additionally, there was sufficient proof that seatbelts were contained in the vehicle and could have been used, further proof of comparative negligence for failure to wear a seatbelt. See Zurline, at 1170. Both parties submitted the document book and stipulated to the admissibility of the contents which included the "Vehicle Homicide Investigation Report" authored by Ofc. Matthew King. The documents stated, "the school bus was equipped with lap belts for all passengers and had ten emergency exits throughout [the bus], which functioned properly during a post crash inspection". (D.B. tab 7 "Investigation Report" p. 1).

Acknowledging the compound nature of the officer's statement, it is of no consequence if the officer tested the safety belts or not. The presence of available seatbelts is prima facie evidence that seat belts were operational. See Bulldog Leasing Co. v Curtis, 630 So. 2d 1060, 1066 (Fla. 1994).

The officer supplemented his report with notes from his interviews with the other passengers. (D.B. tab 7 "Investigation Report" pp. 10-14). Most of the other eight children acknowledged that they were aware that the seatbelts were available and chose not to wear them. Id. There is sufficient evidence for this fact finder to conclude that seat belts were operable. Once such a conclusion is reached, it is incumbent on the plaintiff to prove the seatbelts in-operability. See Zurline, at 1170. The plaintiffs' attorney failed to present any evidence the seatbelts did not operate properly. Because Ms. Kautz could have worn her seatbelt and prevented her death, she is comparatively negligent.

#### Sufficiency of the Evidence

Whether contributory negligence appears by direct testimony or fair inference from the evidence..., is a question for the jury, [fact finder] to determine. Pendarvis v. Pfeifer, 132 Fla. 724, 735 (Fla. 1938).

Competent evidence is required to prove that the failure to use an available and operational seat belt produced or contributed substantially to producing at least a portion of the plaintiffs' damages. Insurance Co. of North America v. Pasakarnis, 451

So. 2d 447, 454 (Fla. 1984). The District Courts are unclear as to what constitutes "competent evidence". However, the courts are consistent in their application where the injured party is thrown from the seat or ejected from the vehicle, expert testimony is not required and a determination as to contribution of damages for failure to wear a seat-belt is within the province of the jury, [the finder of fact]. Burns v. Smith, 476 So. 2d 278 (2<sup>nd</sup> DCA 1985); State Farm v. Smith, 565 So. 2d 751 (5<sup>th</sup> DCA 1990); Zurline v. Levesque, 642 So. 2d 1169 (4<sup>th</sup> DCA 1994).

Applying the holdings in Pendarvis, Burns, State Farm, and Zurline, it is concluded, by fair inference, that Ms. Kautz would not have been thrown from her seat and ejected had she been restrained with a seat-belt. See Pendarvis, at 735; Burns, at 278 (2<sup>nd</sup> DCA 1985); State Farm, at 753; Zurline, at 1171.

The other children were treated on the scene or transported to the hospital. The defense responded he was not aware of any documents related to any of the seatbelts not functioning, (i.e work requests pending, complaints filed, etc.) The plaintiff stated he knew of none either.

Plaintiff argued that he did not have the opportunity to inspect the seatbelts because the police dismantled the interior of the bus as part of their homicide investigation. This argument lacks merit. Plaintiff cites Public Health Trust of Dade Co. v. Valcin, 507 So.2d 596, 599 (Fla. 1987) to support his position. The Supreme Court discussed the applicability of establishing a presumption when evidence is deliberately lost, destroyed, or not created. Id., at 599. The court's holding applies only when "essential medical records are unavailable due to the adverse parties' negligence." Id.

Expanding the holding to an application in this case is without precedent and would nevertheless be inapplicable. Public Health Trust involves a dispute among two parties without a law enforcement investigation. The defendant had a duty to maintain records and make available the peculiar evidence because presumably there was no other way to establish a prima facie case without the disputed records. Id. at 599-600.

In the case of Ms. Kautz, there are other means for plaintiff to establish the elements he seeks to prove. Plaintiff had the opportunity to depose and investigate all witnesses that handled the seatbelts. Also distinguishable from the facts of Public Health Trust, the police, a third party, did the alleged "destroying" of evidence, not the School Board. The School Board had no role in how the homicide investigation was conducted and therefore is not responsible for any actions of the police.

Finally, plaintiff did not present any evidence in the form of work orders or testimony that there was ever a problem with the seatbelts or that the evidence was intentionally destroyed or lost to prevent further investigation. Applying plaintiff's logic,

police would have to halt every homicide investigation until all plaintiffs obtain attorneys to inspect the vehicle and its contents before collecting evidence. Such a position is not practicable and is without precedent.

#### CONCLUSION

Had the victim been wearing her seatbelt she would not have sustained the fatal injuries. Her fate was a combination of not wearing her seatbelt and the proximity to the door that was compromised as a result of the collision. While there is no question the bus driver is at fault for the collision, she is not completely responsible for the victim's injuries that resulted in her death. Further, because failure to wear a seatbelt may only serve as evidence of comparative negligence, the school board is not completely relieved of liability.

The plaintiffs' attorney remarked that once the parties reached a settlement, discovery and investigation regarding the incident ceased. Had the plaintiffs submitted medical testimony or other credible expert testimony stating the victim would have suffered the same fate had she been restrained by a seat-belt the conclusion may have been different. However, this fact finder is confined to apply the evidence to the aforementioned law. Therefore I find the defendant 30% at fault for the injuries sustained, and the victim responsible for the balance.

According to the defendant, settlements have been reached in each of the other victim's claims ranging from \$14,000-\$50,000. While damages vary according to the facts and evidence of each specific case, an award in the amount requested of \$900,000 (total) is not unreasonable to compensate the victim's family for the 30% liability of the school board resulting in the death of a fifteen-year old.

#### ATTORNEYS FEES:

The claimant's attorney has submitted an affidavit indicating that the attorney's fee will be limited to 25% of any recovery as required by s. 768.28, F.S. To date he has received \$50,000 from the \$200,000 received from the county.

Attorney costs submitted on 12/22/06 total \$26,410.67.

Therefore the balance owed to the victims is \$123,589.33 or 61% of the total thus far.

Should the additional \$900,000 be approved: The attorney stands to receive \$301,410.67, (\$275,000+\$26,410.67 in costs) leaving a balance of \$798,589.40; (72% of the total award).

**SOURCE OF FUNDS:** The Palm Beach County School Board General Fund; currently operating at a \$5,000,000 deficit. A total of \$402,999 has been allocated in settlements from 7 actions arising from this incident. There remains a total of \$17,001 in available funds. Paying the claim will involve operational cuts.

COLLATERAL AWARDS: \$50,000 settlement with V2 for truck involved in accident, referred to as "zealous representation" by the plaintiff's attorney.

\$10,000 from Kautz policy from State Farm for uninsured/underinsured motorist liability coverage.

Without Claims Bill passage:

Description	Credit	Debit	Balance
SI Limit	\$200,000		\$200,000
Attorney fee		\$50,000	\$150,000
Atty. Costs		\$26,410.67	\$123,589.33
Recovery from V2	\$50,000		\$173,589.33
Atty fee 33 1/3%		\$16,665	\$156,924.33
Recovery from St.Frm	\$10,000		\$166,924.33
Atty fee from St. Frm.		\$3,333	\$163,591.33
<b>Total</b>	<b>260,000.</b>	<b>\$96,408.67</b>	<b>\$163,591.33</b>

\$163,591.33 represents 62% of the total amount received thus far.

If the Claims Bill is passed:

Description	Credit	Debit	Balance
Claim Bill	\$900,000		\$900,000
Atty Fee		\$225,000	\$675,000
Total from previous 200K and Collateral Sources	\$260,000	\$96,408.67	\$838,591.33
<b>Total</b>	<b>\$1,160,000</b>	<b>\$321,408.67</b>	<b>\$838,591.33</b>

\$838,591.33 represents 72% of the total award.

RECOMMENDATIONS:

Because I find that 1.1 million dollars is excessive for the given the degree of negligence of the victim, I recommend reduction of the claim bill by \$200,000 and the claim be recommended favorably in a reduced amount.

Respectfully submitted,

Matthew E. Ladd  
House Special Master

cc: Rep. Seiler, House Sponsor  
Sen. Aronberg, Senate Sponsor  
T. Kent Wetherell, Senate Special Master  
Stephen D. Kahn, Senate General Master  
Constitution and Civil Law Committee

1                   A bill to be entitled  
 2           An act relating to Palm Beach County; providing for the  
 3           relief of Claudia Kautz, mother of Diana M. Kautz,  
 4           deceased, and Jeffrey Kautz, father of Diana M. Kautz,  
 5           deceased; providing for an appropriation to compensate  
 6           them for injuries and damages sustained as a result of the  
 7           negligence of an employee of the District School Board of  
 8           Palm Beach County; providing for attorney's fees and  
 9           costs; providing an effective date.

10  
 11           WHEREAS, on November 11, 2004, Maria E. Abrahantes  
 12           negligently operated a school bus at the intersection of Orange  
 13           Boulevard and Hall Boulevard in Royal Palm Beach, Palm Beach  
 14           County, Florida, so that the school bus collided with another  
 15           vehicle and rolled over, causing serious injury to and the  
 16           subsequent death of passenger Diana M. Kautz, and

17           WHEREAS, at the time of the accident, Maria E. Abrahantes  
 18           was operating the school bus as an employee of the District  
 19           School Board of Palm Beach County in a southbound direction on  
 20           Hall Boulevard, and

21           WHEREAS, at its intersection with Orange Boulevard, a stop  
 22           sign was visible on Hall Boulevard and five sets of "rumble  
 23           strips" were in place on the southbound lane leading up to the  
 24           stop sign, and

25           WHEREAS, Maria E. Abrahantes negligently operated the  
 26           school bus by traveling over the rumble strips without braking,  
 27           thus running the stop sign and entering Orange Boulevard,  
 28           violating the right-of-way of east-west traffic and causing the

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29 | truck operated by Jeffrey Schwartz to hit the school bus, which  
 30 | rolled over and caused serious injury to and the subsequent  
 31 | death of Diana M. Kautz, and

32 |         WHEREAS, the school district has agreed to pay the  
 33 | claimants, Claudia and Jeffrey Kautz, parents of decedent Diana  
 34 | M. Kautz, the sum of \$200,000, the maximum amount payable under  
 35 | the waiver of sovereign immunity provided under s. 768.28,  
 36 | Florida Statutes, and

37 |         WHEREAS, the amount remaining under the claim for damages  
 38 | in the amount of \$1.1 million is \$900,000, a sum that the  
 39 | District School Board of Palm Beach County has agreed to pay,  
 40 | and

41 |         WHEREAS, the school district does not oppose the passage of  
 42 | this act, NOW, THEREFORE,

43 |

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

45 |

46 |         Section 1. The facts stated in the preamble to this act  
 47 | are found and declared to be true.

48 |         Section 2. The District School Board of Palm Beach County  
 49 | is authorized and directed to appropriate from funds of the  
 50 | school board not otherwise appropriated and to draw a warrant in  
 51 | the sum of \$900,000 payable to Claudia and Jeffrey Kautz,  
 52 | parents of Diana M. Kautz, deceased, as compensation for  
 53 | injuries and damages sustained as a result of the negligence of  
 54 | an employee of the District School Board of Palm Beach County.  
 55 | The settlement shall be paid as a single, one-time payment, and,  
 56 | after payment of costs and attorney's fees as limited by s.



57 768.28(8), Florida Statutes, the remaining moneys shall be  
58 distributed as follows:

59 (1) Fifty percent shall be paid to Claudia Kautz, mother  
60 of Diana M. Kautz, deceased; and

61 (2) Fifty percent shall be paid to Jeffrey Kautz, father  
62 of Diana M. Kautz, deceased.

63 Section 3. This act shall take effect upon becoming a law.





## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Current Florida law requires school buses to meet the applicable Federal Motor Vehicle Safety Standards and other specifications as prescribed by rules of the State Board of Education.<sup>1</sup> The current Federal Motor Vehicle Safety Standards, applicable to all school buses sold in the United States, only require buses to be equipped with a passive passenger protection system known as "compartmentalization." Compartmentalization is a term used to describe the existing passenger seating system on school buses. The seating system consists of high backed seats which are spaced closely together that are designed to absorb impact from children without injury in the event of a crash. Belt-type restraints, requiring active intervention by the passenger, are not federally required on large school buses.<sup>2</sup>

Compartmentalization has been used on school buses since April 1977 and has been effective in protecting children traveling to and from school. Children in school buses equipped with compartmentalization, without belt type restraints, are over eight times safer than they would be in other school transportation modes, e.g. walking, biking, riding in their parent's car.<sup>3</sup>

In addition, Florida law requires that all buses purchased new after December 31, 2000, must be equipped with safety belts<sup>4</sup> or with any other restraint system approved by the Federal Government in a number sufficient to allow each student who is being transported to use a separate safety belt or restraint system.<sup>5</sup> This requirement of safety belts increases the cost of buses by an estimated \$1,884.

The Florida School Bus Specifications and the 2005 National School Transportation Specifications and Procedures require uniformity of school bus appearance. These specifications require school buses to be "National School Bus Yellow". This standard color ensures high visibility and instant recognition by motorists.

Current Florida law requires "School Bus" inscriptions to be covered when the school bus is used for nonschool purposes, (the bus is either leased by the district school board<sup>6</sup>, or used for a public purpose<sup>7</sup>). When a school bus is not being used to transport school students, any signs or insignia that mark or designate it as a school bus must be covered, removed, or otherwise concealed.

##### **Effects of Proposed Changes**

This bill creates a new section of law that allows district school boards to adopt policies to allow private sponsorship of school buses for the installation of crash protection equipment. This bill allows any

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<sup>1</sup> s. 1006.25(2), F.S.

<sup>2</sup> Defined as over 10,000 pounds gross vehicle weight rating.

<sup>3</sup> National Highway Traffic Safety Administration, Report to Congress, School Bus Safety: Crashworthiness Research, April 2002.

<sup>4</sup> The safety belts required on new school buses in Florida are lap belts. The safety belts to be installed on sponsored school buses are a shoulder and lap belt combination (type two safety belts).

<sup>5</sup> s. 316.6145, F.S.

<sup>6</sup> s. 1006.25, F.S.

<sup>7</sup> s. 1006.261, F.S.

person, or business entity, to sponsor such installation by paying a sponsorship fee. Sponsorship fees will be determined by policies adopted by district school boards. The monies collected through sponsorship fees will be distributed up to five percent to pay the cost of an advertising agent involved with the transaction; up to 45 percent to pay for the cost of the seat belt assemblies and the cost of installation; and the remaining funds will be deposited in the General Revenue Fund to be used for transportation purposes.

This bill limits the number of business sponsors per bus to four business entities. Individual sponsorships or cosponsorships are to be provided for by district school board policy.

The district school board is required to place signage on the exterior rear, lower-quarter panels of the school bus to acknowledge the sponsor, if such signage is requested by the sponsor. If the sponsor is a business entity, the signage may include the logo of the business entity. The acknowledgement on the bus will say "Safety belts sponsored by" followed by the name of the sponsor. District school board policies will stipulate the design and size of the signage. This recognition is optional and at the request of the sponsor, no sponsor will be forced to be recognized with their name on the school bus.

The sponsored school bus must be equipped with a seat belt assembly that meets the requirements for type two seat belt assemblies, consisting of a shoulder and lap belt combination.<sup>8</sup> A different pelvic and upper torso restraint system may be used if approved by the Federal Government. There must also be enough seat belts to allow each student being transported to use a separate pelvic and upper torso restraint system.

The optional installation of type two safety belts on school buses will reduce the seating capacity, based on data from bus manufacturers. For example, a typical 65 passenger bus would hold 47 passengers when equipped with type two safety belts. This is an optional program, as such, the moneys school districts receive for capital and operational costs will remain the same. Districts that choose to allow the sponsorship of school buses would be responsible for the purchase of new school buses to remedy the loss of seating capacity due to the installation of type two safety belts.

The bill requires that policies adopted by district school boards must provide for sponsorship of seat belt assembly installation on new purchases of school buses. However, the sponsor has filed an amendment that removes this requirement

No liability, duty, or responsibility will be imposed on business entities or individuals who sponsor a school bus. The sponsors will not be held liable for any action relating to the installation, use, disuse, or misuse of any seat belt assembly on a school bus.

This bill amends section 1006.25(3), F.S., which requires "School Bus", and any other signs and insignia that mark or designate the bus a school bus, to be covered when a school bus, authorized by the district school board, is carrying passengers other than school students. This bill amends this section to require the sign of sponsorship<sup>9</sup> to be covered in addition to "School Bus" inscriptions and any other signs and insignia designating the bus a school bus.

This bill amends section 1006.25(4), F.S., which requires the use of the occupant crash protection system provided by the manufacturer.<sup>10</sup> This bill amends this section to require the use of occupant crash protection system *installed in the vehicle*, thus, not limiting the requirement of use to installation by the manufacturer.

This bill also amends section 1006.261, F.S., which requires "School Bus" inscriptions to be covered when a school bus is being used for nonschool purposes, other than the transportation of the

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<sup>8</sup> Established under Federal Motor Vehicle Safety Standard No. 209, 49 C.F.R. s. 571.209.

<sup>9</sup> As provided in s. 1006.273.

<sup>10</sup> In compliance with 49 C.F.R. part 571.

transportation disadvantaged. This bill amends this section to require, in addition, that the sign of sponsorship<sup>11</sup> be covered when the bus is being used for nonschool purposes.

There is some concern that allowing advertisements on buses may distract drivers, thus posing a safety concern. However, there is no available data confirming that sponsorship signage on school buses would compromise safety. Additionally, school districts in Arizona, Colorado, Massachusetts, Michigan, and Texas allow advertisements on school buses. School districts in California, and New York are considering selling advertisement space on school buses.

**C. SECTION DIRECTORY:**

- Section 1.** Creates the "Diana Kautz Student Safety Sponsors Act".
- Section 2.** Creates s. 1006.273; providing for district school boards to adopt policies for private sponsorship of described seat belt assemblies on school buses; providing for a sponsorship fee; providing for use of moneys collected; providing for signage on the exterior of the school bus acknowledging sponsorship; providing for design and size of the signage by local school board policy; limiting the liability of sponsors.
- Section 3.** Amends s. 1006.25, F.S.; requiring sponsor signs to be covered when school buses are transporting passengers who are not school students; revising the requirement that students use the crash protection system on a school bus.
- Section 4.** Amends s. 1006.261, F.S., requiring sponsor signs to be covered when school buses are used for nonschool purposes.
- Section 5.** Provides an effective date of July 1, 2007.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

This bill appears to increase state government revenues due to the provision that at least 50 percent of the moneys collected for each bus sponsorship would be deposited into the General Revenue Fund. It is unknown how much money will be accrued from the allowance of sponsorships for seat belts on school buses.

2. Expenditures:

This bill does not appear to impact state government expenditures.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Business entities that choose to sponsor safety belts on school buses will incur the cost of the voluntary sponsorship, but they will also most likely benefit economically from the sponsorship signage on the exterior of school buses. These benefits cannot be estimated at this time.

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<sup>11</sup> As provided in s. 1006.273.

Advertising agents selected to provide the signage on school buses to recognize the sponsor of the seat belts on the bus will also benefit from this bill. The agent chosen will receive up to 5 percent of moneys obtained by the local school board for the sponsorship of the bus.

**D. FISCAL COMMENTS:**

This bill may increase revenues to district school boards that adopt policies for sponsorship of safety belts for school buses. School districts will receive an increase in revenues from the sponsorship fees. The monies collected through the sponsorship fees will be distributed up to five percent to pay the cost of an advertising agent involved with the transaction; up to 45 percent to pay for the cost of the seat belt assemblies and the cost of installation; and the remaining funds will be deposited in the General Revenue Fund to be used for transportation purposes.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**D. STATEMENT OF THE SPONSOR**

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

The Committee on K-12 adopted one amendment on March 27, 2007. Representative Vana's amendment removes the provision in the bill that required school boards to provide sponsorship of new school buses.

1                   A bill to be entitled  
 2           An act relating to school bus safety; creating the "Diana  
 3           Kautz Student Safety Sponsors Act"; creating s. 1006.273,  
 4           F.S.; providing for district school boards to adopt  
 5           policies for private sponsorship of described seat belt  
 6           assemblies on school buses; providing for a sponsorship  
 7           fee; providing for use of moneys collected; providing for  
 8           signage on the exterior of the school bus acknowledging  
 9           sponsorship; providing for design and size of the signage  
 10          by local school board policy; limiting the liability of  
 11          sponsors; amending s. 1006.25, F.S.; requiring sponsor  
 12          signs to be covered when school buses are transporting  
 13          passengers who are not school students; revising the  
 14          requirement that students use the crash protection system  
 15          on a school bus; amending s. 1006.261, F.S.; requiring  
 16          sponsor signs to be covered when school buses are used for  
 17          nonschool purposes; providing an effective date.

18  
 19   Be It Enacted by the Legislature of the State of Florida:

20  
 21           Section 1. This act may be cited as the "Diana Kautz  
 22           Student Safety Sponsors Act."

23           Section 2. Section 1006.273, Florida Statutes, is created  
 24           to read:

25           1006.273 Crash protection systems; sponsorship.--A  
 26           district school board may adopt policies providing for private  
 27           sponsorship of the installation of crash protection equipment on  
 28           school buses pursuant to the provisions of this section.



29        (1) (a) Any person or business entity may sponsor the  
 30 installation of seat belt assemblies as described in subsection  
 31 (3) on a school bus by paying a sponsorship fee as prescribed by  
 32 local school board policy. Proceeds from the collection of the  
 33 fee shall be distributed as follows:

34            1. Up to 5 percent may be used to pay the cost of an  
 35 advertising agent involved with the transaction.

36            2. Up to 45 percent shall be used to pay for the cost of  
 37 the seat belt assemblies and the cost of installation.

38            3. The remaining funds shall be remitted to the state for  
 39 deposit into the General Revenue Fund to be used for  
 40 transportation purposes.

41            (b) There may be up to four business entity sponsors per  
 42 school bus. Sponsorships or cosponsorships by individuals shall  
 43 be as provided by district school board policy.

44            (2) (a) Upon request by the sponsor, the district school  
 45 board shall place signage on the exterior rear, lower-quarter  
 46 panels of the school bus acknowledging the sponsor and, if the  
 47 sponsor is a business entity, bearing the logo of the business  
 48 entity. However, no sponsor shall be required to have his or her  
 49 name or the name of the business entity placed on the school  
 50 bus.

51            (b) The acknowledgment shall bear the wording "Safety  
 52 belts sponsored by" followed by the name of the sponsor.

53            (c) The design and size of the signage shall be as  
 54 prescribed by local school board policy.

55            (3) The school bus must be equipped with a seat belt  
 56 assembly that meets the requirements for type 2 seat belt

57 assemblies established under Federal Motor Vehicle Safety  
 58 Standard No. 209, 49 C.F.R. s. 571.209, or with any other pelvic  
 59 and upper torso restraint system approved by the Federal  
 60 Government in a number sufficient to allow each student who is  
 61 being transported to use a separate pelvic and upper torso  
 62 restraint system.

63 (4) District school board policy under this section shall  
 64 provide for sponsorship of seat belt assembly installation on  
 65 new purchases of school buses.

66 (5) Sponsorship under this section shall not impose or  
 67 imply any duty or responsibility on the sponsor for installation  
 68 or use of any seat belt assembly on any school bus, and, in any  
 69 action relating to the installation, use, disuse, or misuse of  
 70 any seat belt assembly on a school bus, no liability shall  
 71 accrue to any person or business entity because that person or  
 72 entity is a sponsor of seat belt assemblies under this section.

73 Section 3. Subsections (3) and (4) of section 1006.25,  
 74 Florida Statutes, are amended to read:

75 1006.25 School buses.--School buses shall be defined and  
 76 meet specifications as follows:

77 (3) STANDARDS FOR LEASED VEHICLES.--A motor vehicle owned  
 78 and operated by a county or municipal transit authority that is  
 79 leased by the district school board for transportation of public  
 80 school students must meet such standards as the State Board of  
 81 Education establishes by rule. A school bus authorized by a  
 82 district school board to carry passengers other than school  
 83 students must have the words "School Bus" and any other signs  
 84 and insignia that mark or designate it as a school bus and any

85 | sign of sponsorship under s. 1006.273 covered, removed, or  
86 | otherwise concealed while such passengers are being transported.

87 | (4) OCCUPANT PROTECTION SYSTEMS.--Students may be  
88 | transported only in designated seating positions, except as  
89 | provided in s. 1006.22(12), and must use the occupant crash  
90 | protection system installed in the vehicle ~~provided by the~~  
91 | ~~manufacturer~~, which system must comply with the requirements of  
92 | 49 C.F.R. part 571 or with specifications of the State Board of  
93 | Education.

94 | Section 4. Subsection (3) of section 1006.261, Florida  
95 | Statutes, is amended to read:

96 | 1006.261 Use of school buses for public purposes.--

97 | (3) When the buses are used for nonschool purposes other  
98 | than the transportation of the transportation disadvantaged, the  
99 | flashing red lights and white strobe lights shall not be used,  
100 | and the "School Bus" inscriptions on the front and rear of the  
101 | buses and any sign of sponsorship under s. 1006.273 shall be  
102 | covered or concealed.

103 | Section 5. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. **187**

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>   </u>	(Y/N)
ADOPTED AS AMENDED	<u>   </u>	(Y/N)
ADOPTED W/O OBJECTION	<u><b>Y</b></u>	(Y/N)
FAILED TO ADOPT	<u>   </u>	(Y/N)
WITHDRAWN	<u>   </u>	(Y/N)
OTHER	<u>      </u>	

---

1 Council/Committee hearing bill: K-12  
2 Representative(s) Vana offered the following:

3  
4  
5  
6  
7  
8

**Amendment**

Remove line(s) 63 - 65.

3-22-07 10:14 am

Page 1 of 1

Amendment 1 by Vana to HB 187.doc





## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

Section 9, Article VII of the State Constitution permits a school district, if authorized by law, to levy up to 10 mills<sup>1</sup> of property taxes for school purposes. From the 10 mills, current law authorizes a school district to levy up to 2 mills for the following uses without voter approval (commonly known as the “nonvoted capital improvement millage”).<sup>2</sup>

- New construction and remodeling projects;
- Maintenance, renovation, and repair of existing educational plants<sup>3</sup> or leased facilities to correct nonconformity with the Florida Building Code or Fire Safety Prevention Code;
- Purchase, lease-purchase, or lease of school buses and other school vehicles;
- Purchase, lease-purchase, or lease of new and replacement equipment;
- Payment for educational facilities and sites under certain lease-purchase agreements;
- Payment of loans for specific school-related purposes;
- Payment of costs to comply with state and federal environmental laws, rules, and regulations;
- Payment of costs for renting or leasing educational facilities; and
- Purchase, lease-purchase, or lease of school buses or payment to a private entity to offset the cost of school buses.

In 1997, the Legislature limited the use of revenues from the discretionary 2-mill levy, phased out over 6 years. Thus, since July 1, 2003, current law limits the use of revenues from the 2-mill levy to the following projects:<sup>4</sup>

- Construction, renovation, remodeling, maintenance, and repair of the educational plant;
- Purchase, lease, or lease-purchase of equipment, educational plants, and construction materials directly related to the delivery of student instruction;
- Rental or lease of existing buildings or space converted for use as educational facilities;
- Opening day collection for the library media center of a new school;
- Purchase, lease-purchase, or lease of school buses or payment to a private entity to offset the cost of school buses; and
- Payments for certificates of participation<sup>5</sup> issued before January 7, 2003.<sup>6</sup>

---

<sup>1</sup> A mill is 0.001 of one dollar. Thus, one mill of \$100,000 of taxable value is \$100.

<sup>2</sup> Section 1011.71(2), Florida Statutes.

<sup>3</sup> Section 1013.01(7), Florida Statutes, defines the term “educational plant” to comprise the educational facilities, site, and site improvements necessary to accommodate students, faculty, administrators, staff, and the activities of the educational program of each plant.

<sup>4</sup> Section 8, chapter 97-265, Laws of Florida; Section 35, chapter 97-384, Laws of Florida; section 1011.71(5), Florida Statutes.

<sup>5</sup> A “certificate of participation” is an instrument evidencing a pro rata share in a specific pledged revenue stream, usually lease payments by the issuer that are subject to annual appropriation. The certificate generally entitles the holder to receive a share, or participation, in the lease payments from a particular project. Municipal Securities Rulemaking Board, *Glossary of Municipal Securities Terms* 2d ed. (Jan. 2004), at <http://www.msrb.org/msrb1/glossary/default.asp> (last visited Apr. 6, 2007).

<sup>6</sup> See sections 663 and 1065, chapter 2002-387, Laws of Florida.

A school district that spends revenues from the 2-mill levy in violation of these limits is subject to an equal-dollar reduction in funds appropriated to the district under the Florida Education Finance Program the fiscal year after an audit finds the violation.<sup>7</sup>

Current law exempts a school district from these limits, thereby allowing the district to spend revenues from the 2-mill levy on any of the projects listed, including those authorized before the 1997 restrictions previously discussed in this analysis, if the Commissioner of Education certifies that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive within 5 years or from sound methods of meeting the district's space needs (i.e., alternative scheduling or construction, leasing, rezoning, or technological methodologies).<sup>8</sup>

A review by the Department of Education of the legislative history of the 2-mill nonvoted capital improvement levy shows that the levy "has always been restricted to costs associated with capital outlay, and not with operating expenses."<sup>9</sup>

The department reports that, for 2006-2007, the value of 1 mill of school taxable value is \$1.56 billion. Thus, the 2-mill levy could generate a statewide value of \$ 3.11 billion. The following table shows the millage rates levied by Florida's school districts for 2006-2007.<sup>10</sup>

<b>2006-2007 Capital Improvement Millage Rates</b>	
<b>Levy of Discretionary 2 Mills</b>	<b>School Districts</b>
Three school districts do not levy millage	Calhoun, Holmes, and Jackson
Three school districts levy 0.001 to 0.500 mills	Gulf, Madison, and Monroe
Seven school districts levy 0.501 to 1.500 mills	Bay, DeSoto, Orange, Pasco, Santa Rosa, Walton, and Washington
Two school districts levy 1.501 to 1.999 mills	Citrus and Okaloosa
<b><i>The remaining 52 school districts levy the maximum of 2.000 mills</i></b>	

Tax Notices:

Current law requires a school district to annually publish certain notices of its tentative budget, tax increases, and budget hearings in a newspaper of general paid circulation in the district, which is of general interest and readership in the community and not one of limited subject matter.<sup>11</sup> If a school district levies the nonvoted capital improvement millage (up to 2 mills), current law requires the district to publish a second notice of that tax, which also must appear in a newspaper of general paid circulation in the district.<sup>12</sup> The notice must include a list of the projects anticipated to be funded by the capital improvement tax.<sup>13</sup>

<sup>7</sup> Flush-left provisions of section 1011.71(5), Florida Statutes.

<sup>8</sup> *Id.*

<sup>9</sup> Florida Department of Education, *2007 Bill Analysis of HB 511*, at 2 (Feb. 6, 2007).

<sup>10</sup> Florida Department of Education, Office of Funding and Financial Reporting, *Florida Education Finance Program 2006-07 Third Calculation 47* (Dec. 15, 2006), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-4169/coefo-07-12c.pdf>.

<sup>11</sup> Section 200.065(2)(f) and (3), Florida Statutes.

<sup>12</sup> Section 200.065(9)(a), Florida Statutes.

<sup>13</sup> *Id.*



Proposed Changes:

The bill allows a school district to use revenues from the 2-mill nonvoted capital improvement levy for payment of the district's property and casualty insurance necessary to insure the district's educational plants. The bill limits a school district's use of operating revenues made available through payment of property and casualty insurance costs from the 2-mill levy to nonrecurring operational expenditures.

The bill also requires a school district, if the district anticipates using revenues from the 2-mill levy for payment of property and casualty insurance costs, to list that anticipated use on the list of projects included on its annual public tax notice published in a newspaper of general paid circulation in the district.

The bill provides an effective date of July 1, 2007.

C. SECTION DIRECTORY:

Section 1. Amends section 200.065, Florida Statutes, requiring the addition of specified information in an annual tax notice.

Section 2. Amends section 1011.71, Florida Statutes, to allow revenues from the 2-mill nonvoted capital improvement levy to be used to pay certain insurance costs.

Section 3. Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill allows a school district to use revenues from the 2-mill nonvoted capital improvement levy for the district's property and casualty insurance costs, regardless of whether the district meets the class-size reduction requirements<sup>14</sup> or has other demands for capital outlay funds. According to the Department of Education, 24 school districts are subject to transfers of operating funds to the district's

<sup>14</sup> See Section 1(a), Article IX of the State Constitution; section 1003.03, Florida Statutes.

fixed capital outlay account for class-size reduction<sup>15</sup> because the districts have one or more public schools that did not meet the 2006-2007 class-size reduction requirements:<sup>16</sup>

School District	Transfer Amount
Bay	\$68,834
Brevard	\$2,474
Broward	\$954,157
Clay	\$37,392
Collier	\$2,573
Miami-Dade	\$518,149
Duval	\$34,210
Gadsden	\$4,294
Hendry	\$35,956
Lee	\$37,685
Levy	\$7,392
Manatee	\$596,123

School District	Transfer Amount
Monroe	\$13,041
Orange	\$1,766,907
Osceola	\$444,463
Palm Beach	\$59,831
Pasco	\$7,226
Pinellas	\$153,569
Polk	\$120,551
Putnam	\$7,151
Sarasota	\$20,623
Seminole	\$722
Sumter	\$193,466
Washington	\$19,220

In addition to these school districts, five districts had at least one public school that did not meet the class-size reduction requirements, but, as a result of the department's appeal and adjustment process, are not subject to the transfer of operating funds to fixed capital outlay: Alachua, Franklin, Lake, Okaloosa, and Walton.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

Current section 1011.71, Florida Statutes, which is amended by the bill, contains historical provisions that are now obsolete but create ambiguity as to the future application of the law and may create confusion as to how to apply the bill's provisions.

#### D. STATEMENT OF THE SPONSOR

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

<sup>15</sup> See section 1003.03(4)(a), Florida Statutes.

<sup>16</sup> Florida Department of Education, *2006-07 Class Size Reduction Transfer to Fixed Capital Outlay: All Schools* (Feb. 2007).

1                   A bill to be entitled  
 2           An act relating to use of school district millage;  
 3           amending ss. 200.065 and 1011.71, F.S.; expanding  
 4           authorized school board millage levy funding to include  
 5           payment of premiums for property and casualty insurance  
 6           necessary to insure school district educational plants;  
 7           limiting expenditures of operating revenues; providing an  
 8           effective date.

9

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

11

12           Section 1. Paragraph (a) of subsection (9) of section  
 13   200.065, Florida Statutes, is amended to read:

14           200.065 Method of fixing millage.--

15           (9) (a) In addition to the notice required in subsection  
 16   (3), a district school board shall publish a second notice of  
 17   intent to levy additional taxes under s. 1011.71(2). Such notice  
 18   shall specify the projects or number of school buses anticipated  
 19   to be funded by such additional taxes and shall be published in  
 20   the size, within the time periods, adjacent to, and in  
 21   substantial conformity with the advertisement required under  
 22   subsection (3). The projects shall be listed in priority within  
 23   each category as follows: construction and remodeling;  
 24   maintenance, renovation, and repair; motor vehicle purchases;  
 25   new and replacement equipment; payments for educational  
 26   facilities and sites due under a lease-purchase agreement;  
 27   payments for renting and leasing educational facilities and  
 28   sites; payments of loans approved pursuant to ss. 1011.14 and

29 1011.15; payment of costs of compliance with environmental  
 30 statutes and regulations; payment of premiums for property and  
 31 casualty insurance necessary to insure the educational plants of  
 32 the school district; payment of costs of leasing relocatable  
 33 educational facilities; and payments to private entities to  
 34 offset the cost of school buses pursuant to s. 1011.71(2)(i).  
 35 The additional notice shall be in the following form, except  
 36 that if the district school board is proposing to levy the same  
 37 millage under s. 1011.71(2) which it levied in the prior year,  
 38 the words "continue to" shall be inserted before the word  
 39 "impose" in the first sentence, and except that the second  
 40 sentence of the second paragraph shall be deleted if the  
 41 district is advertising pursuant to paragraph (3)(e):

42  
 43 NOTICE OF TAX FOR SCHOOL  
 44 CAPITAL OUTLAY

45  
 46 The (name of school district) will soon consider a  
 47 measure to impose a (number) mill property tax for the  
 48 capital outlay projects listed herein.

49 This tax is in addition to the school board's proposed tax  
 50 of (number) mills for operating expenses and is proposed  
 51 solely at the discretion of the school board. THE PROPOSED  
 52 COMBINED SCHOOL BOARD TAX INCREASE FOR BOTH OPERATING EXPENSES  
 53 AND CAPITAL OUTLAY IS SHOWN IN THE ADJACENT NOTICE.

54 The capital outlay tax will generate approximately \$  
 55 (amount) , to be used for the following projects:  
 56

57 (list of capital outlay projects)

58

59 All concerned citizens are invited to a public hearing to  
60 be held on (date and time) at (meeting place) .

61 A DECISION on the proposed CAPITAL OUTLAY TAXES will be  
62 made at this hearing.

63 Section 2. Paragraph (j) is added to subsection (2) of  
64 section 1011.71, Florida Statutes, and paragraph (a) of  
65 subsection (5) of that section is amended, to read:

66 1011.71 District school tax.--

67 (2) In addition to the maximum millage levy as provided in  
68 subsection (1), each school board may levy not more than 2 mills  
69 against the taxable value for school purposes for district  
70 schools, including charter schools at the discretion of the  
71 school board, to fund:

72 (j) Payment of premiums for property and casualty  
73 insurance necessary to insure the educational plants of the  
74 school district.

75

76 Violations of these expenditure provisions shall result in an  
77 equal dollar reduction in the Florida Education Finance Program  
78 (FEFP) funds for the violating district in the fiscal year  
79 following the audit citation.

80 (5)(a) It is the intent of the Legislature that, by July  
81 1, 2003, revenue generated by the millage levy authorized by  
82 subsection (2) should be used only for the costs of  
83 construction, renovation, remodeling, maintenance, and repair of  
84 the educational plant; for the purchase, lease, or lease-

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2007

85 purchase of equipment, educational plants, and construction  
 86 materials directly related to the delivery of student  
 87 instruction; for the rental or lease of existing buildings, or  
 88 space within existing buildings, originally constructed or used  
 89 for purposes other than education, for conversion to use as  
 90 educational facilities; for payment of premiums for property and  
 91 casualty insurance necessary to insure the educational plants of  
 92 the school district; for the opening day collection for the  
 93 library media center of a new school; for the purchase, lease-  
 94 purchase, or lease of school buses or the payment to a private  
 95 entity to offset the cost of school buses pursuant to paragraph  
 96 (2) (i); and for servicing of payments related to certificates of  
 97 participation issued for any purpose prior to the effective date  
 98 of this act. Costs associated with the lease-purchase of  
 99 equipment, educational plants, and school buses may include the  
 100 issuance of certificates of participation on or after the  
 101 effective date of this act and the servicing of payments related  
 102 to certificates so issued. For purposes of this section,  
 103 "maintenance and repair" is defined in s. 1013.01. Each year  
 104 operating revenues are made available through the payment of  
 105 property and casualty insurance premiums from revenues generated  
 106 under this subsection or subsection (2), such operating revenues  
 107 may be expended only for nonrecurring operational expenditures  
 108 of the school district.

109  
 110 A district that violates these expenditure restrictions shall  
 111 have an equal dollar reduction in funds appropriated to the  
 112 district under s. 1011.62 in the fiscal year following the audit

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113 citation. The expenditure restrictions do not apply to any  
114 school district that certifies to the Commissioner of Education  
115 that all of the district's instructional space needs for the  
116 next 5 years can be met from capital outlay sources that the  
117 district reasonably expects to receive during the next 5 years  
118 or from alternative scheduling or construction, leasing,  
119 rezoning, or technological methodologies that exhibit sound  
120 management.

121 Section 3. This act shall take effect July 1, 2007.





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 511 Uses of the District School Tax
SPONSOR(S): Kendrick and others
TIED BILLS: IDEN./SIM. BILLS: SB 1750

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Committee on K-12, 8 Y, 0 N, Gillespie, Ahearn. Row 2: Schools & Learning Council, Gillespie, Cobb.

SUMMARY ANALYSIS

House Bill 511 allows a school district to use revenues from the 2-mill nonvoted capital improvement levy for the district's health, property, and casualty insurance costs, if the district meets current-year class-size reduction requirements and the Commissioner of Education certifies that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive within 5 years or from sound methods of meeting the district's space needs.

The bill also requires a school district, if the district anticipates using revenues from the 2-mill levy for payment of health, property, and casualty insurance costs, to list that anticipated use on the list of projects included on its annual public tax notice published in a newspaper of general paid circulation in the district.

The Committee on K-12 adopted an amendment that removes authority created by the original bill for a school district to use revenue from the 2-mill nonvoted capital improvement levy for health insurance costs, keeps provisions from the original bill which allow revenue from the levy to be used for property and casualty insurance, but eliminates the restriction that the district must meet current-year class-size reduction requirements and receive a certification from the Commissioner of Education concerning the district's 5-year capital outlay needs. The amendment also requires that operating revenues made available due to use of the 2-mill levy for property and casualty insurance be used for nonrecurring operating expenditures. Finally, the amendment adds provisions to the bill which are substantially similar to CS/SB 1228 which provide for the designation of academically high-performing school districts and exempts the districts from specified laws and rules for 3 years.

The bill does not appear to create a fiscal impact on state or local government.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

Section 9, Article VII of the State Constitution permits a school district, if authorized by law, to levy up to 10 mills<sup>1</sup> of property taxes for school purposes. From the 10 mills, current law authorizes a school district to levy up to 2 mills for the following uses without voter approval (commonly known as the “nonvoted capital improvement millage”):<sup>2</sup>

- New construction and remodeling projects;
- Maintenance, renovation, and repair of existing educational plants<sup>3</sup> or leased facilities to correct nonconformity with the Florida Building Code or Fire Safety Prevention Code;
- Purchase, lease-purchase, or lease of school buses and other school vehicles;
- Purchase, lease-purchase, or lease of new and replacement equipment;
- Payment for educational facilities and sites under certain lease-purchase agreements;
- Payment of loans for specific school-related purposes;
- Payment of costs to comply with state and federal environmental laws, rules, and regulations;
- Payment of costs for renting or leasing educational facilities; and
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In 1997, the Legislature limited the use of revenues from the discretionary 2-mill levy, phased out over 6 years. Thus, since July 1, 2003, current law limits the use of revenues from the 2-mill levy to the following projects:<sup>4</sup>

- Construction, renovation, remodeling, maintenance, and repair of the educational plant;
- Purchase, lease, or lease-purchase of equipment, educational plants, and construction materials directly related to the delivery of student instruction;
- Rental or lease of existing buildings or space converted for use as educational facilities;
- Opening day collection for the library media center of a new school;
- Purchase, lease-purchase, or lease of school buses or payment to a private entity to offset the cost of school buses; and
- Payments for certificates of participation<sup>5</sup> issued before January 7, 2003.<sup>6</sup>

---

<sup>1</sup> A mill is 0.001 of one dollar. Thus, one mill of \$100,000 of taxable value is \$100.

<sup>2</sup> Section 1011.71(2), Florida Statutes.

<sup>3</sup> Section 1013.01(7), Florida Statutes, defines the term “educational plant” to comprise the educational facilities, site, and site improvements necessary to accommodate students, faculty, administrators, staff, and the activities of the educational program of each plant.

<sup>4</sup> Section 8, chapter 97-265, Laws of Florida; Section 35, chapter 97-384, Laws of Florida; section 1011.71(5), Florida Statutes.

<sup>5</sup> A “certificate of participation” is an instrument evidencing a pro rata share in a specific pledged revenue stream, usually lease payments by the issuer that are subject to annual appropriation. The certificate generally entitles the holder to receive a share, or participation, in the lease payments from a particular project. Municipal Securities Rulemaking Board, *Glossary of Municipal Securities Terms* 2d ed. (Jan. 2004), at <http://www.msrb.org/msrb1/glossary/default.asp> (last visited Apr. 6, 2007).

<sup>6</sup> See sections 663 and 1065, chapter 2002-387, Laws of Florida.

A school district that spends revenues from the 2-mill levy in violation of these limits is subject to an equal-dollar reduction in funds appropriated to the district under the Florida Education Finance Program the fiscal year after an audit finds the violation.<sup>7</sup>

Current law exempts a school district from these limits, thereby allowing the district to spend revenues from the 2-mill levy on any of the projects listed, including those authorized before the 1997 restrictions previously discussed in this analysis, if the Commissioner of Education certifies that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive within 5 years or from sound methods of meeting the district's space needs (i.e., alternative scheduling or construction, leasing, rezoning, or technological methodologies).<sup>8</sup>

A review by the Department of Education of the legislative history of the 2-mill nonvoted capital improvement levy shows that the levy "has always been restricted to costs associated with capital outlay, and not with operating expenses."<sup>9</sup>

The department reports that, for 2006-2007, the value of 1 mill of school taxable value is \$1.56 billion. Thus, the 2-mill levy could generate a statewide value of \$ 3.11 billion. The following table shows the millage rates levied by Florida's school districts for 2006-2007:<sup>10</sup>

<b>2006-2007 Capital Improvement Millage Rates</b>	
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Two school districts levy 1.501 to 1.999 mills	Citrus and Okaloosa
<b>The remaining 52 school districts levy the maximum of 2.000 mills</b>	

Class-Size Reduction:

In 2002, the voters of Florida approved an amendment to the State Constitution requiring the reduction of class sizes by the 2010 school year so that the maximum number of students per public school classroom assigned to a teacher is:<sup>11</sup>

- Eighteen students for prekindergarten through third grade;
- Twenty-two students for grades 4 through 8; and
- Twenty-five students for grades 9 through 12.

The constitutional amendment requires the Legislature, beginning with the 2003-2004 fiscal year, to provide funds for reducing the average number of students in each classroom by at least two students per year until reaching the maximum class sizes.<sup>12</sup>

<sup>7</sup> Flush-left provisions of section 1011.71(5), Florida Statutes.

<sup>8</sup> *Id.*

<sup>9</sup> Florida Department of Education, *2007 Bill Analysis of HB 511*, at 2 (Feb. 6, 2007).

<sup>10</sup> Florida Department of Education, Office of Funding and Financial Reporting, *Florida Education Finance Program 2006-07 Third Calculation 47* (Dec. 15, 2006), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-4169/coefo-07-12c.pdf>.

<sup>11</sup> Section 1(a), Article IX of the State Constitution.

<sup>12</sup> *Id.*

To implement the constitutional amendment, the Legislature required a school district that did not comply with the maximum class sizes to reduce its average number of students per classroom<sup>13</sup> by at least two students per year. The Legislature also specified how the averages are calculated:

- For fiscal years 2003-2004 through 2005-2006, the average number of students per classroom was calculated at the district level.
- For fiscal years 2006-2007 through 2007-2008, the average is calculated at the school level.
- For fiscal year 2008-2009 and thereafter, the average is calculated at the individual classroom level.

Thus, for fiscal years 2003-2004 through 2005-2006, a school district that did not meet the maximum class sizes for its classrooms was required to reduce the district's average number of students per classroom by two students. A school district was permitted to have a school whose average class size was not reduced as long as the district's average showed an overall reduction by two students.

For fiscal years 2006-2007 and 2007-2008, a public school (including a charter school) that does not meet the maximum class sizes for its classrooms is required to reduce the school's average number of students per classroom by two students. A school is permitted to have individual classrooms that are not reduced as long as the school's average shows an overall reduction by two students.

Beginning in fiscal year 2008-2009, an individual classroom that does not meet the maximum class size must be reduced by two students to meet the maximum class size.

Under current law, if the Department of Education determines for any year that a school district has not reduced average class sizes as required, the department must calculate an amount of the district's operating funds proportionate to the amount of class-size reduction not accomplished. Once the department's calculation is verified, the Executive Office of the Governor transfers the operating funds to the district's fixed capital outlay account for class-size reduction.<sup>14</sup> If, however, the Commissioner of Education recommends that the State Board of Education has reviewed evidence indicating that a school district was unable to meet class-size reduction requirements despite appropriate efforts, current law allows the Legislative Budget Commission to approve an alternative amount of funds to be transferred from the district's operating funds to fixed capital outlay for class-size reduction.

For 2006-2007, if a school district had at least one public school (including a charter school) that did not meet the class-size reduction requirements, the Department of Education allowed the district to appeal the department's calculation of the amount of operating funds to be transferred to fixed capital outlay. The Commissioner of Education subsequently recommended an adjustment to the transfer calculations if the district demonstrated that one of the following affected the calculation:

- Correction of data errors;
- District was actively recruiting (e.g., advertising of vacancy) a teacher to fill a vacancy before the class-size calculations and subsequently filled the position; or
- District experienced unexpected student enrollment growth.

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<sup>13</sup> The State Constitution specifies that the class-size requirements do not apply to "extracurricular classes." *Id.* Section 1003.03(1), Florida Statutes, specifies that the maximum class sizes apply to "core-curricula courses," which section 1003.01(14), Florida Statutes, defines as "courses defined by the Department of Education as mathematics, language arts/reading, science, social studies, foreign language, English for Speakers of Other Languages, exceptional student education, and courses taught in traditional self-contained elementary school classrooms."

<sup>14</sup> Section 1003.03(4)(a), Florida Statutes.

Based on the adjusted calculations resulting from the appeals, operating funds of 24 school districts are subject to transfer to fixed capital outlay:<sup>15</sup>

School District	Transfer Amount
Bay	\$68,834
Brevard	\$2,474
Broward	\$954,157
Clay	\$37,392
Collier	\$2,573
Miami-Dade	\$518,149
Duval	\$34,210
Gadsden	\$4,294
Hendry	\$35,956
Lee	\$37,685
Levy	\$7,392
Manatee	\$596,123

School District	Transfer Amount
Monroe	\$13,041
Orange	\$1,766,907
Osceola	\$444,463
Palm Beach	\$59,831
Pasco	\$7,226
Pinellas	\$153,569
Polk	\$120,551
Putnam	\$7,151
Sarasota	\$20,623
Seminole	\$722
Sumter	\$193,466
Washington	\$19,220

In addition to these school districts, five districts had at least one public school that did not meet the class-size reduction requirements, but, as a result of the department's appeals process, are not subject to the transfer of operating funds to fixed capital outlay: Alachua, Franklin, Lake, Okaloosa, and Walton.

Tax Notices:

Current law requires a school district to annually publish certain notices of its tentative budget, tax increases, and budget hearings in a newspaper of general paid circulation in the district, which is of general interest and readership in the community and not one of limited subject matter.<sup>16</sup> If a school district levies the nonvoted capital improvement millage (up to 2 mills), current law requires the district to publish a second notice of that tax, which also must appear in a newspaper of general paid circulation in the district.<sup>17</sup> The notice must include a list of the projects anticipated to be funded by the capital improvement tax.<sup>18</sup>

Proposed Changes:

The bill allows a school district to use revenues from the 2-mill nonvoted capital improvement levy for payment of the district's health, property, and casualty insurance costs, if:

- The district has met the current-year class-size-reduction requirements; and
- The Commissioner of Education certifies that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive within 5 years or from sound methods of meeting the district's space needs (i.e., alternative scheduling or construction, leasing, rezoning, or technological methodologies).

Since current law provides for calculation of class-size reduction requirements at the school level for fiscal years 2006-2007 and 2007-2008,<sup>19</sup> the bill is unclear when a school district is considered to have met the current-year class-size reduction requirements, especially in light of the appeals and adjustment process being implemented by the Department of Education, which is previously discussed in this analysis. Moreover, beginning in fiscal year 2008-2009, the class-size reduction requirements will be calculated at the level of individual classrooms, further obscuring whether a school district is considered to have met the current-year class-size reduction requirements.

<sup>15</sup> Florida Department of Education, *2006-07 Class Size Reduction Transfer to Fixed Capital Outlay: All Schools* (Feb. 2007).

<sup>16</sup> Section 200.065(2)(f) and (3), Florida Statutes.

<sup>17</sup> Section 200.065(9)(a), Florida Statutes.

<sup>18</sup> *Id.*

<sup>19</sup> Section 1003.03(2)(b)2., Florida Statutes.

The bill also requires a school district, if the district anticipates using revenues from the 2-mill levy for payment of health, property, and casualty insurance costs, to list that anticipated use on the list of projects included on its annual public tax notice published in a newspaper of general paid circulation in the district.

The bill provides an effective date of July 1, 2007.

C. SECTION DIRECTORY:

Section 1. Amends section 200.065, Florida Statutes, requiring the addition of specified information in an annual tax notice.

Section 2. Amends section 1011.71, Florida Statutes, to allow revenues from the 2-mill nonvoted capital improvement levy to be used to pay certain insurance costs.

Section 3. Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill allows a school district to use revenues from the 2-mill nonvoted capital improvement levy for the district's health, property, and casualty insurance costs, if the district meets current-year class-size reduction requirements and the Commissioner of Education certifies that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive within 5 years or from sound methods of meeting the district's space needs.

The bill accordingly allows a district that does not confront short-term capital outlay demands to use revenues from the levy to support the operational costs of paying the district's insurance premiums, thereby allowing the district to use operational funds for other purposes. If, however, the school district confronts unexpected long-term capital outlay demands, the district could experience challenges in shifting expenditures for the district's insurance premiums back to its operational funds after an extended period of supporting these expenses with revenues from the 2-mill levy.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

As previously discussed in the EFFECT OF PROPOSED CHANGES (I. B.), the bill is unclear whether a school district meets the current-year class-size reduction requirements, thereby causing the bill to be unclear whether a district is eligible to use revenues from the 2-mill nonvoted capital improvement levy for the district's health, property, and casualty insurance costs.

In addition, current section 1011.71, Florida Statutes, which is amended by the bill, contains historical provisions that are now obsolete but create ambiguity as to the future application of the law and may create confusion as to how to apply the bill's provisions.

#### D. STATEMENT OF THE SPONSOR

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 20, 2007, the Committee on K-12 adopted an amendment by Representative Kendrick. The amendment:

- Deletes provisions from the original bill which allow a school district to use revenues from the 2-mill nonvoted capital improvement levy for health insurance costs;
- Keeps provisions in the original bill which allow revenues from the 2-mill levy to be used for payment of premiums for property and casualty insurance;
- Eliminates the requirement in the original bill which conditions a district's use of revenues from the 2-mill levy to the district's compliance with the current-year class-size reduction requirements and the Commissioner of Education's certification that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive within 5 years or from sound methods of meeting the district's space needs; and
- Requires a school district to use operating revenues made available through payment of property and casualty insurance from the 2-mill levy only on nonrecurring operational expenditures.

The amendment also adds provisions to the bill which are substantially similar to CS/SB 1228 which provide for designation of academically high-performing school districts. The amendment allows a designated district to be exempt from certain laws and rules for a limited time. An academically high-performing school district must meet the following criteria:

- Earn a district grade of "A" for 2 consecutive years, beginning with the 2004-2005 school year;

- Have no schools, including charter schools, which earn a grade of “F”;
- Comply with all class-size requirements;
- Have no material weaknesses or instances of material noncompliance noted in the annual financial audit; and
- Report the specific State Board of Education rules and statutes from which the school district is exempt.

The designation may be retained for 3 years, if the district complies with the initial eligibility criteria and earns at least a district grade of “A” for 2 years within a 3-year period. However, a district may not retain the designation if a public school, including a charter school, earns a grade of “F” during the 3-year period.

The amendment exempts an academically high-performing school district from complying with laws relating to the following: program expenditure levels in the Florida Education Finance Program (FEFP) for kindergarten through grade 12; annual K-12 comprehensive reading plans; requirements for covered walkways for relocatable facilities (i.e., portables); the use of relocatable facilities; procurement of instructional materials; and use of the instructional materials allocation.

The amendment also specifies the provisions of law from which a high-performing district may not be exempt, provides for renewing the designation at the end of 3 years, and specifies a district’s requirements for reporting academic performance to the State Board of Education and the Legislature. The state board must make recommendations to the Legislature for eliminating any reporting requirements in state law which duplicate requirements in the federal No Child Left Behind Act.



1                   A bill to be entitled  
 2           An act relating to uses of the district school tax;  
 3           amending ss. 200.065 and 1011.71, F.S.; including health,  
 4           property, and casualty insurance costs as authorized uses  
 5           of school district millage; specifying nonapplication of  
 6           certain expenditure restrictions to school districts  
 7           meeting certain class size requirements; providing an  
 8           effective date.

9

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

11

12           Section 1. Paragraph (a) of subsection (9) of section  
 13   200.065, Florida Statutes, is amended to read:

14           200.065 Method of fixing millage.--

15           (9) (a) In addition to the notice required in subsection  
 16   (3), a district school board shall publish a second notice of  
 17   intent to levy additional taxes under s. 1011.71(2). Such notice  
 18   shall specify the projects or number of school buses anticipated  
 19   to be funded by such additional taxes and shall be published in  
 20   the size, within the time periods, adjacent to, and in  
 21   substantial conformity with the advertisement required under  
 22   subsection (3). The projects shall be listed in priority within  
 23   each category as follows: construction and remodeling;  
 24   maintenance, renovation, and repair; motor vehicle purchases;  
 25   new and replacement equipment; payments for educational  
 26   facilities and sites due under a lease-purchase agreement;  
 27   payments for renting and leasing educational facilities and  
 28   sites; payments of loans approved pursuant to ss. 1011.14 and

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29 1011.15; payment of costs of compliance with environmental  
 30 statutes and regulations; payment of health, property, and  
 31 casualty insurance costs of the school district; payment of  
 32 costs of leasing relocatable educational facilities; and  
 33 payments to private entities to offset the cost of school buses  
 34 pursuant to s. 1011.71(2) (i). The additional notice shall be in  
 35 the following form, except that if the district school board is  
 36 proposing to levy the same millage under s. 1011.71(2) which it  
 37 levied in the prior year, the words "continue to" shall be  
 38 inserted before the word "impose" in the first sentence, and  
 39 except that the second sentence of the second paragraph shall be  
 40 deleted if the district is advertising pursuant to paragraph  
 41 (3) (e):

42  
 43 NOTICE OF TAX FOR SCHOOL  
 44 CAPITAL OUTLAY  
 45

46 The (name of school district) will soon consider a  
 47 measure to impose a (number) mill property tax for the  
 48 capital outlay projects listed herein.

49 This tax is in addition to the school board's proposed tax  
 50 of (number) mills for operating expenses and is proposed  
 51 solely at the discretion of the school board. THE PROPOSED  
 52 COMBINED SCHOOL BOARD TAX INCREASE FOR BOTH OPERATING EXPENSES  
 53 AND CAPITAL OUTLAY IS SHOWN IN THE ADJACENT NOTICE.

54 The capital outlay tax will generate approximately \$  
 55 (amount) , to be used for the following projects:  
 56

57 (list of capital outlay projects)

58

59 All concerned citizens are invited to a public hearing to  
60 be held on (date and time) at (meeting place) .

61 A DECISION on the proposed CAPITAL OUTLAY TAXES will be  
62 made at this hearing.

63 Section 2. Paragraph (j) is added to subsection (2) of  
64 section 1011.71, Florida Statutes, and subsection (5) of that  
65 section is amended, to read:

66 1011.71 District school tax.--

67 (2) In addition to the maximum millage levy as provided in  
68 subsection (1), each school board may levy not more than 2 mills  
69 against the taxable value for school purposes for district  
70 schools, including charter schools at the discretion of the  
71 school board, to fund:

72 (j) Health, property, and casualty insurance costs of the  
73 school district.

74

75 Violations of these expenditure provisions shall result in an  
76 equal dollar reduction in the Florida Education Finance Program  
77 (FEFP) funds for the violating district in the fiscal year  
78 following the audit citation.

79 (5) (a) It is the intent of the Legislature that, by July  
80 1, 2003, revenue generated by the millage levy authorized by  
81 subsection (2) should be used only for the costs of  
82 construction, renovation, remodeling, maintenance, and repair of  
83 the educational plant; for the purchase, lease, or lease-  
84 purchase of equipment, educational plants, and construction

85 materials directly related to the delivery of student  
 86 instruction; for the rental or lease of existing buildings, or  
 87 space within existing buildings, originally constructed or used  
 88 for purposes other than education, for conversion to use as  
 89 educational facilities; for the opening day collection for the  
 90 library media center of a new school; for the purchase, lease-  
 91 purchase, or lease of school buses or the payment to a private  
 92 entity to offset the cost of school buses pursuant to paragraph  
 93 (2)(i); and for servicing of payments related to certificates of  
 94 participation issued for any purpose prior to the effective date  
 95 of this act. Costs associated with the lease-purchase of  
 96 equipment, educational plants, and school buses may include the  
 97 issuance of certificates of participation on or after the  
 98 effective date of this act and the servicing of payments related  
 99 to certificates so issued. For purposes of this section,  
 100 "maintenance and repair" is defined in s. 1013.01.

101 (b) For purposes not delineated in paragraph (a) for which  
 102 proceeds received from millage levied under subsection (2) may  
 103 be legally expended, a district school board may spend no more  
 104 than the following percentages of the amount the district spent  
 105 for these purposes in fiscal year 1995-1996:

- 106 1. In fiscal year 2000-2001, 40 percent.
- 107 2. In fiscal year 2001-2002, 25 percent.
- 108 3. In fiscal year 2002-2003, 10 percent.

109 (c) Beginning July 1, 2003, revenue generated by the  
 110 millage levy authorized by subsection (2) must be used only for  
 111 the purposes delineated in paragraph (a).

112 (d) Notwithstanding any other provision of this

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113 subsection, if through its adopted educational facilities plan a  
 114 district has clearly identified the need for an ancillary plant,  
 115 has provided opportunity for public input as to the relative  
 116 value of the ancillary plant versus an educational plant, and  
 117 has obtained public approval, the district may use revenue  
 118 generated by the millage levy authorized by subsection (2) for  
 119 the acquisition, construction, renovation, remodeling,  
 120 maintenance, or repair of an ancillary plant.

121  
 122 A district that violates these expenditure restrictions shall  
 123 have an equal dollar reduction in funds appropriated to the  
 124 district under s. 1011.62 in the fiscal year following the audit  
 125 citation. The expenditure restrictions do not apply to any  
 126 school district that has met the current year class size  
 127 reduction requirements of s. 1003.03 and certifies to the  
 128 Commissioner of Education that all of the district's  
 129 instructional space needs for the next 5 years can be met from  
 130 capital outlay sources that the district reasonably expects to  
 131 receive during the next 5 years or from alternative scheduling  
 132 or construction, leasing, rezoning, or technological  
 133 methodologies that exhibit sound management.

134 Section 3. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

HB 511

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Schools & Learning Council  
 2 Representative(s) Kendrick offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause, and insert:

6 Section 1. Paragraph (a) of subsection (9) of section  
 7 200.065, Florida Statutes, is amended to read:

8 200.065 Method of fixing millage.--

9 (9)(a) In addition to the notice required in subsection  
 10 (3), a district school board shall publish a second notice of  
 11 intent to levy additional taxes under s. 1011.71(2). Such notice  
 12 shall specify the projects or number of school buses anticipated  
 13 to be funded by such additional taxes and shall be published in  
 14 the size, within the time periods, adjacent to, and in  
 15 substantial conformity with the advertisement required under  
 16 subsection (3). The projects shall be listed in priority within  
 17 each category as follows: construction and remodeling;  
 18 maintenance, renovation, and repair; motor vehicle purchases;  
 19 new and replacement equipment; payments for educational  
 20 facilities and sites due under a lease-purchase agreement;  
 21 payments for renting and leasing educational facilities and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

22 sites; payments of loans approved pursuant to ss. 1011.14 and  
23 1011.15; payment of costs of compliance with environmental  
24 statutes and regulations; payment of premiums for property and  
25 casualty insurance necessary to insure the educational plants of  
26 the school district; payment of costs of leasing relocatable  
27 educational facilities; and payments to private entities to  
28 offset the cost of school buses pursuant to s. 1011.71(2)(i).  
29 The additional notice shall be in the following form, except  
30 that if the district school board is proposing to levy the same  
31 millage under s. 1011.71(2) which it levied in the prior year,  
32 the words "continue to" shall be inserted before the word  
33 "impose" in the first sentence, and except that the second  
34 sentence of the second paragraph shall be deleted if the  
35 district is advertising pursuant to paragraph (3)(e):

36  
37 NOTICE OF TAX FOR SCHOOL  
38 CAPITAL OUTLAY  
39

40 The (name of school district) will soon consider a  
41 measure to impose a (number) mill property tax for the  
42 capital outlay projects listed herein.

43 This tax is in addition to the school board's proposed tax  
44 of (number) mills for operating expenses and is proposed  
45 solely at the discretion of the school board. THE PROPOSED  
46 COMBINED SCHOOL BOARD TAX INCREASE FOR BOTH OPERATING EXPENSES  
47 AND CAPITAL OUTLAY IS SHOWN IN THE ADJACENT NOTICE.

48 The capital outlay tax will generate approximately \$  
49 (amount) , to be used for the following projects:

50  
51 (list of capital outlay projects)

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Amendment No. (1)

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All concerned citizens are invited to a public hearing to be held on (date and time) at (meeting place) .

A DECISION on the proposed CAPITAL OUTLAY TAXES will be made at this hearing.

Section 2. Paragraph (j) is added to subsection (2) of section 1011.71, Florida Statutes, and paragraph (a) of subsection (5) of that section is amended, to read:

1011.71 District school tax.--

(2) In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than 2 mills against the taxable value for school purposes for district schools, including charter schools at the discretion of the school board, to fund:

(j) Payment of premiums for property and casualty insurance necessary to insure the educational plants of the school district.

Violations of these expenditure provisions shall 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.

(5)(a) It is the intent of the Legislature that, by July 1, 2003, revenue generated by the millage levy authorized by subsection (2) should be used only for the costs of construction, renovation, remodeling, maintenance, and repair of the educational plant; for the purchase, lease, or lease-purchase of equipment, educational plants, and construction materials directly related to the delivery of student instruction; for the rental or lease of existing buildings, or



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

82 space within existing buildings, originally constructed or used  
83 for purposes other than education, for conversion to use as  
84 educational facilities; for payment of premiums for property and  
85 casualty insurance necessary to insure the educational plants of  
86 the school district; for the opening day collection for the  
87 library media center of a new school; for the purchase, lease-  
88 purchase, or lease of school buses or the payment to a private  
89 entity to offset the cost of school buses pursuant to paragraph  
90 (2) (i); and for servicing of payments related to certificates of  
91 participation issued for any purpose prior to the effective date  
92 of this act. Costs associated with the lease-purchase of  
93 equipment, educational plants, and school buses may include the  
94 issuance of certificates of participation on or after the  
95 effective date of this act and the servicing of payments related  
96 to certificates so issued. For purposes of this section,  
97 "maintenance and repair" is defined in s. 1013.01. Each year  
98 operating revenues are made available through the payment of  
99 property and casualty insurance premiums from revenues generated  
100 under this subsection or subsection (2), such operating revenues  
101 may be expended only for nonrecurring operational expenditures  
102 of the school district.

103  
104 A district that violates these expenditure restrictions shall  
105 have an equal dollar reduction in funds appropriated to the  
106 district under s. 1011.62 in the fiscal year following the audit  
107 citation. The expenditure restrictions do not apply to any  
108 school district that certifies to the Commissioner of Education  
109 that all of the district's instructional space needs for the  
110 next 5 years can be met from capital outlay sources that the  
111 district reasonably expects to receive during the next 5 years

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

112 or from alternative scheduling or construction, leasing,  
113 rezoning, or technological methodologies that exhibit sound  
114 management.

115 Section 3. Section 1003.621, Florida Statutes, is created  
116 to read:

117 1003.621 Academically high-performing school districts.--  
118 It is the intent of the Legislature to recognize and reward  
119 school districts that demonstrate the ability to consistently  
120 maintain or improve their high-performing status. The purpose of  
121 this section is to provide high-performing school districts with  
122 flexibility in meeting the specific requirements in statute and  
123 rules of the State Board of Education.

124 (1) ACADEMICALLY HIGH-PERFORMING SCHOOL DISTRICT.--

125 (a) A school district is an academically high-performing  
126 school district if it meets the following criteria:

127 1.a. Beginning with the 2005-2006 school year, earns a  
128 grade of "A," under s. 1008.34(7) for 2 consecutive years; and

129 b. Has no public schools, including charter schools, that  
130 earn a grade of "F" under s. 1008.34;

131 2. Complies with all class size requirements in s. 1, Art.  
132 IX, of the State Constitution and s. 1003.03; and

133 3. Has no material weaknesses or instances of material  
134 noncompliance noted in the annual financial audit conducted  
135 pursuant to s. 218.39.

136 (b) By July 1, the State Board of Education shall notify  
137 all school districts as to those districts designated as  
138 academically high performing school districts. Each designated  
139 school district shall retain the designation as a high-  
140 performing school district for 3 years, at the end of which time  
141 the district may request renewal of the designation if the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

142 district meets the requirements in this section. If a school  
143 grade is being appealed, the designation is conditional until  
144 the appeal outcome is finalized. The State Board of Education  
145 will notify any district that is no longer eligible to be  
146 designated as an academically high-performing school district.

147 (c) A school district, that is designated as an  
148 academically high-performing school district, must send the  
149 State Board of Education a list of the specific statutes or  
150 rules from which the school district desires to be exempt during  
151 its period of designation.

152 (d) In order to maintain the designation as an  
153 academically high-performing school district pursuant to this  
154 section, a school district must meet the following requirements:

155 1. Comply with the provisions of subparagraphs(a)2. and  
156 3.; and

157 2. Earn a grade of "A" under s. 1008.34(7) for 2 years  
158 within a 3-year period.

159 However, a district in which a public school, including a  
160 charter school, earns a grade of "F" under s. 1008.34 during the  
161 3-year period may not continue to be designated as an  
162 academically high-performing school district during the  
163 remainder of that 3-year period. The district must meet the  
164 criteria in paragraph (a) in order to be redesignated as an  
165 academically high-performing school district.

166 (2) EXEMPTION FROM STATUTES AND RULES.--An academically  
167 high-performing school district may not be exempt from any of  
168 the following statutes:

169 (a) Those statutes pertaining to the provision of services  
170 to students with disabilities.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

171 (b) Those statutes pertaining to civil rights, including  
172 s. 1000.05, relating to discrimination.

173 (c) Those statutes pertaining to student health, safety,  
174 and welfare.

175 (d) Those statutes governing the election or compensation  
176 of district school board members.

177 (e) Those statutes pertaining to the student assessment  
178 program and the school grading system, including chapter 1008.

179 (f) Those statutes pertaining to financial matters,  
180 including chapter 1010, except that s. 1010.20(3)(a)1., 2., and  
181 3., relating to the required program expenditure levels, are  
182 eligible for exemption.

183 (g) Those statutes pertaining to planning and budgeting,  
184 including chapter 1011, except that the following sections are  
185 eligible for exemption:

186 1. Section 1011.62(9)(d), relating to the requirement for  
187 a comprehensive reading plan; and

188 2. Section 1011.71(2), relating to the district school  
189 tax, in order to provide funds for property insurance and  
190 casualty insurance.

191 (h) Sections 1012.22(1)(c) and 1012.27(2), relating to  
192 differentiated pay and performance-pay policies for school  
193 administrators and instructional personnel. Professional service  
194 contracts are subject to the provisions of ss. 1012.33 and  
195 1012.34.

196 (i) Those statutes pertaining to educational facilities,  
197 including chapter 1013, except that s. 1013.20, relating to  
198 covered walkways for portables, and s. 1013.21, relating to the  
199 use of relocatable facilities that exceed 20 years of age, are  
200 eligible for exemption.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

201 (j) Those statutes relating to instructional materials,  
202 except that s. 1006.37, relating to the requisition of state-  
203 adopted materials from the depository under contract with the  
204 publisher, and s. 1006.40(3)(a), relating to the use of 50  
205 percent of the instructional materials allocation, shall be  
206 eligible for exemption.

207  
208 A district that is exempt from submitting a K-12 comprehensive  
209 reading plan pursuant to s. 1011.62(9)(d) shall be deemed  
210 approved to receive the research-based reading instruction  
211 allocation.

212 (3) COMPLIANCE REQUIREMENTS.--An academically high-  
213 performing school district shall comply with the following  
214 statutes:

215 (a) Section 286.011, relating to public meetings and  
216 records, public inspection, and criminal and civil penalties.

217 (b) Those statutes pertaining to public records, including  
218 chapter 119.

219 (c) Those statutes pertaining to financial disclosure by  
220 elected officials.

221 (d) Those statutes pertaining to conflicts of interest by  
222 elected officials.

223 (4) GOVERNING BOARD.--The governing board of the  
224 academically high-performing school district shall be the duly  
225 elected district school board. The district school board shall  
226 supervise the academically high-performing school district.

227 (5) REPORTS.--The academically high-performing school  
228 district shall submit to the State Board of Education and the  
229 Legislature an annual report on December 1 which delineates the  
230 performance of the school district relative to the academic

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

231 performance of students at each grade level in reading, writing,  
232 mathematics, science, and any other subject that is included as  
233 a part of the statewide assessment program in s. 1008.22. The  
234 annual report shall be submitted in a format prescribed by the  
235 Department of Education and shall include, but need not be  
236 limited to, the following:

237 (a) Longitudinal performance of students in mathematics,  
238 reading, writing, science, and any other subject that is  
239 included as a part of the statewide assessment program in s.  
240 1008.22;

241 (b) Longitudinal performance of students by grade level  
242 and subgroup in mathematics, reading, writing, science, and any  
243 other subject that is included as a part of the statewide  
244 assessment program in s. 1008.22;

245 (c) Longitudinal performance regarding efforts to close  
246 the achievement gap;

247 (d)1. Number and percentage of students who take an  
248 Advanced Placement Examination; and

249 2. Longitudinal performance regarding students who take an  
250 Advanced Placement Examination by demographic group,  
251 specifically by age, gender, race, and Hispanic origin, and by  
252 participation in the National School Lunch Program.

253 (e) Evidence of compliance with subsection (1); and

254 (f) A description of each waiver and the status of each  
255 waiver.

256 Section 2. The State Board of Education shall identify any  
257 reporting requirements in state law which duplicate the  
258 requirements for reporting under the federal No Child Left  
259 Behind Act and make recommendations to the Legislature by

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

260 December 1, 2007, for eliminating duplicative requirements in  
261 state law.

262 Section 4. This act shall take effect July 1, 2007.  
263

264

265

===== T I T L E A M E N D M E N T =====

266 Remove the entire title, and insert:

267 A bill to be entitled

268 An act relating to school district flexibility; amending  
269 ss. 200.065 and 1011.71, F.S.; authorizing a district  
270 school board to levy additional taxes, not to exceed 2  
271 mills, to fund property and casualty insurance costs of  
272 the school district; providing exemptions from certain  
273 expenditure restrictions for school districts meeting  
274 certain requirements related to class size and audits;  
275 creating s. 1003.621, F.S.; providing criteria for  
276 designating academically high-performing school districts;  
277 providing exceptions for such districts to be exempt from  
278 certain statutes and rules; providing compliance  
279 requirements; providing for district governing boards;  
280 providing for reports; providing for a review by the State  
281 Board of Education of certain reporting requirements;  
282 providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. SA1

Bill No. 511

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

---

1 Council/Committee hearing bill: Schools & Learning  
2 Representative Kendrick offered the following:

3  
4 **Substitute Amendment for Amendment (1) by Representative**  
5 **Kendrick (with title amendments)**

6 Remove everything after the enacting clause, and insert:  
7 Section 1. Paragraph (a) of subsection (9) of section  
8 200.065, Florida Statutes, is amended to read:

9 200.065 Method of fixing millage.--  
10 (9)(a) In addition to the notice required in subsection  
11 (3), a district school board shall publish a second notice of  
12 intent to levy additional taxes under s. 1011.71(2). Such notice  
13 shall specify the projects or number of school buses anticipated  
14 to be funded by such additional taxes and shall be published in  
15 the size, within the time periods, adjacent to, and in  
16 substantial conformity with the advertisement required under  
17 subsection (3). The projects shall be listed in priority within  
18 each category as follows: construction and remodeling;  
19 maintenance, renovation, and repair; motor vehicle purchases;  
20 new and replacement equipment; payments for educational  
21 facilities and sites due under a lease-purchase agreement;  
22 payments for renting and leasing educational facilities and



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. SA1

23 sites; payments of loans approved pursuant to ss. 1011.14 and  
24 1011.15; payment of costs of compliance with environmental  
25 statutes and regulations; payment of premiums for property and  
26 casualty insurance necessary to insure the educational plants of  
27 the school district; payment of costs of leasing relocatable  
28 educational facilities; and payments to private entities to  
29 offset the cost of school buses pursuant to s. 1011.71(2)(i).  
30 The additional notice shall be in the following form, except  
31 that if the district school board is proposing to levy the same  
32 millage under s. 1011.71(2) which it levied in the prior year,  
33 the words "continue to" shall be inserted before the word  
34 "impose" in the first sentence, and except that the second  
35 sentence of the second paragraph shall be deleted if the  
36 district is advertising pursuant to paragraph (3)(e):

37  
38 NOTICE OF TAX FOR SCHOOL  
39 CAPITAL OUTLAY  
40

41 The (name of school district) will soon consider a  
42 measure to impose a (number) mill property tax for the  
43 capital outlay projects listed herein.

44 This tax is in addition to the school board's proposed tax  
45 of (number) mills for operating expenses and is proposed  
46 solely at the discretion of the school board. THE PROPOSED  
47 COMBINED SCHOOL BOARD TAX INCREASE FOR BOTH OPERATING EXPENSES  
48 AND CAPITAL OUTLAY IS SHOWN IN THE ADJACENT NOTICE.

49 The capital outlay tax will generate approximately \$  
50 (amount) , to be used for the following projects:

51  
52 (list of capital outlay projects)  
53

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. SA1

54 All concerned citizens are invited to a public hearing to  
55 be held on (date and time) at (meeting place) .

56 A DECISION on the proposed CAPITAL OUTLAY TAXES will be  
57 made at this hearing.

58 Section 2. Paragraph (j) is added to subsection (2) of  
59 section 1011.71, Florida Statutes, and paragraph (a) of  
60 subsection (5) of that section is amended, to read:

61 1011.71 District school tax.--

62 (2) In addition to the maximum millage levy as provided in  
63 subsection (1), each school board may levy not more than 2 mills  
64 against the taxable value for school purposes for district  
65 schools, including charter schools at the discretion of the  
66 school board, to fund:

67 (j) Payment of premiums for property and casualty  
68 insurance necessary to insure the educational plants of the  
69 school district.

70  
71 Violations of these expenditure provisions shall result in an  
72 equal dollar reduction in the Florida Education Finance Program  
73 (FEFP) funds for the violating district in the fiscal year  
74 following the audit citation.

75 (5)(a) It is the intent of the Legislature that, by July  
76 1, 2003, revenue generated by the millage levy authorized by  
77 subsection (2) should be used only for the costs of  
78 construction, renovation, remodeling, maintenance, and repair of  
79 the educational plant; for the purchase, lease, or lease-  
80 purchase of equipment, educational plants, and construction  
81 materials directly related to the delivery of student  
82 instruction; for the rental or lease of existing buildings, or  
83 space within existing buildings, originally constructed or used  
84 for purposes other than education, for conversion to use as

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.. SA1

85 educational facilities; for payment of premiums for property and  
86 casualty insurance necessary to insure the educational plants of  
87 the school district; for the opening day collection for the  
88 library media center of a new school; for the purchase, lease-  
89 purchase, or lease of school buses or the payment to a private  
90 entity to offset the cost of school buses pursuant to paragraph  
91 (2)(i); and for servicing of payments related to certificates of  
92 participation issued for any purpose prior to the effective date  
93 of this act. Costs associated with the lease-purchase of  
94 equipment, educational plants, and school buses may include the  
95 issuance of certificates of participation on or after the  
96 effective date of this act and the servicing of payments related  
97 to certificates so issued. For purposes of this section,  
98 "maintenance and repair" is defined in s. 1013.01. Each year  
99 operating revenues are made available through the payment of  
100 property and casualty insurance premiums from revenues generated  
101 under this subsection or subsection (2), such operating revenues  
102 may be expended only for nonrecurring operational expenditures  
103 of the school district.

104  
105 A district that violates these expenditure restrictions shall  
106 have an equal dollar reduction in funds appropriated to the  
107 district under s. 1011.62 in the fiscal year following the audit  
108 citation. The expenditure restrictions do not apply to any  
109 school district that has met the reduction requirements  
110 regarding class size for the current year pursuant to s.  
111 1003.03, has received an unqualified opinion on its financial  
112 statements for the preceding 3 years, has no material weaknesses  
113 or instances of material noncompliance noted in an audit for the  
114 preceding 3 years, and certifies to the Commissioner of  
115 Education that all of the district's instructional space needs

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. SA1

116 for the next 5 years can be met from capital outlay sources that  
117 the district reasonably expects to receive during the next 5  
118 years or from alternative scheduling or construction, leasing,  
119 rezoning, or technological methodologies that exhibit sound  
120 management.

121 Section 4. This act shall take effect July 1, 2007.

122

123 ===== T I T L E A M E N D M E N T =====

124 Remove the entire title, and insert:

125 A bill to be entitled

126 An act relating to school district flexibility; amending  
127 ss. 200.065 and 1011.71, F.S.; authorizing a district  
128 school board to fund property and casualty insurance costs  
129 of the school district from its optional 2 mill tax levy  
130 revenues; limiting the use of operating funds made  
131 available through such expenditures of those revenues;  
132 providing exemptions from certain expenditure restrictions  
133 for school districts meeting certain requirements related  
134 to class size and audits; providing an effective date.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 621  
**SPONSOR(S):** McKeel  
**TIED BILLS:**

University Building and Facility Designations

**IDEN./SIM. BILLS:** SB 1160

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Postsecondary Education</u>	<u>8 Y, 0 N</u>	<u>Thomas</u>	<u>Tilton</u>
2) <u>Schools &amp; Learning Council</u>	<u></u>	<u>Thomas <i>NOT</i></u>	<u>Cobb <i>McC</i></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

---

**SUMMARY ANALYSIS**

Current law does not permit a state building, road, bridge, park, recreation complex, or similar facility to be named after a living person unless the name designation is approved by law. Pursuant to the requirement, if a university wishes to name a particular building or facility after a living person, the designation must be approved by the legislature.

The bill provides for the following building designations at the University of Florida: the Bispham Turfgrass Support Building, the Mark Bostick Golf Course, the L. Gale Lemerand Football Support Facility, and the Katie Seahole Pressly Stadium. The University of Florida is directed to erect suitable markers to reflect such designations.

The bill provides an effective date of July 1, 2007.

The fiscal impact of the bill is minimal. (See Fiscal Comments)

On March 27, 2007, the Committee on Postsecondary Education adopted 2 amendments.  
(See Section IV Amendments/Council Substitute Changes)

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

Section 267.062, F.S., provides that no state building, road, bridge, park, recreational complex, or similar facility can be named after a living person unless specifically provided by law. Therefore, if a university wishes to name a particular building or facility after a living person, the designation must be approved by the Legislature.

A section-by-section analysis of the bill follows. The biographical information was provided by the University of Florida.

Section 1: The bill designates the building know as Bispham Turfgrass Hall at the University of Florida as the "Bispham Turfgrass Support Building" and authorizes the University of Florida to erect suitable makers to reflect this designation.

Jack Bispham's family settled in Sarasota in the 1920s, when they traveled from Longboat Key with their cattle "herd"—two cows. Over time they expanded their operation into the Bayside Dairy Farm, and eventually bought land and a house where they raised their five children. The house—now on the National Register as an historic site—no longer belongs to the family, but Mr. Bispham retains 400 acres of the original farm land. The land is home to his current business, Bayside Sod, Inc.

Mr. Bispham graduated from University of Florida in 1976 with a B.S.A. in Dairy Science, and transitioned from the dairy industry to the turfgrass and nursery industry in 1988. Mr. Bispham is also in partnership with his brother, Cy Bispham, Jr., in Stockyard Feed and Western Wear in Sarasota. He is currently a director of the Specialty Sod Growers Association and a member of the Florida Turfgrass Association. He is former Chairman and continues to be a member of the Citizen's Advisory Committee of the Sarasota Bay Estuary Program.

Mr. Bispham and his former wife Nancy have five children: Paul; Shauna; Jacky-Lynn, who received her B.H.S. in Health Science and is currently a nursing student at UF; Stacey, who has a B.H.S. in Health Science; and Tiffany, who holds a B.S.A. in Horticultural Science. Mr. Bispham married Elizabeth "Libby" Tyner in 2005.

Section 2: The bill designates the golf course at the University of Florida as the "Mark Bostick Golf Course" and authorizes the University of Florida to erect suitable makers to reflect this designation.

R. Mark Bostick received a B.A. in Economics from the University of the South in 1976 and an MBA from Tulane in 1977. He and former wife Lucie Bostick have three children: Lucie Bostick Dryfuss, Barrett Bostick, and Betsy Bostick, now all in their 20s. Mr. Bostick, his current wife, Patti, and his father, Guy, are avid Gator fans, and there are, in fact, two Gators in the family: Lucie received her B.A. in Management from University of Florida in 2001, and Barrett received his B.A. in Business Administration in 2003. Both Guy and Patti are on the Gator Booster Board of Directors.

Mr. Bostick is President of ComCar Industries, a private, family-owned business started by his father in 1953. Now one of the 15th largest trucking groups in the United States, Comcar Industries has five trucking firms situated across the nation. Mark Bostick is currently president of the board of directors for Winter Haven Hospital, Inc., and honorary chairman of the hospital's new multi-million-dollar facility expansion project, "Make Sure Your Heart is in the Right Place." Mr. Bostick is a member of the Florida

Council of 100 and was a founding owner of the Tampa Bay Devil Rays. Mr. Bostick has served on numerous boards, including the University of Florida Shands Cancer Center Board, Winter Haven Hospital Trustees, Mid-Florida Medical Services, Florida Power, and Nationsbank. He and wife Patti contribute time and financial support to such institutions as All Saints Academy, Elon University, and The Ritz Theatre of Winter Haven. Along with State Senator J.D. Alexander and his wife Cindy, the Bosticks were event chairs for the recent Christmas at Pinewood Party, an event which raised support for restoration and preservation of Bok Sanctuary.

Section 3: The bill designates the support building on the football practice field at the University of Florida as the "L. Gale Lemerand Football Support Facility" and authorizes the University of Florida to erect suitable markers to reflect this designation.

L. Gale Lemerand is an extraordinary businessman who was named the Florida Entrepreneur of the Year in 1995 and one of the state's most prominent and well-known philanthropists. Mr. Lemerand's interaction with the University of Florida and other organizations across the state has benefited masses of people.

A native of Michigan, Mr. Lemerand's childhood was that of a working class family. After serving in the Korean War, he returned stateside and began a career at Williams Insulation in Chicago in 1968. Intuition won out and Mr. Lemerand bought out his partner and renamed the business Gale Industries at the age of 40. Initially, the company operated out of a barn in Itasca, Illinois, but under his guidance, it moved to Daytona Beach in 1979 and by 1990, Mr. Lemerand had created, shaped, and molded the corporation into the largest insulation contractor in the nation with more than 100 locations in 23 states. He eventually sold Gale Industries to the Masco Corporation in 1995, but stayed on as CEO and president until 2000.

Fortunately for the University of Florida, Bill Lloyd, a Daytona resident, introduced Mr. Lemerand to the Gator family. Shortly after, Mr. Lemerand became a Bull Gator and, like so many of the Florida faithful, he began calling The Swamp his second home.

In 1997, Mr. Lemerand was kind enough to donate resources to renovate the football coaches' offices. That turned out to be just the first in a long line of gifts Mr. Lemerand would share with the University of Florida.

His contribution to the athletic center directly affected the lives of hundreds of Gator athletes and will continue to do so well into the 21st century. The Lemerand Athletic Center is a 46,000 square-foot facility that opened in 1995 and houses multiple Florida athletic teams. The building possesses three full-sized volleyball courts and has equipment, training, and locker room areas for Florida's baseball, volleyball, soccer, track and field, and softball teams. Additionally, the staffs of each sport have offices in the facility, while the sports medicine department enjoys its own state-of-the-art area that gives Gator athletes the finest medical attention available.

Mr. Lemerand then followed with a generous donation to aid the construction of Florida's basketball complex. The 47,505 square-foot building is among the finest in collegiate sports and houses both the men and women's basketball teams. When he is not dedicating his time and energy to helping the University of Florida remain at the highest echelon of collegiate athletics, Mr. Lemerand actively serves on numerous local community boards. Some fortunate to have been associated with him include Sun Trust Bank, WCEU Channel 15, Ormond Beach Memorial Hospital, and his alma mater, Escanaba High School (in Michigan).

Mr. Lemerand also supports local groups and charities such as the Boy Scouts of America, Boys and Girls Clubs of America, March of Dimes, and the United Way.



Section 4: The bill designates the softball stadium at the University of Florida as “Katie Seashole Pressly Stadium” and authorizes the University of Florida to erect suitable markers to reflect this designation.

Kathryn Pressly is a partner in Pressly Designs and was formerly an oncological therapist for Drs. Harris, McKeen & Rothschild. She has been a resident of Palm Beach for 33 years. She was past president of Palm Beach Tennis Association and past vice president of Palm Beach County Junior Golf Association. Mrs. Pressly served as a board member of both Palm Beach Follies and Palm Beach Recreational Center. Mrs. Pressly is a Guild member and Eucharistic minister at St. Edward’s Catholic Church. Mrs. Pressly earned a B.A. from the University of Florida in 1969, and is involved in Gator Boosters with the University of Florida Athletic Department. She has also served on the University of Florida Foundation Board of Directors. In 1989, she graduated from Nova University with an M.S. in psychology.

Mrs. Pressly’s husband, Jamie, is president of the law firm Pressly & Pressly, P.A. He is president-elect for the Gator Boosters. The couple has numerous ties to the University of Florida, including grandparents, parents, siblings, in-laws and their children Page, who has a B.A. in Interior Design and an M.ED. in Mental Health Counseling; Grier, who holds a B.A. in History and a J.D.; and Barbara, who received her B.S.R. in Recreation.

C. SECTION DIRECTORY:

This bill does not create, repeal, or amend any statutory sections. Please refer to Effect of Proposed Changes for a section by section analysis of the bill.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

There will be an insignificant impact associated with the university erecting suitable markers for the designations.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities

##### 2. Other:

None

#### B. RULE-MAKING AUTHORITY:

None

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None

#### D. STATEMENT OF THE SPONSOR

No statement submitted.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 27, 2007, the Committee on Postsecondary Education adopted 2 amendments. The first amendment designates the following buildings at the University of South Florida: the Frank and Carol Morsani Center for Advanced Health; the Glenn Burdick College of Engineering Building; and, the Alfred and Rose Schiff Dean's Conference Room. The second amendment designates the following buildings at the University of Central Florida: the Nicholson School of Communication; the Anthony and Sonja Nicholson Field House; the James and Annie Ying Academic Center; and, the Burnett Biomedical Sciences Building. The University of South Florida and the University of Central Florida are directed to erect suitable markers to reflect such designations.

1                   A bill to be entitled  
 2           An act relating to university building and facility  
 3           designations; providing for the designation of buildings  
 4           and facilities at the University of Florida; directing the  
 5           university to erect suitable markers; providing an  
 6           effective date.

7  
 8 Be It Enacted by the Legislature of the State of Florida:

9  
 10           Section 1. Bispham Turfgrass Support Building designated;  
 11 University of Florida to erect suitable markers.--

12           (1) Bispham Turfgrass Hall at the University of Florida is  
 13 designated as the "Bispham Turfgrass Support Building."

14           (2) The University of Florida is directed to erect  
 15 suitable markers designating the Bispham Turfgrass Support  
 16 Building as described in subsection (1).

17           Section 2. Mark Bostick Golf Course designated; University  
 18 of Florida to erect suitable markers.--

19           (1) The golf course at the University of Florida is  
 20 designated as the "Mark Bostick Golf Course."

21           (2) The University of Florida is directed to erect  
 22 suitable markers designating the Mark Bostick Golf Course as  
 23 described in subsection (1).

24           Section 3. L. Gale Lemerand Football Support Facility  
 25 designated; University of Florida to erect suitable markers.--

26           (1) The support building on the football practice fields  
 27 at the University of Florida is designated as the "L. Gale  
 28 Lemerand Football Support Facility."

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29           (2) The University of Florida is directed to erect  
 30 suitable markers designating the L. Gale Lemerand Football  
 31 Support Facility as described in subsection (1).

32           Section 4. Katie Seashole Pressly Stadium designated;  
 33 University of Florida to erect suitable markers.--

34           (1) The softball stadium at the University of Florida is  
 35 designated as the "Katie Seashole Pressly Stadium."

36           (2) The University of Florida is directed to erect  
 37 suitable markers designating the Katie Seashole Pressly Stadium  
 38 as described in subsection (1).

39           Section 5. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

Bill No. **HB 621**

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>  <b>Y</b>  </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>          </u>	

Council/Committee hearing bill: Committee on Postsecondary Education

Representative(s) Heller offered the following:

**Amendment (with title amendments)**

On page 2, between lines 38 and 39,

insert:

Section 5. Frank and Carol Morsani Center for Advanced Health Care designated; University of South Florida to erect suitable markers.--

(1) The complex being constructed at Magnolia and Holly Drive on the USF Tampa Campus, is designated as the "Frank and Carol Morsani Center for Advanced Health Care."

(2) The University of South Florida is directed to erect suitable markers designating the Frank and Carol Morsani Center for Advanced Health Care as described in subsection (1).

Section 6. Glenn Burdick College of Engineering Building designated; University of South Florida to erect suitable makers.--

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

21 (1) The College of Engineering Building II at 3820 USF-  
22 Alumni Drive on the USF Tampa Campus is designated as the "Glenn  
23 Burdick College of Engineering Building."

24 (2) The University of South Florida is directed to erect  
25 suitable markers designating the Glenn Burdick College of  
26 Engineering Building as described in subsection (1).

27 Section 7. Alfred and Rose Schiff Dean's Conference Room  
28 designated; University of South Florida to erect suitable  
29 markers.--

30 (1) The Dean's Conference Room in the College of  
31 Engineering Building II at 3820 USF-Alumni Drive on the USF  
32 Tampa Campus is designated as the "Alfred and Rose Schiff Dean's  
33 Conference Room."

34 (2) The University of South Florida is directed to erect  
35 suitable markers designating the Alfred and Rosa Schiff Dean's  
36 Conference Room as described in subsection (1).

37  
38 (Redesignate subsequent sections.)

39  
40 ===== T I T L E A M E N D M E N T =====

41 On page 1, line 5, delete that line

42  
43 and insert:

44 university to erect suitable markers; providing for the  
45 designation of buildings and facilities at the University  
46 of South Florida; directing the university to erect  
47 suitable markers; providing an

48  
49

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. **HB 621**

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Council/Committee hearing bill: Committee on Postsecondary Education

Representative(s) McKeel offered the following:

**Amendment (with title amendments)**

On page 2, between lines 38 and 39,

insert:

Section 5. Nicholson School of Communication Building designated; University of Central Florida to erect suitable makers.--

(1) The Communication Building at the University of Central Florida is designated as the "Nicholson School of Communication."

(2) The University of Central Florida is directed to erect suitable makers designating the Nicholson School of Communication as described in subsection (1).

Section 6. Anthony and Sonja Nicholson Field House designated; University of Central Florida to erect suitable markers.--

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

21       (1) The athletics indoor practice facility at the  
22 University of Central Florida is designated as the "Anthony and  
23 Sonja Nicholson Field House."

24       (2) The University of Central Florida is directed to erect  
25 suitable markers designating the Anthony and Sonja Nicholson  
26 Field House as described in subsection (1).

27       Section 7. James and Annie Ying Academic Center  
28 designated; University of Central Florida to erect suitable  
29 markers.--

30       (1) The building that houses the University of Central  
31 Florida Downtown Center is designated as the "James and Annie  
32 Ying Academic Center."

33       (2) The University of Central Florida is authorized to  
34 erect suitable markers designating the James and Annie Ying  
35 Academic Center as described in subsection (1).

36       Section 8. Burnett Biomedical Sciences Building  
37 designated; University of Central Florida to erect suitable  
38 markers.--

39       (1) The Biomedical Sciences Building at the University of  
40 Central Florida health science campus at Lake Nona is designated  
41 as the "Burnett Biomedical Sciences Building".

42       (2) The University of Central Florida is authorized to  
43 erect suitable markers designating the Burnett Biomedical  
44 Sciences Building as described in subsection (1).

45 ===== T I T L E   A M E N D M E N T =====

46       On page 1, line 5, delete that line

47  
48 and insert:

49       university to erect suitable markers; providing for  
50       the designation of buildings and facilities at the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

51 University of Central Florida; directing the  
52 university to erect suitable markers; providing an

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. **HB 621**

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Schools & Learning Council  
2 Representative(s) Rivera offered the following:

**Amendment (with title amendment)**

Between line(s) 38 - 39 insert:

6 Section 5. Ronald W. Reagan University House designated;  
7 Florida International University to erect suitable markers.--

8 (1) University House at Florida International University  
9 is designated as the "Ronald W. Reagan University House."

10 (2) Florida International University is authorized to  
11 erect suitable markers designating the Ronald W. Reagan  
12 University House as described in subsection (1).

14 ===== T I T L E A M E N D M E N T =====

15 Remove line 5 and insert:

16 university to erect suitable markers; providing for the  
17 designation of a building at Florida International  
18 University; directing the university to erect suitable  
19 markers; providing an

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (2)

Bill No. **HB 621**

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Schools & Learning Council  
 2 Representative(s) Rivera offered the following:

**Amendment (with title amendments)**

Between line(s) 38 - 39 and insert:

6 Section 5. Jeb Bush College of Education designated;  
7 University of Florida to erect suitable markers.--

8 (1) The College of Education at the University of Florida  
9 is designated the "Jeb Bush College of Education."

10 (2) The University of Florida is directed to erect  
11 suitable markers designating the Jeb Bush College of Education  
12 as described in subsection (1) and to revise references to the  
13 College of Education in all university documents, including, but  
14 not limited to, catalogs, brochures, and other written  
15 materials, to reflect such designation in the next regularly  
16 scheduled update of such documents.

===== T I T L E A M E N D M E N T =====

Remove line(s) 2-5 and insert:

20 An act relating to university designations; providing for  
21 designations at the University of Florida; directing the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (2)

22 university to erect suitable markers and revise certain  
23 documents; providing an

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## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provides Limited Government--** The bill places certain requirements on district school boards' selection of photographers.

**Empower families--** The bill requires districts to provide information so that students and parents know they may purchase photographic services from vendors not under contract with the school district.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Department of Education Reorganization**

Current law specifies that the following divisions must be established within the Department of Education (DOE): Community Colleges, Public Schools, Colleges and Universities, Vocational Rehabilitation, Blind Services, and Accountability, Research, and Measurement. The directors of such divisions are appointed by the Commissioner of Education.

PCS/HB 653 revises the organizational structure of the DOE by specifically requiring the establishment of a Division of Workforce Education and a Division of Finance and Operations. The bill provides that the director of each of the divisions set forth in statute may be designated as "Deputy Commissioner" or "Chancellor". The bill also deletes the language requiring a division of colleges and universities within the DOE as the State University System is now governed by the Board of Governors as provided in the state constitution.

The bill provides the Commissioner of Education with authority to organize and name the structural units of the DOE and with flexibility to do so in a manner that meets legislative intent and promotes efficiency and accountability.

##### **District School Board Member compensation**

Under Article IX, Section 4(a), of the State Constitution, each county is constituted as a school district. Each school district must have a school board composed of five or more members chosen by a vote of the electors in a non-partisan election for staggered four-year terms. Current law requires that each district school board must determine the salary of its members at the first school board meeting of each year.<sup>1</sup> The law also requires that the salary proposed to be adopted at that first meeting must be included in the meeting notice and may not be increased at that meeting. The salary that is adopted must stay in effect for the succeeding twelve months.

The bill removes the current requirements and replaces them with the salary formula that was in place prior to the school code rewrite in 2002.<sup>2</sup> The bill sets the salary according to a formula that is based on the population of each county and is adjusted each year according to a formula set forth in s. 145.19, F.S., which includes factors set forth by the Department of Management Services.

The primary determinants of an elected school superintendent's formula-based salary will be: 1) the countywide population; 2) the annual factor, a measure of the average percentage increase in salaries of state career service employees for the current fiscal year, or seven percent, whichever is less; and 3) the cumulative annual factor, a measure reflecting the product of all previously-certified annual factors.

##### **Elected District School Superintendent salary**

###### *Election and Appointment of District School Superintendents*

<sup>1</sup> The date of this meeting is set forth in s. 1001.371, F.S., and is the third Tuesday after the first Monday in November.

<sup>2</sup> Section 54, Ch. 2002-387, Laws of Florida.

Under Article IX, Section 5, of the State Constitution, each school district must have a superintendent of schools. The district school superintendent must be elected at the general election unless the district school board adopts a resolution or the voters approve a special law to require the school board to employ a superintendent.

Superintendents are elected in 43 school districts.<sup>3</sup> Superintendents are appointed in the following 24 school districts: Alachua, Brevard, Broward, Charlotte, Collier, Duval, Flagler, Hernando, Hillsborough, Indian River, Lee, Manatee, Miami-Dade, Okeechobee, Orange, Osceola, Palm Beach, Pinellas, Polk, St. Johns, St. Lucie, Sarasota, Seminole, and Volusia.<sup>4</sup>

### *Compensation of Elected District School Superintendents*

The compensation of elected district school superintendents is governed by s. 1001.47, F.S., which establishes a population-based salary formula. However, a district school board, by majority vote, may approve a salary in excess of the amount specified by the formula.

The primary determinants of an elected school superintendent's formula-based salary are: 1) the countywide population; 2) the annual factor, a measure of the average percentage increase in salaries of state career service employees for the current fiscal year, or seven percent, whichever is less; and 3) the cumulative annual factor, a measure reflecting the product of all previously-certified annual factors.

The bill raises the base salary in the formula described above by \$2,100 for each population group. The new base amount is the same as that set for county sheriffs pursuant to s. 145.071, F.S. The bill also removes the statutory requirement that any laws that increase the base salary set forth in s. 1001.47(2), F.S., shall contain provisions on no other subject.

### **School Start Date**

Current law requires district school boards to adopt plans for the opening and closing dates of schools and the observance of school holidays and vacation periods. The law prohibits district school boards from adopting opening dates for the school year earlier than 14 days before Labor Day each year. This provision is effective beginning with the 2007-2008 school year.<sup>5</sup> For 2007-2008, the actual start date is no earlier than Monday, August 20, which is 14 days prior to September 3, Labor Day.

Prior to the beginning of each fiscal year, school boards must adopt an annual calendar for use by all schools operated by the board.<sup>6</sup> Districts must also provide for elementary and secondary schools to operate for a term of at least 180 days or the equivalent on an hourly basis as specified by rules of the State Board of Education.<sup>7</sup> Currently, there is no requirement that the first and second semesters be equal in length. However, the law defines the minimum number of hours that comprise a full credit for high school graduation purposes.<sup>8</sup> A credit is a minimum of 135 hours of bona fide instruction in a designated course of study that contains student performance standards. For schools that use block scheduling, a full credit is a minimum of 120 hours.

The following chart documents a shift in school start dates from 1998-1999 through 2006-2007.<sup>9</sup>

<sup>3</sup> Florida Legislative Committee on Intergovernmental Relations. "Compensation of Florida's School Superintendents." January 2006. p. 1.

<sup>4</sup> Florida Association of District School Superintendents. <http://www.fadss.org/>

<sup>5</sup> Section 1001.42(4)(f), F.S., as amended by s. 11 of ch. 2006-74, L.O.F.

<sup>6</sup> Rule 6A-10.019, F.A.C.

<sup>7</sup> Section 1001.42(10)(a), F.S.

<sup>8</sup> Section 1003.436(1)(a), F.S.

<sup>9</sup> Florida Department of Education, January 2007. The chart includes the 67 school districts, the Florida School for the Deaf and the Blind, Eckerd schools, and the four developmental research (lab) schools.



School Year	Districts Starting in Week 1 (Aug. 1-7)	Districts Starting in Week 2 (Aug. 8-14)	Districts Starting in Week 3 (Aug. 15-21)	Districts Starting in Week 4 (Aug. 22-28)	Districts Starting in Week 5 (Aug. 29-31)
1998-99	6	25	23	16	3
1999-00	4	28	25	14	2
2000-01	13	38	16	6	0
2001-02	15	47	8	3	0
2002-03	18	46	6	3	0
2003-04	31	33	7	2	0
2004-05	25	38	10	0	0
2005-06	26	38	8	0	0
2006-07	33	33	5	0	0

Students began the 2006-2007 school year during the following weeks: July 31-August 4 in 13 districts; August 7-11 in 40 districts; August 14-18 in 12 districts; and August 21-25 in 2 districts.<sup>10</sup> The regular school year ends as early as May 17, 2007, for students in Okaloosa County and as late as June 1, 2007, for students in Alachua, Franklin, Palm Beach, and Putnam Counties. The school year ends for students in eight districts during the week of May 14-18; in 48 districts during the week of May 21-25; 10 districts during the week of May 28-June 1, and one district during the week of June 4-8.<sup>11</sup>

According to the DOE, there are an average of 11 planning days and 23 holidays during the 2006-2007 school year for Florida's school districts. While the winter and spring break periods appear to be consistent throughout the state during the 2006-2007 school year, substantial differences exist between districts for other holidays. For example, several districts provide a full week Thanksgiving holiday and many provide up to five teacher-planning days throughout the school year in addition to the standard August pre-planning week. Fifteen school districts also provide a fall break in addition to the Thanksgiving holidays.<sup>12</sup>

The bill allows district school boards to adopt policies for the opening and closing of schools and fix uniform dates for the school year after receiving public input in at least one public hearing. However, district school boards, beginning with the 2007-2008 school year, are prohibited from adopting opening dates for the school year earlier than 14 days before Labor Day each year unless a district school board holds at least one public hearing on the matter.

The bill does not require any action to be taken as a result of the input received at the public hearing, so even after it is held, the school board could open and close schools at a date of their choosing.

### **Senior Yearbook Photographs**

Florida law grants local district school boards authority to control K-12 education operations in the district. Educational curricula, facilities operation and maintenance, student discipline and attendance policies, transportation, reporting and record keeping are among the duties prescribed to district school boards in statute.<sup>13</sup>

The bill requires school districts that contract with a photographer for the purpose of taking student

<sup>10</sup> Florida Department of Education, *Statistical Brief*, Series 2007-01B, July 2006. See <http://www.firn.edu/doe/eias/eiaspubs/pdf/calendar.pdf>

<sup>11</sup> The data for the latest school end date appears to be inconsistent with other information provided by the DOE.

<sup>12</sup> Florida Department of Education, *Statistical Brief*, Series 2007-01B, July 2006. See <http://www.firn.edu/doe/eias/eiaspubs/pdf/calendar.pdf>

<sup>13</sup> Section 1003.02, F.S.

yearbook photos must request proposals to contract with at least two photographers and the results of such proposals, including the vendors' contact information, must be provided on the school or district website. The bill also specifies that a student's senior photo must be allowed to appear in the school yearbook regardless of the student's choice of photographer, so long as the photo meets the specifications of the school principal and yearbook staff.

### **High School graduation grade forgiveness policies**

In 2006, the Florida Legislature in HB 7087, Ch. 2006-74, Laws of Florida, revised the high school graduation requirements for all incoming ninth graders. Included in this revision was a change to the requirements for grade forgiveness. The former requirements for grade forgiveness were not included in the new s. 1003.428, F.S., and new policies regarding credit recovery courses were required in s. 1003.413, F.S.

The bill restores the language in 1003.43, F.S. for grade forgiveness policies for all incoming ninth graders and removes the language relating to credit recovery. These policies must allow students to replace grades of "D" or "F" or the equivalent of such grades, in required courses with a subsequent grade of "C" or higher, or the equivalent of such grades, in a comparable course, and replace grades of "D" or "F", or the equivalent of such grades, in elective courses with a subsequent grade of "C" or higher, or the equivalent of such grades, in another elective course.

The bill also provides an exception for a student in the middle grades who takes a high school course for high school credit and earns a grade of "C", "D", or "F" or the equivalent of such grades. In such cases, 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 such grades, earned subsequently in the same or comparable course.

### **Waiver of physical education requirement for high school graduation**

In 2006, the Florida Legislature in HB 7087, Ch. 2006-74, Laws of Florida, revised the high school graduation requirements for all incoming ninth graders. Included in this revision was a change to the physical education requirement for high school graduation. The new requirements no longer allow for a waiver of physical education requirements for participating in marching band, junior varsity or varsity high school sports, or Junior ROTC.

The bill reinserts these waiver options for students that participate in these activities and meet certain other requirements. For the waiver for participating in JV or Varsity sports, the student must also pass a competency test on personal fitness with a score of "C" or better, and for the waiver for participating in marching band the student must pass that class with or a physical activity class that requires participating in marching band with a grade of "C" or better.

#### **C. SECTION DIRECTORY:**

**Section 1.** Amends s. 20.15, revising and adding to the divisions of the Department of Education; providing name designations for the director of each division.

**Section 2.** Amends s. 145.19, F.S., relating to salary increases based on increase for state career service employees; adding cross-references to conform.

**Section 3.** Amends s. 1001.10, F.S., relating to the Commissioner of Education's powers and duties; providing legislative intent.

**Section 4.** Amends s. 1001.395, F.S.; revising the manner in which compensation of district school board members is determined; specifying base salary amounts.

**Section 5.** Amends s. 1001.42, F.S., relating to powers and duties of district school boards; revising requirements relating to policies for the opening and closing dates of schools.

**Section 6.** Amends s. 1001.47, F.S.; revising provisions relating to base salaries of district school superintendents.

**Section 7.** Amends s. 1003.02, F.S.; requiring certain district school boards to request proposals from photographers; requiring public access to information; allowing student choice of photographer; permitting the inclusion of certain photographs in student yearbooks.

**Section 8.** Amends s. 1003.413, F.S.; removing language relating to credit recovery courses.

**Section 9.** Amends s. 1003.428, F.S.; providing waivers to the physical education credit requirement for high school graduation; requiring policies to assist students in meeting graduation requirements; providing guidelines for district school board grade forgiveness policies.

**Section 10.** Provides for an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

#### 2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

#### 2. Expenditures:

The cost of holding the required public hearing on the school start date will require minimal expenditures.<sup>14</sup>

The revisions to district school board member salary will have a minimal effect depending on the district's current salaries for its members. According to the Florida School Boards Association, most school boards in the state have continued to fund member salaries according to the same rate that they would have been without the revision in 2002.<sup>15</sup>

The revision to the base salary portion of the formula for district school superintendent salaries will involve a minimal increase in district school board expenditures in districts with an elected superintendent.

<sup>14</sup> Florida Department of Education, 2007 Legislative Bill Analysis for HB 653.

<sup>15</sup> FSBA also indicated that some districts had gone with a slightly lower salary than the formula would have required and a couple of districts had gone above the amount that the formula would have required. Such districts would experience a small increase or decrease in expenditures respectively.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Proponents of a later school start date suggest that state tourism may benefit, as families with school-aged children would continue with vacation activities during late summer and therefore increase tourism related revenues or significantly reduce labor costs. An interim project report in 2003 by the Senate Committee on Commerce and Economic Opportunities did not find any increase in state tourism dollars with the imposition of a later start date; however, the report did indicate that there were data limitations and that the effect of later school start dates on Florida's economy needed further review.<sup>16</sup>

This bill may increase the number of students choosing to buy senior photos from vendors not under contract with the district school board.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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<sup>16</sup> *Interim Report 2003-112*, the Florida Senate Committee on Commerce and Economic Opportunities.

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PCS for HB 653

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1                                   A bill to be entitled  
 2       An act relating to public K-12 education; amending s.  
 3       20.15, F.S., revising the divisions of the Department of  
 4       Education to replace Colleges and Universities with  
 5       Workforce Education, and to include Division of Finance  
 6       and Operations; providing name designations for the  
 7       director of each division; amending s. 145.19, F.S.,  
 8       relating to salary increases based on increase for state  
 9       career service employees; adding cross-references to  
 10      conform; amending s. 1001.10, F.S., relating to the  
 11      Commissioner of Education's powers and duties to include  
 12      organizing and naming the structural units of the  
 13      Department of Education and appointing staff to carry out  
 14      department functions; providing legislative intent;  
 15      amending s. 1001.395, F.S.; revising the manner in which  
 16      compensation of district school board members is  
 17      determined; specifying base salary amounts; amending s.  
 18      1001.42, F.S., relating to powers and duties of district  
 19      school boards; revising requirements relating to policies  
 20      for the opening and closing dates of schools; amending s.  
 21      1001.47, F.S.; revising provisions relating to base  
 22      salaries of district school superintendents; amending s.  
 23      1003.02, F.S.; requiring certain district school boards to  
 24      request proposals from photographers annually; requiring  
 25      public access to information; allowing student choice of  
 26      photographer; permitting the inclusion of certain  
 27      photographs in student yearbooks; amending s. 1003.413,  
 28      F.S.; removing language relating to credit recovery  
 29      courses; amending 1003.428, F.S.; providing various

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30       waivers to the physical education credit requirement for  
 31       high school graduation; requiring policies to assist  
 32       students in meeting high school graduation requirements;  
 33       providing guidelines for district school board grade  
 34       forgiveness policies; providing an effective date;  
 35       providing an effective date.

36

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

38

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

41       20.15 Department of Education.--There is created a  
 42       Department of Education.

43       (3) DIVISIONS.--The following divisions of the Department  
 44       of Education are established:

45       (a) Division of Community Colleges.

46       (b) Division of Public Schools.

47       (c) Division of Workforce Education Colleges and  
 48       ~~Universities.~~

49       (d) Division of Vocational Rehabilitation.

50       (e) Division of Blind Services.

51       (f) Division of Accountability, Research, and Measurement.

52       (g) Division of Finance and Operations.

53       (4) DIRECTORS.--The directors of all divisions shall be  
 54       appointed by the commissioner subject to approval by the state  
 55       board. The director of each division may be designated as "Deputy  
 56       Commissioner" or "Chancellor."

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

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59 | 145.19 Annual percentage increases based on increase for  
60 | state career service employees; limitation.--

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

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

77 | 1001.10 Commissioner of Education; general powers and  
78 | duties.--The Commissioner of Education is the chief educational  
79 | officer of the state and the sole custodian of the K-20 data  
80 | warehouse, and is responsible for giving full assistance to the  
81 | State Board of Education in enforcing compliance with the mission  
82 | and goals of the seamless K-20 education system. To facilitate  
83 | innovative practices and to allow local selection of educational  
84 | methods, the State Board of Education may authorize the  
85 | commissioner to waive, upon the request of a district school  
86 | board, State Board of Education rules that relate to district  
87 | school instruction and school operations, except those rules

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88 | pertaining to civil rights, and student health, safety, and  
 89 | welfare. The Commissioner of Education is not authorized to grant  
 90 | waivers for any provisions in rule pertaining to the allocation  
 91 | and appropriation of state and local funds for public education;  
 92 | the election, compensation, and organization of school board  
 93 | members and superintendents; graduation and state accountability  
 94 | standards; financial reporting requirements; reporting of out-of-  
 95 | field teaching assignments under s. 1012.42; public meetings;  
 96 | public records; or due process hearings governed by chapter 120.  
 97 | No later than January 1 of each year, the commissioner shall  
 98 | report to the Legislature and the State Board of Education all  
 99 | approved waiver requests in the preceding year. Additionally, the  
 100 | commissioner has the following general powers and duties:

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

106 |  
 107 | The commissioner's office shall operate all statewide functions  
 108 | necessary to support the State Board of Education and the K-20  
 109 | education system, including strategic planning and budget  
 110 | development, general administration, and assessment and  
 111 | accountability.

112 |  
 113 |       Section 4. Section 1001.395, Florida Statutes, is amended  
 114 | to read:

115 |       1001.395 District school board members; compensation.--Each  
 116 | member of the district school board shall receive a base salary,



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117 | the amounts indicated in this subsection, based on the population  
 118 | of the county the district school board member serves. In  
 119 | addition, compensation shall be made for population increments  
 120 | over the minimum for each population group, which shall be  
 121 | determined by multiplying the population in excess of the minimum  
 122 | for the group times the group rate. The product of such  
 123 | calculation shall be added to the base salary to determine the  
 124 | adjusted base salary. The adjusted base salaries of district  
 125 | school board members shall be increased annually as provided for  
 126 | in s. 145.19.  
 127 |

<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>

128 |  
 129 | District school board member salaries negotiated on or after  
 130 | November of 2006 shall remain in effect up to the date of the  
 131 | 2007-2008 calculation provided pursuant to s. 145.19.

132 | ~~—(1) Each district school board shall annually determine the~~  
 133 | ~~salary of its members at the first regular meeting following the~~  
 134 | ~~organizational meeting held pursuant to s. 1001.371. The proposed~~  
 135 | ~~salary to be adopted shall be noticed at the time of the meeting~~  
 136 | ~~notice and shall not be increased during the meeting. The salary~~

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137 ~~adopted by the district school board shall be in effect during~~  
 138 ~~the succeeding 12 months.~~

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

143 Section 5. Paragraph (f) of subsection (4) of section  
 144 1001.42, Florida Statutes, is amended to read:

145 1001.42 Powers and duties of district school board.-- The  
 146 district school board, acting as a board, shall exercise all  
 147 powers and perform all duties listed below:

148 (4) ESTABLISHMENT, ORGANIZATION, AND OPERATION OF  
 149 SCHOOLS.--Adopt and provide for the execution of plans for the  
 150 establishment, organization, and operation of the schools of the  
 151 district, including, but not limited to, the following:

152 (f) Opening and closing of schools; fixing uniform  
 153 date.--Adopt policies for the opening and closing of schools and  
 154 fix uniform dates after receiving public input at a minimum of  
 155 one public hearing; however, beginning with the 2007-2008 school  
 156 year, the opening date for schools in a the district that does  
 157 not hold a minimum of one public hearing may not be earlier than  
 158 14 days before Labor Day each year.

159 Section 6. Subsection (2) of section 1001.47, Florida  
 160 Statutes, is amended to read:

161 1001.47 District school superintendent; salary.--

162 (2) Each elected district school superintendent shall  
 163 receive a base salary, the amounts indicated in this subsection,  
 164 based on the population of the county the elected superintendent  
 165 serves. In addition, compensation shall be made for population

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166 increments over the minimum for each population group, which  
 167 shall be determined by multiplying the population in excess of  
 168 the minimum for the group times the group rate. The product of  
 169 such calculation shall be added to the base salary to determine  
 170 the adjusted base salary. ~~Laws that increase the base salary~~  
 171 ~~provided in this subsection shall contain provisions on no other~~  
 172 ~~subject.~~

173

Pop. Group	County Pop. Range		Base Salary		Group Rate
	Minimum	Maximum			
I	-0-	49,999	<u>\$23,350</u>	<del>\$21,250</del>	\$0.07875
II	50,000	99,999	<u>26,500</u>	<del>24,400</del>	0.06300
III	100,000	199,999	<u>29,650</u>	<del>27,550</del>	0.02625
IV	200,000	399,999	<u>32,275</u>	<del>30,175</del>	0.01575
V	400,000	999,999	<u>35,425</u>	<del>33,325</del>	0.00525
VI	1,000,000		<u>38,575</u>	<del>36,475</del>	0.00400

174  
 175 Section 7. Subsection (5) is added to section 1003.02,  
 176 Florida Statutes, to read:  
 177 1003.02 District school board operation and control of  
 178 public K-12 education within the school district.--As provided in  
 179 part II of chapter 1001, district school boards are  
 180 constitutionally and statutorily charged with the operation and  
 181 control of public K-12 education within their school district.  
 182 The district school boards must establish, organize, and operate  
 183 their public K-12 schools and educational programs, employees,  
 184 and facilities. Their responsibilities include staff development,  
 185 public K-12 school student education including education for  
 186 exceptional students and students in juvenile justice programs,

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187 special programs, adult education programs, and career education  
 188 programs. Additionally, district school boards must:

189 (5) (a) If entering into a contract with a photographer for  
 190 the purpose of taking student photographs, request proposals from  
 191 at least two photographers annually. Results of proposals,  
 192 including vendor contact information, shall be open to the public  
 193 and posted on the school or the district school board website.

194 (b) District school boards may not require students to  
 195 purchase senior photographs from a contract vendor and must allow  
 196 students to purchase photographs from a photographer of their  
 197 choice. A student's senior photograph must be allowed to appear  
 198 in the yearbook when taken by a photographer not under contract  
 199 with the school or the district school board if the photograph  
 200 meets the reasonable specifications of the principal and yearbook  
 201 staff for senior photographs.

202 Section 8. Subsection (3) of section 1003.413, Florida  
 203 Statutes, is amended to read:

204 1003.413 Florida Secondary School Redesign Act.--

205 (3) Based on these guiding principles, district school  
 206 boards shall establish policies to implement the requirements of  
 207 ss. 1003.4156, 1003.428, and 1003.493. The policies must address:

208 (a) Procedures for placing and promoting students who enter  
 209 a Florida public school at grade 6 through grade 12 from out of  
 210 state or from a foreign country, including a review of the  
 211 student's prior academic performance.

212 (b) Alternative methods for students to demonstrate  
 213 competency in required courses and credits, with special support  
 214 for students who have been retained.

215 (c) Applied, integrated, and combined courses that provide  
 216 flexibility for students to enroll in courses that are creative  
 217 and meet individual learning styles and student needs.

218 ~~(d) Credit recovery courses and intensive reading and~~  
 219 ~~mathematics intervention courses based on student performance on~~  
 220 ~~the FCAT. These courses should be competency based and offered~~  
 221 ~~through innovative delivery systems, including computer-assisted~~  
 222 ~~instruction. School districts should use learning gains as well~~  
 223 ~~as other appropriate data and provide incentives to identify and~~  
 224 ~~reward high-performing teachers who teach credit recovery and~~  
 225 ~~intensive intervention courses.~~

226 (d) ~~(e)~~ Grade forgiveness policies that replace a grade of  
 227 "D" or "F" with a grade of "C" or higher earned subsequently in  
 228 the same or a comparable course.

229 (e) ~~(f)~~ Summer academies for students to receive intensive  
 230 reading and mathematics intervention courses or competency-based  
 231 credit recovery courses. A student's participation in an  
 232 instructional or remediation program prior to or immediately  
 233 following entering grade 9 for the first time shall not affect  
 234 that student's classification as a first-time 9th grader for  
 235 reporting purposes.

236 (f) ~~(g)~~ Strategies to support teachers' pursuit of the  
 237 reading endorsement and emphasize reading instruction  
 238 professional development for content area teachers.

239 (g) ~~(h)~~ Creative and flexible scheduling designed to meet  
 240 student needs.

241 (h) ~~(i)~~ Procedures for high school students who have not  
 242 prepared an electronic personal education plan pursuant to s.  
 243 1003.4156 to prepare such plan.

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244 |        ~~(i)-(j)~~ Tools for parents to regularly monitor student  
245 | progress and communicate with teachers.

246 |        ~~(j)-(k)~~ Additional course requirements for promotion and  
247 | graduation which may be determined by each school district in the  
248 | student progression plan and may include additional academic,  
249 | fine and performing arts, physical education, or career and  
250 | technical education courses in order to provide a complete  
251 | education program pursuant to s. 1001.41(3).

252 |        Section 9. Paragraph (a) of subsection (2) and subsection  
253 | (4) of section 1003.428, Florida Statutes, are amended to read:

254 |        1003.428 General Requirements for high school graduation;  
255 | revised.--

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

259 |        (a) Sixteen core curriculum credits:

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

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

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

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

272 |        5. One credit in fine arts.

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

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

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

295           (b) Earning passing scores on the FCAT, as defined in s.  
 296 1008.22(3)(c), or scores on a standardized test that are  
 297 concordant with passing scores on the FCAT as defined in s.  
 298 1008.22(9).

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

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

304  
 305 Each district school board shall adopt policies designed to  
 306 assist students in meeting the requirements of this subsection.  
 307 These policies may include, but are not limited to: forgiveness  
 308 policies, summer school or before or after school attendance,  
 309 special counseling, volunteers or peer tutors, school-sponsored  
 310 help sessions, homework hotlines, and study skills classes.  
 311 Forgiveness policies for required courses shall be limited to  
 312 replacing a grade of "D" or "F," or the equivalent of a grade of  
 313 "D" or "F," with a grade of "C" or higher, or the equivalent of a  
 314 grade of "C" or higher, earned subsequently in the same or  
 315 comparable course. Forgiveness policies for elective courses  
 316 shall be limited to replacing a grade of "D" or "F," or the  
 317 equivalent of a grade of "D" or "F," with a grade of "C" or  
 318 higher, or the equivalent of a grade of "C" or higher, earned  
 319 subsequently in another course. Any course grade not replaced  
 320 according to a district school board forgiveness policy shall be  
 321 included in the calculation of the cumulative grade point average  
 322 required for graduation.

323 Section 10. This act shall take effect July 1, 2007.



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

PCS for HB No.653

COUNCIL/COMMITTEE ACTION

ADOPTED                                   \_\_\_ (Y/N)  
ADOPTED AS AMENDED                   \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION               \_\_\_ (Y/N)  
FAILED TO ADOPT                       \_\_\_ (Y/N)  
WITHDRAWN                               \_\_\_ (Y/N)  
OTHER                                     \_\_\_\_\_

1 Council/Committee hearing bill: Schools and Learning Council  
2 Representative(s) Traviesa offered the following:

3  
4                   **Amendment**

5           On Page 11, Lines 274 to 290, Remove said line(s) and  
6 insert:

7  
8 of health. Participation in an interscholastic sport at the  
9 junior varsity or varsity level, for two full seasons, shall  
10 satisfy the one-credit requirement in physical education if the  
11 student passes a competency test on personal fitness with a  
12 score of "C" or better. A district school board may not require  
13 that the one credit in physical education be taken during the 9<sup>th</sup>  
14 grade year. Completion of one semester with a grade of "C" or  
15 better in a marching band class, or in a physical activity class  
16 that requires participation in marching band activities as an  
17 extracurricular activity, shall satisfy ½ credit in fine arts  
18 and ½ credit in physical education. This credit may not be used  
19 to satisfy the requirement for adaptive physical education under  
20 an individual educational plan (IEP) or 504 plan. Completion of  
21 two years in a Reserve Officer Training Corps (R.O.T.C.) class,

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

22 a significant component of which is drills, shall satisfy a one  
23 credit requirement in physical education and a one credit  
24 requirement in fine arts. This credit may not be used to satisfy  
25 the requirement for adaptive physical education under an  
26 individual educational plan (IEP) or 504 plan.

27

28

29

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

PCS for HB 653

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Schools & Learning Council  
 2 Representative(s) Kiar and Bendross-Mindingall offered the  
 3 following:

**Amendment (with title amendment)**

From lines 143 to 158, Remove all said lines

===== T I T L E A M E N D M E N T =====

Remove lines 17 to 20 and insert:  
 determined; specifying base salary amounts; amending s.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 685 Florida Retirement System  
**SPONSOR(S):** Schools & Learning Council  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 420

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Schools & Learning Council		Kooi <i>MK</i>	Cobb <i>CC</i>
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

**SUMMARY ANALYSIS**

PCS/HB 685 expands membership in optional retirement programs to certain public education employees. Specifically, the PCS/HB 685 qualifies the following employees as eligible for these alternative programs:

- Public community college or community college-sponsored charter technical career center renewed members in the Regular Class of the Florida Retirement System (FRS); and
- State University System renewed members of the FRS.

A one-time opportunity is provided to allow a State University System Optional Retirement Program participant to transfer from that program to the FRS or the Public Employee Optional Retirement Program.

PCS/HB 685 substantially amends sections 121.051, 121.35, and 121.4501 of the Florida Statutes.

PCS/HB 685 does not appear to have a fiscal impact on state or local governments.

PCS/HB 685 also provides that this act shall take effect July 1, 2007.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

*Safeguard individual liberty-* PCS/HB 685 expands retirement plan options for certain community college and university employees and provides certain state university employees a one-time opportunity to transfer to a different retirement program.

### B. EFFECT OF PROPOSED CHANGES:

#### **Background**

#### **Florida Retirement System (FRS)**

Chapter 121, F.S., contains the Florida Retirement System Act.<sup>1</sup> Section 121.051, F.S., provides that participation in the FRS is generally compulsory for all officers and employees, except in certain instances.<sup>2</sup> Employees who meet specified eligibility criteria are authorized to participate in various optional retirement programs. If an employee so elects, accrual of benefits under the FRS ceases, and is replaced by the alternative program.

#### **State Community College System Optional Retirement Program**

Public community colleges or charter technical career center employees who are members of the Regular Class of the FRS are authorized to elect participation in the State Community College System Optional Retirement Program.<sup>3</sup> A defined contribution program as classified in section 403(b) of the Internal Revenue Code, this program provides retirement and death benefits through contracts with designated insurance carriers. Each community college contributes on behalf of each participant a percentage of the participant's salary as required by law. As of July 1, 2006, this contribution rate remains 10.43 percent, which includes a portion representing the Health Insurance Subsidy program provided to FRS retirees.

#### **Optional Retirement Program for the State University System**

An optional retirement program for the State University System is available to persons who are otherwise eligible for membership in the FRS, and are either:

- i. Employed as instructional and research faculty in exempt positions;
- ii. Employed in administrative and professional positions in exempt positions; or
- iii. The Chancellor and the university presidents.<sup>4</sup>

Employees who become eligible to participate after January 1, 1993 are compulsory participants of the program unless the employee elects membership in the FRS.<sup>5</sup> A defined contribution program as classified in section 403(b) of the Internal Revenue Code, this program provides retirement and death benefits through contracts with designated insurance carriers. The employing university contributes on behalf of each participant a percentage of the participant's salary as required by law. As of July 1, 2006,

---

<sup>1</sup> Section 121.011(1), F.S.

<sup>2</sup> Section 121.051(1)(a), F.S., excludes faculty employed at a university medical center through a faculty practice plan; s. 121.051(1)(d), F.S., excludes certain employees of a not-for-profit corporation or association by the Board of County Commissioners of Palm Beach County, and consultants or independent contractors.

<sup>3</sup> Section 121.051(2)(c), F.S.

<sup>4</sup> Section 121.35(2), F.S.

<sup>5</sup> Section 121.35(3)(c), F.S.

this contribution rate remains at 10.43 percent of the participant's salary, including a portion representing the Health Insurance Subsidy Program.

### **Public Employee Optional Retirement Program**

This plan is commonly known as the FRS Investment Plan, and is a recently-provided option to the FRS Pension Plan.<sup>6</sup>

Employees eligible to participate include:

- Those who participate in, or are eligible to participate in the State Community College Optional Retirement Program; or,
- Those who are eligible to participate in, but do not participate in the State University System Optional Retirement Program.<sup>7</sup>

FRS employers contribute a set percentage of each participating employee's monthly compensation to the program, based on membership class. Participants vest after completion of one year of covered service.

### **Effects of Proposed Changes**

PCS/HB 685 makes available certain options for public education employees:

- Regarding employees of community colleges or charter technical career centers sponsored by community colleges, this bill expands participation in the State Community College System Optional Retirement Program to include those that are eligible for renewed membership in the Regular Class of the Florida Retirement System (FRS);
- Regarding employees of the state university system, this bill expands participation in the Optional Retirement Program for the State University System to include those eligible for renewed membership in the FRS; and
- Employees who have elected participation in the State University System Optional Retirement System have the one-time option of transferring to either the FRS or the Public Employee Optional Retirement Program.

PCS/HB 685 provides for a transfer of benefits and cessation from future benefits under the original program for employees who elect participation in the State University System Optional Retirement Program.

For employees who elect transfer to the FRS from the State University System Optional Retirement Program, service credit is based on the actuarially determined accumulated benefit obligation for that period of service, and the transfer sum is determined by a formula and methodology certified by an enrolled actuary.

Regarding participation in the Public Employee Optional Retirement Program, PCS/HB 685 expands the definition of an eligible employee by both removing the restriction on employees participating in an optional retirement program, and including participants in the State University System Optional Retirement Program.

PCS/HB 685 takes effect July 1, 2007.

The Department of Management Services raised the following issues regarding the original bill:

---

<sup>6</sup> Chapter 2000-169, L.O.F., provided for the creation of the optional investment plan.

<sup>7</sup> Section 121.4501(2)(f), F.S.

- With the current effective date, insufficient time is allotted to provide for the creation of election transfer educational materials and ballots, and changes to the database, regarding the provision of a transfer to the FRS defined benefit or investment plan for State University System Optional Retirement Program participants.
- Providing an open election window for State University System Optional Retirement Program participants, although consistent with that provided to Community College Optional Retirement Program participants, grants far greater flexibility to these groups than that provided to other groups that are similarly situated.
- Providing automatic enrollment in the FRS, in addition to the other options available, creates confusion about which election is being selected.
- This bill does not reconcile the issue that certain faculty members employed in faculty practice plans are mandatory State University System Optional Retirement Program participants and ineligible to elect participation in the FRS.

PCS/HB 685 addresses all of the issues raised by the Department of Management Services in its impact analysis and specifically addresses the proper recognition of the appropriate actuarial benefit obligation and the creation of a one-year selection window from January 1 through December 31, 2008, to minimize the anti-selection bias that could be created by participants effectively "day-trading" their plan choices as an investment option itself.

#### C. SECTION DIRECTORY:

**Section 1.** Amending s. 121.051, F.S.; revising conditions for membership in the State Community College System Optional Retirement Program.

**Section 2.** Amending s. 121.35, F.S.; revising conditions for membership in the State University System Optional Retirement Program; authorizing transfer of funds for specified earned credit between the Florida Retirement System and such optional retirement program; authorizing a transfer of membership between the State University System Optional Retirement Program and the Florida Retirement System

**Section 3.** Amending s. 121.4501, F.S.; redefining the term "eligible employee" for purposes of the Public Employee Optional Retirement Program; revising conditions for participation in the Public Employee Optional Retirement Program

**Section 4.** Providing for an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

PCS/HB 685 does not appear to have a fiscal impact on state government revenues.

##### 2. Expenditures:

PCS/HB 685 does not appear to have a fiscal impact on state government expenditures.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

PCS/HB 685 does not appear to have a fiscal impact on local government revenues.



2. Expenditures:

PCS/HB 685 does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Employees that qualify for optional retirement programs or transfer of benefits pursuant to this bill may benefit through the new options available.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

PCS/HB 685 does not appear to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

PCS/HB 685 does not appear to reduce the percentage of a state tax shared with counties or municipalities.

PCS/HB 685 does not appear to reduce the authority that municipalities have to raise revenue.

2. Other:

Section 14 of Article X of the State Constitution requires that any changes made to a publicly funded retirement or pension system resulting in an increase in member or beneficiary benefits must also include provision for the funding of the increase in benefits on a sound actuarial basis.

The Milliman study analysis of this bill concludes that this bill meets the requirements of Article X, Section 14 of the State Constitution. Finding no fiscal impact overall, the study specifically provides:

There is no fiscal impact on the FRS if certain renewed members of the FRS employed at community colleges and state universities are allowed participation in their optional retirement plans as the option already exists for otherwise eligible FRS members, and the potential class of new members is small; and

There is no fiscal impact from authorizing a State University System Optional Retirement Program participant to transfer from the FRS to the State University System Optional Retirement account a sum representing the fixed period stated in the bill, because the amount would be the present value of the accumulated benefit obligation for the corresponding service credit and would eliminate any long term liability for the service credit.

B. RULE-MAKING AUTHORITY:

PCS/HB 685 does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to state retirement programs; amending s.  
 3           121.051, F.S.; revising conditions for membership in the  
 4           State Community College System Optional Retirement  
 5           Program; amending s. 121.35, F.S.; revising conditions for  
 6           membership in the State University System Optional  
 7           Retirement Program; authorizing transfer of funds for  
 8           specified earned credit between the Florida Retirement  
 9           System and such optional retirement program; authorizing a  
 10          transfer of membership between the State University System  
 11          Optional Retirement Program and the Florida Retirement  
 12          System; amending s. 121.4501, F.S.; redefining the term  
 13          "eligible employee" for purposes of the Public Employee  
 14          Optional Retirement Program; revising conditions for  
 15          participation in the Public Employee Optional Retirement  
 16          Program; providing an effective date.

17  
 18 Be It Enacted by the Legislature of the State of Florida:

19  
 20           Section 1. Paragraph (c) of subsection (2) of section  
 21           121.051, Florida Statutes, is amended to read:

22           121.051 Participation in the system.--

23           (2) OPTIONAL PARTICIPATION.--

24           (c) Employees of public community colleges or charter  
 25           technical career centers sponsored by public community colleges,  
 26           as designated in s. 1000.21(3), who are members of the Regular  
 27           Class of the Florida Retirement System and who comply with the  
 28           criteria set forth in this paragraph and in s. 1012.875 may  
 29           elect, in lieu of participating in the Florida Retirement System,

30 | to withdraw from the Florida Retirement System altogether and  
 31 | participate in an optional retirement program provided by the  
 32 | employing agency under s. 1012.875, to be known as the State  
 33 | Community College System Optional Retirement Program. Pursuant  
 34 | thereto:

35 |       1. Through June 30, 2001, the cost to the employer for such  
 36 | annuity shall equal the normal cost portion of the employer  
 37 | retirement contribution which would be required if the employee  
 38 | were a member of the Regular Class defined benefit program, plus  
 39 | the portion of the contribution rate required by s. 112.363(8)  
 40 | that would otherwise be assigned to the Retiree Health Insurance  
 41 | Subsidy Trust Fund. Effective July 1, 2001, each employer shall  
 42 | contribute on behalf of each participant in the optional program  
 43 | an amount equal to 10.43 percent of the participant's gross  
 44 | monthly compensation. The employer shall deduct an amount to  
 45 | provide for the administration of the optional retirement  
 46 | program. The employer providing the optional program shall  
 47 | contribute an additional amount to the Florida Retirement System  
 48 | Trust Fund equal to the unfunded actuarial accrued liability  
 49 | portion of the Regular Class contribution rate.

50 |       2. The decision to participate in such an optional  
 51 | retirement program shall be irrevocable for as long as the  
 52 | employee holds a position eligible for participation, except as  
 53 | provided in subparagraph 3. Any service creditable under the  
 54 | Florida Retirement System shall be retained after the member  
 55 | withdraws from the Florida Retirement System; however, additional  
 56 | service credit in the Florida Retirement System shall not be  
 57 | earned while a member of the optional retirement program.

58 |       3. An employee who has elected to participate in the

59 optional retirement program shall have one opportunity, at the  
 60 employee's discretion, to choose to transfer from the optional  
 61 retirement program to the defined benefit program of the Florida  
 62 Retirement System or to the Public Employee Optional Retirement  
 63 Program, subject to the terms of the applicable optional  
 64 retirement program contracts.

65 a. If the employee chooses to move to the Public Employee  
 66 Optional Retirement Program, any contributions, interest, and  
 67 earnings creditable to the employee under the State Community  
 68 College System Optional Retirement Program shall be retained by  
 69 the employee in the State Community College System Optional  
 70 Retirement Program, and the applicable provisions of s.  
 71 121.4501(4) shall govern the election.

72 b. If the employee chooses to move to the defined benefit  
 73 program of the Florida Retirement System, the employee shall  
 74 receive service credit equal to his or her years of service under  
 75 the State Community College Optional Retirement Program.

76 (I) The cost for such credit shall be an amount  
 77 representing the present value of that employee's accumulated  
 78 benefit obligation for the affected period of service. The cost  
 79 shall be calculated as if the benefit commencement occurs on the  
 80 first date the employee would become eligible for unreduced  
 81 benefits, using the discount rate and other relevant actuarial  
 82 assumptions that were used to value the Florida Retirement System  
 83 defined benefit plan liabilities in the most recent actuarial  
 84 valuation. The calculation shall include any service already  
 85 maintained under the defined benefit plan in addition to the  
 86 years under the State Community College Optional Retirement  
 87 Program. The present value of any service already maintained

88 | under the defined benefit plan shall be applied as a credit to  
 89 | total cost resulting from the calculation. The division shall  
 90 | ensure that the transfer sum is prepared using a formula and  
 91 | methodology certified by an enrolled actuary.

92 |         (II) The employee must transfer from his or her State  
 93 | Community College System Optional Retirement Program account and  
 94 | from other employee moneys as necessary, a sum representing the  
 95 | present value of that employee's accumulated benefit obligation  
 96 | immediately following the time of such movement, determined  
 97 | assuming that attained service equals the sum of service in the  
 98 | defined benefit program and service in the State Community  
 99 | College System Optional Retirement Program.

100 |         4. Participation in the optional retirement program shall  
 101 | be limited to those employees who satisfy the following  
 102 | eligibility criteria:

103 |             a. The employee must be otherwise eligible for membership  
 104 | or renewed membership in the Regular Class of the Florida  
 105 | Retirement System, as provided in s. 121.021(11) and (12) or s.  
 106 | 121.122.

107 |             b. The employee must be employed in a full-time position  
 108 | classified in the Accounting Manual for Florida's Public  
 109 | Community Colleges as:

110 |                 (I) Instructional; or

111 |                 (II) Executive Management, Instructional Management, or  
 112 | Institutional Management, if a community college determines that  
 113 | recruiting to fill a vacancy in the position is to be conducted  
 114 | in the national or regional market, and:

115 |                     (A) The duties and responsibilities of the position include  
 116 | either the formulation, interpretation, or implementation of

117 policies; or

118 (B) The duties and responsibilities of the position include  
 119 the performance of functions that are unique or specialized  
 120 within higher education and that frequently involve the support  
 121 of the mission of the community college.

122 c. The employee must be employed in a position not included  
 123 in the Senior Management Service Class of the Florida Retirement  
 124 System, as described in s. 121.055.

125 5. Participants in the program are subject to the same  
 126 reemployment limitations, renewed membership provisions, and  
 127 forfeiture provisions as are applicable to regular members of the  
 128 Florida Retirement System under ss. 121.091(9), 121.122, and  
 129 121.091(5), respectively.

130 6. Eligible community college employees shall be compulsory  
 131 members of the Florida Retirement System until, pursuant to the  
 132 procedures set forth in s. 1012.875, a written election to  
 133 withdraw from the Florida Retirement System and to participate in  
 134 the State Community College Optional Retirement Program is filed  
 135 with the program administrator and received by the division.

136 a. Any community college employee whose program eligibility  
 137 results from initial employment shall be enrolled in the State  
 138 Community College Optional Retirement Program retroactive to the  
 139 first day of eligible employment. The employer retirement  
 140 contributions paid through the month of the employee plan change  
 141 shall be transferred to the community college for the employee's  
 142 optional program account, and, effective the first day of the  
 143 next month, the employer shall pay the applicable contributions  
 144 based upon subparagraph 1.

145 b. Any community college employee whose program eligibility

146 results from a change in status due to the subsequent designation  
 147 of the employee's position as one of those specified in  
 148 subparagraph 4. or due to the employee's appointment, promotion,  
 149 transfer, or reclassification to a position specified in  
 150 subparagraph 4. shall be enrolled in the program upon the first  
 151 day of the first full calendar month that such change in status  
 152 becomes effective. The employer retirement contributions paid  
 153 from the effective date through the month of the employee plan  
 154 change shall be transferred to the community college for the  
 155 employee's optional program account, and, effective the first day  
 156 of the next month, the employer shall pay the applicable  
 157 contributions based upon subparagraph 1.

158 7. Effective July 1, 2003, through December 31, 2008, any  
 159 participant of the State Community College Optional Retirement  
 160 Program who has service credit in the defined benefit plan of the  
 161 Florida Retirement System for the period between his or her first  
 162 eligibility to transfer from the defined benefit plan to the  
 163 optional retirement program and the actual date of transfer may,  
 164 during his or her employment, elect to transfer to the optional  
 165 retirement program a sum representing the present value of the  
 166 accumulated benefit obligation under the defined benefit  
 167 retirement program for such period of service credit. Upon such  
 168 transfer, all such service credit previously earned under the  
 169 defined benefit program of the Florida Retirement System during  
 170 this period shall be nullified for purposes of entitlement to a  
 171 future benefit under the defined benefit program of the Florida  
 172 Retirement System.

173 Section 2. Paragraph (a) of subsection (2) and paragraphs  
 174 (e) and (g) of subsection (3) of section 121.35, Florida



175 Statutes, are amended, and paragraph (i) is added to subsection  
 176 (3), to read:

177 121.35 Optional retirement program for the State University  
 178 System.--

179 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.--

180 (a) Participation in the optional retirement program  
 181 provided by this section shall be limited to persons who are  
 182 otherwise eligible for membership or renewed membership in the  
 183 Florida Retirement System and who are employed in one of the  
 184 following State University System positions:

185 1. Positions classified as instructional and research  
 186 faculty which are exempt from the career service under the  
 187 provisions of s. 110.205(2)(d).

188 2. Positions classified as administrative and professional  
 189 which are exempt from the career service under the provisions of  
 190 s. 110.205(2)(d).

191 3. The Chancellor and the university presidents.

192 (3) ELECTION OF OPTIONAL PROGRAM.--

193 (e) The election by an eligible employee to participate in  
 194 the optional retirement program shall be irrevocable for so long  
 195 as the employee continues to meet the eligibility requirements  
 196 specified in subsection (2), except as provided in paragraph (h)  
 197 or paragraph (i). In the event that an employee participates in  
 198 the optional retirement program for 90 days or more and is  
 199 subsequently employed in an administrative or professional  
 200 position which has been determined by the department, under  
 201 subparagraph (2)(a)2., to be not otherwise eligible for  
 202 participation in the optional retirement program, the employee  
 203 shall continue participation in the optional program so long as

204 the employee meets the other eligibility requirements for the  
 205 program, except as provided in paragraph (h) or paragraph (i).

206 (g) An eligible employee who is a member of the Florida  
 207 Retirement System at the time of election to participate in the  
 208 optional retirement program shall retain all retirement service  
 209 credit earned under the Florida Retirement System, at the rate  
 210 earned. No additional service credit in the Florida Retirement  
 211 System shall be earned while the employee participates in the  
 212 optional program, nor shall the employee be eligible for  
 213 disability retirement under the Florida Retirement System. An  
 214 eligible employee may transfer from the Florida Retirement System  
 215 to his or her accounts under the State University System Optional  
 216 Retirement Program a sum representing the present value of the  
 217 employee's accumulated benefit obligation under the defined  
 218 benefit program of the Florida Retirement System for any service  
 219 credit accrued from the employee's first eligible transfer date  
 220 to the optional retirement program through the actual date of  
 221 such transfer, if such service credit was earned in the period  
 222 from July 1, 1984, through December 31, 1992. The present value  
 223 of the employee's accumulated benefit obligation shall be  
 224 calculated as described in s. 121.4501(3)(c)2. Upon such  
 225 transfer, all such service credit previously earned under the  
 226 defined benefit program of the Florida Retirement System during  
 227 this period shall be nullified for purposes of entitlement to a  
 228 future benefit under the defined benefit program of the Florida  
 229 Retirement System.

230 (i) Effective January 1, 2008, through December 31, 2008,  
 231 except for an employee who is a mandatory participant of the  
 232 State University System Optional Retirement Program, an employee

233 who has elected to participate in the State University System  
 234 Optional Retirement Program shall have one opportunity, at the  
 235 employee's discretion, to choose to transfer from this program to  
 236 the defined benefit program of the Florida Retirement System or  
 237 to the Public Employee Optional Retirement Program, subject to  
 238 the terms of the applicable contracts of the State University  
 239 System Optional Retirement Program.

240 1. If the employee chooses to move to the Public Employee  
 241 Optional Retirement Program, any contributions, interest, and  
 242 earnings creditable to the employee under the State University  
 243 System Optional Retirement Program shall be retained by the  
 244 employee in the State University System Optional Retirement  
 245 Program, and the applicable provisions of s. 121.4501(4) shall  
 246 govern the election.

247 2. If the employee chooses to move to the defined benefit  
 248 program of the Florida Retirement System, the employee shall  
 249 receive service credit equal to his or her years of service under  
 250 the State University System Optional Retirement Program.

251 a. The cost for such credit shall be an amount representing  
 252 the actuarial accrued liability for the affected period of  
 253 service. The cost shall be calculated using the discount rate and  
 254 other relevant actuarial assumptions that were used to value the  
 255 Florida Retirement System defined benefit plan liabilities in the  
 256 most recent actuarial valuation. The calculation shall include  
 257 any service already maintained under the defined benefit plan in  
 258 addition to the years under the State University System Optional  
 259 Retirement Program. The actuarial accrued liability of any  
 260 service already maintained under the defined benefit plan shall  
 261 be applied as a credit to total cost resulting from the

262 calculation. The division shall ensure that the transfer sum is  
 263 prepared using a formula and methodology certified by an enrolled  
 264 actuary.

265 b. The employee must transfer from his or her State  
 266 University System Optional Retirement Program account, and from  
 267 other employee moneys as necessary, a sum representing the  
 268 actuarial accrued liability immediately following the time of  
 269 such movement, determined assuming that attained service equals  
 270 the sum of service in the defined benefit program and service in  
 271 the State University System Optional Retirement Program.

272 Section 3. Paragraph (f) of subsection (2) and paragraph  
 273 (a) of subsection (4) of section 121.4501, Florida Statutes, are  
 274 amended to read:

275 121.4501 Public Employee Optional Retirement Program.--

276 (2) DEFINITIONS.--As used in this part, the term:

277 (f) "Eligible employee" means an officer or employee, as  
 278 defined in s. 121.021(11), who:

279 1. Is a member of, or is eligible for membership in, the  
 280 Florida Retirement System, including any renewed member of the  
 281 Florida Retirement System; or

282 2. Participates in, or is eligible to participate in, the  
 283 Senior Management Service Optional Annuity Program as established  
 284 under s. 121.055(6), ~~or~~ the State Community College Optional  
 285 Retirement Program as established under s. 121.051(2)(c), ~~or~~

286 ~~3. Is eligible to participate in, but does not participate~~  
 287 ~~in,~~ the State University System Optional Retirement Program  
 288 established under s. 121.35.

289  
 290 The term does not include any member participating in the

291 Deferred Retirement Option Program established under s.  
 292 121.091(13) or a mandatory participant of the State University  
 293 System Optional Retirement Program ~~or any employee participating~~  
 294 ~~in an optional retirement program~~ established under s. 121.35.

295 (4) PARTICIPATION; ENROLLMENT.--

296 (a)1. With respect to an eligible employee who is employed  
 297 in a regularly established position on June 1, 2002, by a state  
 298 employer:

299 a. Any such employee may elect to participate in the Public  
 300 Employee Optional Retirement Program in lieu of retaining his or  
 301 her membership in the defined benefit program of the Florida  
 302 Retirement System. The election must be made in writing or by  
 303 electronic means and must be filed with the third-party  
 304 administrator by August 31, 2002, or, in the case of an active  
 305 employee who is on a leave of absence on April 1, 2002, by the  
 306 last business day of the 5th month following the month the leave  
 307 of absence concludes. This election is irrevocable, except as  
 308 provided in paragraph (e). Upon making such election, the  
 309 employee shall be enrolled as a participant of the Public  
 310 Employee Optional Retirement Program, the employee's membership  
 311 in the Florida Retirement System shall be governed by the  
 312 provisions of this part, and the employee's membership in the  
 313 defined benefit program of the Florida Retirement System shall  
 314 terminate. The employee's enrollment in the Public Employee  
 315 Optional Retirement Program shall be effective the first day of  
 316 the month for which a full month's employer contribution is made  
 317 to the optional program.

318 b. Any such employee who fails to elect to participate in  
 319 the Public Employee Optional Retirement Program within the

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320 prescribed time period is deemed to have elected to retain  
 321 membership in the defined benefit program of the Florida  
 322 Retirement System, and the employee's option to elect to  
 323 participate in the optional program is forfeited.

324 2. With respect to employees who become eligible to  
 325 participate in the Public Employee Optional Retirement Program by  
 326 reason of employment in a regularly established position with a  
 327 state employer commencing after April 1, 2002:

328 a. Any such employee shall, by default, be enrolled in the  
 329 defined benefit retirement program of the Florida Retirement  
 330 System at the commencement of employment, and may, by the last  
 331 business day of the 5th month following the employee's month of  
 332 hire, elect to participate in the Public Employee Optional  
 333 Retirement Program. The employee's election must be made in  
 334 writing or by electronic means and must be filed with the third-  
 335 party administrator. The election to participate in the optional  
 336 program is irrevocable, except as provided in paragraph (e).

337 b. If the employee files such election within the  
 338 prescribed time period, enrollment in the optional program shall  
 339 be effective on the first day of employment. The employer  
 340 retirement contributions paid through the month of the employee  
 341 plan change shall be transferred to the optional program, and,  
 342 effective the first day of the next month, the employer shall pay  
 343 the applicable contributions based on the employee membership  
 344 class in the optional program.

345 c. Any such employee who fails to elect to participate in  
 346 the Public Employee Optional Retirement Program within the  
 347 prescribed time period is deemed to have elected to retain  
 348 membership in the defined benefit program of the Florida

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349 Retirement System, and the employee's option to elect to  
 350 participate in the optional program is forfeited.

351 3. With respect to employees who become eligible to  
 352 participate in the Public Employee Optional Retirement Program  
 353 pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), any such  
 354 employee may elect to participate in the Public Employee Optional  
 355 Retirement Program in lieu of retaining his or her participation  
 356 in the State Community College Optional Retirement Program or the  
 357 State University System Optional Retirement Program. The election  
 358 must be made in writing or by electronic means and must be filed  
 359 with the third-party administrator. This election is irrevocable,  
 360 except as provided in paragraph (e). Upon making such election,  
 361 the employee shall be enrolled as a participant of the Public  
 362 Employee Optional Retirement Program, the employee's membership  
 363 in the Florida Retirement System shall be governed by the  
 364 provisions of this part, and the employee's participation in the  
 365 State Community College Optional Retirement Program or the State  
 366 University System Optional Retirement Program shall terminate.  
 367 The employee's enrollment in the Public Employee Optional  
 368 Retirement Program shall be effective the first day of the month  
 369 for which a full month's employer contribution is made to the  
 370 optional program.

371 4. For purposes of this paragraph, "state employer" means  
 372 any agency, board, branch, commission, community college,  
 373 department, institution, institution of higher education, or  
 374 water management district of the state, which participates in the  
 375 Florida Retirement System for the benefit of certain employees.

376 Section 4. This act shall take effect July 1, 2007.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 799 K-8 Virtual School Program  
**SPONSOR(S):** Schools & Learning Council  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:			
1) <u>Committee on Education Innovation &amp; Career Preparation</u>	8 Y, 1 N	Beagle	White
2) <u>Schools &amp; Learning Council</u>		Beagle <i>GB</i>	Cobb <i>lcc</i>
3) <u>Policy &amp; Budget Council</u>			
4) _____			
5) _____			

**SUMMARY ANALYSIS**

The K-8 Virtual School Program is an educational choice program administered by the Department of Education (DOE). The program delivers academic instruction via on-line and distance learning technology to full-time students in kindergarten through eighth grade. Schools wishing to participate in the program may be nonprofit or for-profit entities and must be approved by the DOE.

Currently, the K-8 Virtual School Program is funded by specific appropriation in the General Appropriations Act. In 2006, the Legislature appropriated \$7,200,000 in general revenues to the program. Proviso allows a maximum grant of \$5,200 per student. Enrollment capacity based on the maximum grant amount is 1,384 students for 2006-2007.

The Proposed Council Substitute for House Bill 799 (bill) amends provisions pertaining to the K-8 Virtual School Program. Specifically, the bill:

- Provides a mission statement for the K-8 Virtual School Program;
- Requires K-8 virtual schools to enroll an eligible student that submits a timely application, unless capacity for the school would be exceeded;
- Provides that enrollment priority must be given to specified students;
- Provides funding for the K-8 Virtual School Program through the Florida Education Finance Program (FEFP) and requires K-8 virtual schools to report full-time equivalent (FTE) students;
- Establishes the district cost differential for K-8 virtual schools at 1.00;
- Allows K-8 virtual schools to receive grants and donations; and
- Requires K-8 virtual schools to be non-profit entities.

The bill may result in an indeterminate savings to the state. Please see "FISCAL IMPACT ON STATE GOVERNMENT."

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

*Empower families* – The bill enhances school choice options by expanding the potential enrollment capacity for the K-8 Virtual School Program. Under the bill, funding for the program is through the FEFP based on FTE student enrollment, rather than capped in specific appropriation and proviso.

*Safeguard individual liberty* – The bill enhances school choice options by expanding the potential enrollment capacity for the K-8 Virtual School Program. Under the bill, funding for the program is through the FEFP based on FTE student enrollment, rather than capped in specific appropriation and proviso.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

*Background:* The K-8 Virtual School Program is an educational choice program established within the DOE. The program delivers academic instruction via on-line and distance learning technology to full-time students in kindergarten through eighth grade.<sup>1</sup> Participation is free to the student. Students are instructed by Florida-certified teachers. Learning coaches, usually a parent or other adult living in the student's home, supervise the student's in-home learning activities. The virtual school curriculum is aligned to the Sunshine State Standards. Students enrolled in the K-8 Virtual School Program must participate in the statewide assessment program required under s.1008.22, F.S.

Virtual schools must apply and be approved by the DOE to participate in the K-8 Virtual School Program. A K-8 virtual school may be a non-profit or for profit entity. Participating schools must provide each enrolled student with all necessary instructional materials, computer equipment, and a stipend for Internet access. K-8 virtual schools are subject to the Florida school grading system<sup>2</sup> and "adequate yearly progress" provisions under Title I of the No Child Left Behind Act of 2001. At present, Florida Connections Academy and Florida Virtual Academy have been approved by the DOE to deliver program instruction.

Currently, the K-8 Virtual School Program is funded by specific appropriation in the General Appropriations Act. In 2006, the Legislature appropriated \$7,200,000 in general revenues to the K-8 Virtual School Program. Students are funded based on a maximum grant amount of \$5,200 per student.<sup>3</sup> Thus, enrollment capacity is limited to approximately 1,384 students. According to the DOE, there is a large waiting list of students wishing to participate in the program.<sup>4</sup>

*Student Eligibility:* The K-8 Virtual School Program is available to full-time students in kindergarten through eighth grade. Eligibility for the program is limited to:

- Students who spent the previous school year in attendance at a Florida public school and who were reported by the school district for funding through the Florida Education Finance Program;
- Students who were enrolled during the previous school year in a K-8 virtual school and their siblings; or
- Students who are eligible to enroll in kindergarten or the first grade.<sup>5</sup>

---

<sup>1</sup> Section 1002.415, F.S.

<sup>2</sup> Section 1008.34, F.S.

<sup>3</sup> Specific Appropriation 106B of the Conference Committee Report on HB 5001, Enrolled Chapter 2006-25, Laws of Florida.

<sup>4</sup> Florida Department of Education Bill Analysis for House Bill 799.

<sup>5</sup> Section 1002.415(5), F.S.

*School Attendance:* Students enrolled in the K-8 Virtual School Program are subject to the compulsory school attendance requirements of s. 1003.21, F.S. State Board of Education Rule 6A-6.0980(2)(b), F.A.C., requires each K-8 Virtual School to keep daily attendance for each enrolled student and to verify the continued attendance of each student to the DOE four times during the academic year.

*Performance:* According to the DOE website for the K-8 Virtual School Program, students in the Florida Connections Academy and Florida Virtual Academy are performing the same or better than their peers statewide on the Florida Comprehensive Assessment Test in most subjects and grade levels. Further, both schools earned school performance grades of "B" in 2005-06.<sup>6</sup>

### **Effect of Proposed Changes**

The bill amends s. 1002.415, F.S., to state that the mission of the K-8 Virtual School Program is to provide students with technology-based educational opportunities to gain the knowledge and skills necessary to succeed. The bill requires K-8 virtual schools to serve any student who meets the profile for success in an online learning context. Priority is to be given to students who need access to virtual courses in order to meet their educational needs and goals in a home environment and to students seeking accelerated access to move at their own pace in their educational progress. The bill also requires K-8 virtual schools to enroll an eligible student who submits a timely application, unless the number of applications exceeds program capacity. In such case, all applications are required to have an equal chance of being admitted through a random selection process.

The bill revises current law providing that the K-8 Virtual School Program shall be funded as provided in the General Appropriations Act; instead, under the bill, funding for the program is through the FEFP and thus, based on the number of FTE students enrolled in the program. K-8 virtual schools are required to report FTE students to the DOE and the district cost differential is set at 1.000. In addition to FEFP funding, the bill allows K-8 virtual schools to receive funding as provided in the General Appropriations Act and through grants and donations.

The bill revises current law allowing K-8 virtual schools to be for-profit or nonprofit entities and instead, authorizes only nonprofit entities. Further, the bill specifies that a K-8 virtual school, which has received a grade of a "D" or "F", may not increase its enrollment until it receives a "C" or better.

Finally, the bill removes outdated, obsolete language allowing the two pilot K-8 virtual schools to continue through the 2006-2007 school year.

#### **C. SECTION DIRECTORY:**

**Section 1.** Amends s. 1002.415, F.S.; provides a mission for the K-8 Virtual School Program; provides for FEFP funding of the program; requires K-8 virtual schools to enroll specified children; requires K-8 virtual schools to be non-profit entities; removes outdated pilot school provisions; and prohibits specified schools from increasing enrollment.

**Section 2.** Provides an effective date of July 1, 2007.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

This bill does not appear to have a fiscal impact on state revenues.

<sup>6</sup> See: [http://www.floridaschoolchoice.org/Information/virtual\\_schools/faqs\\_pilot.asp](http://www.floridaschoolchoice.org/Information/virtual_schools/faqs_pilot.asp)

2. Expenditures:

The bill provides funding for the K-8 Virtual School Program through the FEFP, instead of through specific appropriation in the General Appropriations Act. For the 2007-08 school year, funding models project that K-8 virtual schools will receive approximately \$5,190 per FTE. The per FTE state average funding in the 2006-07 FEFP is \$6,840, which is a savings of \$1,650 for each K-8 virtual school student. Students enrolled in a K-8 virtual school would also generate a savings in capital outlay expenditures because these students receive services in their homes and would not require a classroom. The number of students that may participate in this program is unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Please see "FISCAL IMPACT ON STATE GOVERNMENT."

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds.

This bill does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled  
 2 An act relating to the K-8 Virtual School Program;  
 3 amending s. 1002.415, F.S.; providing a mission for the K-  
 4 8 Virtual School Program; revising eligibility  
 5 requirements for school participation and student  
 6 enrollment; providing for enrollment in a K-8 virtual  
 7 school of eligible students who submit timely applications  
 8 unless the number of applications exceeds the capacity of  
 9 a program; removing provisions relating to pilot K-8  
 10 virtual schools; revising funding for the K-8 Virtual  
 11 School Program to include a definition of "full-time  
 12 equivalent student"; providing reporting requirements;  
 13 establishing the district cost differential; providing for  
 14 funding from the General Appropriations Act and  
 15 authorizing schools to receive other funds; prohibiting a  
 16 school from increasing enrollment until it achieves a  
 17 specified performance grade category; providing an  
 18 effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22 Section 1. Section 1002.415, Florida Statutes, is amended  
 23 to read:

24 1002.415 K-8 Virtual School Program.--

25 (1) PROGRAM; MISSION.--

26 (a) Subject to annual legislative appropriation, a  
 27 kindergarten through grade 8 virtual school program is  
 28 established within the Department of Education for the purpose  
 29 of making academic instruction available to full-time students

30 in kindergarten through grade 8 using on-line and distance  
 31 learning technology. The department shall use an application  
 32 process to select schools to deliver program instruction.

33 (b) The mission of the K-8 Virtual School Program is to  
 34 provide students with technology-based educational opportunities  
 35 to gain the knowledge and skills necessary to succeed. The  
 36 school shall serve any student in the state who meets the  
 37 profile for success in this educational delivery context and  
 38 shall give priority to:

39 1. Students who need access to K-8 courses in order to  
 40 meet their educational needs and goals in a home environment.

41 2. Students seeking accelerated access to move at their  
 42 own pace in their educational progress.

43 (2)(1) SCHOOL ELIGIBILITY.--

44 (a) To be eligible to participate in the K-8 Virtual  
 45 School Program a school must:

46 1. Be nonsectarian in its programs, admission policies,  
 47 employment practices, and operations;

48 2. Comply with the antidiscrimination provisions of s.  
 49 1000.05;

50 3. Participate in the state's school accountability system  
 51 created in s. 1008.31;

52 4. Locate its administrative office in this state and  
 53 require its administrative and instructional staff members to be  
 54 state residents; and

55 5. Require no tuition or student registration fee.

56 (b) Schools applying to participate in the K-8 Virtual  
 57 School Program shall ~~may be for-profit or~~ nonprofit entities.

58 (3)(2) APPLICATION.--

59 (a) The Department of Education shall provide an  
 60 application form to be completed by each school seeking to  
 61 participate in the K-8 Virtual School Program. Initial  
 62 application forms must be made available in sufficient time to  
 63 enable schools to apply and be approved to participate in the K-  
 64 8 Virtual School Program by the beginning of the 2007-2008  
 65 school year. In addition to information that may be required by  
 66 the department, applicants must provide verification that:

67 1. The applicant meets the eligibility criteria required  
 68 by this section;

69 2. All members of the school's instructional staff are  
 70 certified professional educators under the provisions of chapter  
 71 1012; and

72 3. All school employees have undergone background  
 73 screening as required by s. 1012.32.

74 (b) In addition to a completed application form, each  
 75 applicant must provide the department with:

76 1. A detailed plan describing how the school curriculum  
 77 and course content will conform to the Sunshine State Standards;  
 78 and

79 2. An annual financial plan for each year of operation of  
 80 the school for a minimum of 3 years. The plan must contain  
 81 anticipated fund balances based on revenue projections, a  
 82 spending plan based on projected revenues and expenses, and a  
 83 description of controls that will safeguard finances and  
 84 projected enrollment trends.

85 (c) The department must approve or deny a school's  
 86 participation in the K-8 Virtual School Program within 90 days  
 87 after receipt of an application.



88 |       ~~(4)(3)~~ PARTICIPATING SCHOOLS.--

89 |       (a) A school approved by the department to participate in  
 90 | the K-8 Virtual School Program shall receive an initial 3-year  
 91 | contract with the department to provide program services,  
 92 | subject to annual department review and legislative  
 93 | appropriation. Contract renewals may be for up to 5 years upon  
 94 | agreement of both parties, contingent upon annual funding in the  
 95 | General Appropriations Act.

96 |       (b) A school approved to participate in the program is  
 97 | deemed to be an independent virtual school providing, on behalf  
 98 | of the state, a program of instruction that is full time, of 180  
 99 | days' duration, and an on-line program of instruction to  
 100 | students in kindergarten through grade 8.

101 |       (c) A school approved to participate in the program must  
 102 | provide each student enrolled in the virtual school with:

- 103 |       1. All necessary instructional materials;
- 104 |       2. All equipment, including, but not limited to, a  
 105 | computer, computer monitor, and printer for each household that  
 106 | has a student enrolled in the virtual school; and
- 107 |       3. Access to or reimbursement for all Internet services  
 108 | necessary for on-line delivery of instruction for each household  
 109 | that has a student enrolled in the virtual school.

110 |       (d) Except as provided in paragraph (7)(b), a K-8 virtual  
 111 | school shall enroll an eligible student who meets the profile  
 112 | for success in this educational delivery context and who submits  
 113 | a timely application, prioritized in accordance with paragraph  
 114 | (1)(b), unless the number of such applications exceeds the  
 115 | capacity of a program. In such case, students who have submitted  
 116 | such applications shall have an equal chance of being admitted

117 | through a random selection process.

118 |       ~~(4) PILOT SCHOOLS.--~~

119 |       ~~(a) The two pilot K-8 virtual schools provided for in the~~  
 120 | ~~2005 General Appropriations Act may continue operation for the~~  
 121 | ~~entire 2006-2007 school year.~~

122 |       ~~(b) With the exception of the application and contracting~~  
 123 | ~~requirements, the pilot schools are subject to the provisions of~~  
 124 | ~~this section for the 2006-2007 school year.~~

125 |       ~~(c) Each pilot school must complete the application~~  
 126 | ~~requirements of this section and be approved by the department~~  
 127 | ~~in order to participate in the K-8 Virtual School Program beyond~~  
 128 | ~~the 2006-2007 school year.~~

129 |       (5) STUDENT ELIGIBILITY.--

130 |       (a) Enrollment in a each participating K-8 virtual school  
 131 | is open to any K-8 student in this state who meets the profile  
 132 | for success in this educational delivery context in accordance  
 133 | with paragraph (1)(b) if the student meets at least one of the  
 134 | following conditions:

135 |           1. Spent the prior school year in attendance at a public  
 136 | school in this state and was enrolled and reported by a public  
 137 | school district for funding during the preceding October and  
 138 | February for purposes of the Florida Education Finance Program  
 139 | surveys;

140 |           2. Was enrolled during the prior school year in a K-8  
 141 | virtual school funded pursuant to this section ~~or from funds~~  
 142 | ~~provided in the 2005 General Appropriations Act;~~

143 |           3. Is eligible to enroll in kindergarten or the first  
 144 | grade; or

145 |           4. Has a sibling who is currently enrolled in a

146 participating K-8 virtual school and was enrolled at the end of  
 147 the prior school year.

148 (b) Students enrolled in a K-8 virtual school are subject  
 149 to the compulsory attendance requirements of s. 1003.21. Student  
 150 attendance must be verified according to procedures of the  
 151 Department of Education.

152 (c) Each student enrolled in a K-8 virtual school must  
 153 take state assessment tests within the student's school district  
 154 of residence, which must provide that student with access to the  
 155 district's testing facilities.

156 (6) FUNDING.--

157 (a) A "full-time equivalent student" for the K-8 Virtual  
 158 School Program shall be as defined in s. 1011.61(1)(c) and  
 159 reported under s. 1011.62(1)(c)1.a. and b. State funding for  
 160 each school participating in the K-8 Virtual School Program  
 161 shall be based on a total program enrollment and amount per  
 162 full-time equivalent student established annually in the General  
 163 Appropriations Act.

164 (b) Full-time equivalent students for the K-8 Virtual  
 165 School Program shall be reported only by the K-8 virtual school  
 166 to the Department of Education in the manner prescribed by the  
 167 department and shall be funded through the Florida Education  
 168 Finance Program. School districts shall report full-time  
 169 equivalent student membership only for courses for which the  
 170 district provides the instruction. Upon proper documentation of  
 171 student enrollment, which must be reviewed and approved by the  
 172 department, payments shall be made to participating schools in  
 173 four equal payments no later than September 1, November 1,  
 174 February 1, and April 15 of each academic year. The initial

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175 ~~payment shall be made after the department verifies each~~  
 176 ~~student's admission to the school, and subsequent payments shall~~  
 177 ~~be made upon verification of the continued enrollment and~~  
 178 ~~attendance of the student.~~

179 (c) The district cost differential as provided in s.  
 180 1011.62(2) shall be established as 1.000.

181 (d) A K-8 virtual school that participates in the K-8  
 182 Virtual School Program shall receive state funds as may be  
 183 provided in the General Appropriations Act.

184 (e) In addition to the funds provided in the General  
 185 Appropriations Act, a K-8 virtual school may receive other funds  
 186 from grants and donations.

187 (7) ASSESSMENT AND ACCOUNTABILITY.--

188 (a) Each K-8 virtual school must participate in the  
 189 statewide assessment program created under s. 1008.22 and shall  
 190 be subject to the school grading system created by s. 1008.34.

191 (b) A K-8 virtual school that has a performance grade  
 192 category of "D" or "F" must file a school improvement plan with  
 193 the department for consultation to determine the causes for low  
 194 performance and to develop a plan for correction and  
 195 improvement. Such a school may not increase its enrollment until  
 196 it achieves a performance grade category of "C" or better.

197 (c) The department shall terminate the contract of any K-8  
 198 virtual school that receives a performance grade category of "D"  
 199 or "F" for 2 years during any consecutive 4-year period.

200 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF A CONTRACT.--

201 (a) At the end of a contract with a K-8 virtual school,  
 202 the department may choose not to renew the contract for any of  
 203 the following grounds:

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204 | 1. Failure to participate in the state's education  
 205 | accountability system created in s. 1008.31, as required in this  
 206 | section;

207 | 2. Failure to receive a school performance grade of "C" or  
 208 | better under the school grading system created by s. 1008.34 for  
 209 | any 2 years in a consecutive 4-year period;

210 | 3. Failure to meet generally accepted standards of fiscal  
 211 | management;

212 | 4. Violation of law;

213 | 5. Failure of the Legislature to fund the program; or

214 | 6. Other good cause shown.

215 | (b) During the term of the contract, the department may  
 216 | terminate the contract for any of the grounds listed in  
 217 | paragraph (a).

218 | (c) If a contract is not renewed or is terminated, the K-8  
 219 | virtual school is responsible for all debts of the school.

220 | (d) If a contract is not renewed or is terminated, a  
 221 | student who attended the school must be allowed to be enrolled  
 222 | in a public school in the county in which the student is a  
 223 | resident.

224 | (9) RULES.--The State Board of Education shall adopt rules  
 225 | under ss. 120.536(1) and 120.54 to administer this section.

226 | Section 2. This act shall take effect July 1, 2007.



STORAGE NAME: h0897.SLC  
DATE: April 6, 2007

Florida House of Representatives  
Summary Claim Bill Report

Bill #: HB 897  
Sponsor: Rep. Peterman  
Companion Bill: SB 74 by Sen. Wilson  
Special Master: Tom Thomas

**A. Basic Information:**

1. **Claimants:** Michelle Allen and the Estate of Brooke Ingoldsby
2. **Respondent:** Pinellas County School Board
3. **Amount Requested:** \$1,300,000
4. **Type of Claim:** Equitable; result of a settlement agreement.
5. **Respondent's Position:** Agrees not to object to the claim bill, provided the claim bill does not exceed \$1,300,000.
6. **Collateral Sources:** The Claimants have received funds from various sources to cover some of the expenses related to this tragic accident. The School Board paid \$200,000, which is the statutory limit authorized under s. 768.28, F.S., and their insurance company paid \$1,000,000 pursuant to an excess insurance policy. Donations of approximately \$10,000 were received from the community and were used to cover funeral expenses. Finally, \$130,000 was received from auto insurance policies.
7. **Attorney's Fees:** The claimant's attorney has submitted documentation that her fees are limited to 25% of the recovery, and lobbying fees are limited to an additional 5% of the recovery. Outstanding costs are estimated to be \$237.
8. **Prior Legislative History:** None.

**B. Procedural Summary:** The Claimants filed a negligence suit against the Pinellas County School Board in the Sixth Judicial Circuit in and for Pinellas County on December 2, 2005. Prior to trial, the parties entered into a settlement agreement whereby the School Board agreed to pay Michelle Allen a total of \$2,500,000, of which \$1,200,000 has already been paid; \$200,000 pursuant to the cap on government liability in s. 768.28(5), F.S., and \$1,000,000 under a School Board excess insurance policy. The settlement includes costs and attorney's fees. The School Board unanimously approved the settlement on January 24, 2006.

**C. Facts of Case:** On February 11, 2005, Brooke Ashlee Ingoldsby rode a Pinellas County School Board bus home from school. Brooke was an eight-year-old third grade student at James B.

Sanderlin Elementary School in Pinellas County, Florida. Brooke's father had passed away and her mother is Michelle Allen. The bus was driven by a substitute driver and employee of the School Board. The substitute driver had never driven this particular route before. The driver had been given an inaccurate route sheet and due to several other factors, was more than one hour behind schedule when he arrived at Brooke's bus stop. Brooke's grandmother had been waiting for more than one hour when she left the bus stop to return to the family's apartment to use the phone to see if she could learn about Brooke's delay. When Brooke's grandmother arrived back at the bus stop, Brooke had been struck by a car trying to cross Ninth Street North.

Brooke was the last student to be dropped off that day. Rather than stopping at Brooke's appointed bus stop (on the west side of Ninth Street North) where Brooke's grandmother had been waiting, the bus driver dropped her off on the east side of Ninth Street North and 90<sup>th</sup> Avenue North. Ninth Street North is an extremely busy four-lane road in Saint Petersburg, Florida. Brooke exited the bus on 90<sup>th</sup> Avenue North and crossed 90<sup>th</sup> Avenue North in front of the bus. After she had crossed 90<sup>th</sup> Avenue North, the bus driver turned off all lights and pulled forward anticipating making a right-hand turn onto Ninth Street North. Before the bus driver made the turn, Brooke proceeded to attempt to cross Ninth Avenue North in order to get to the correct side of the road where she knew her grandmother should be. She made it across the two lanes of northbound traffic and then began to cross the two southbound lanes. Two vehicles were approaching at an estimated speed of forty miles-per-hour, the posted speed limit. The first vehicle saw Brooke and was able to stop before striking her. However, the second vehicle was unable to see Brooke because of the first vehicle blocking his line of sight and struck her at approximately 4:43 pm. At 8:15 pm that evening, on February 11, 2006, Brooke Ashlee Ingoldsby was pronounced dead at Bayfront Medical Center due to internal bleeding and pressure on the heart. She suffered multiple system trauma, head injury, bilateral closed femurs injury, closed right humerus fracture, a severe abrasion to her right waistline, and lung and liver damage.

A police investigation determined that the substitute bus driver had dropped Brooke off on the wrong side of Ninth Street North. The bus driver was unfamiliar with the route and the computer map furnished to the driver was an old version of the route and contained only four of the thirteen appointed stops. The school district was aware of the computer glitch that caused the incorrect map to be printed and had been working for days to correct it. The bus driver phoned a supervisor and was given the additional stops over the phone and was provided the correct stop for Brooke. The driver wrote the correct stop for Brooke on the back of his route sheet as the "west side" of Ninth Street North. Despite receiving the correct information for the stop, the bus driver dropped Brooke off on the east side of Ninth Street North.

SM: \_\_\_\_\_ SD: \_\_\_\_\_ Date: \_\_\_\_\_  
Tom Thomas Stephanie O. Birtman



1 A bill to be entitled

2 An act for the relief of the estate of Brooke Ingoldsby,  
 3 deceased minor child of Michelle Allen, and Michelle  
 4 Allen, parent and natural guardian of Brooke Ingoldsby,  
 5 individually, by the Pinellas County School Board;  
 6 providing for an appropriation to compensate the estate of  
 7 Brooke Ingoldsby, and Michelle Allen, individually, for  
 8 the wrongful death of Brooke Ingoldsby, which was due in  
 9 part to the negligent failure of a county school bus  
 10 driver to secure the safety of children who exit the  
 11 school bus; providing an effective date.

12  
 13 WHEREAS, on February 11, 2005, Brooke Ingoldsby, an 8-year-  
 14 old third grader at James B. Sanderlin Elementary School, was  
 15 being transported home on a school bus of the Pinellas County  
 16 School Board which was driven by an inadequately trained  
 17 substitute bus driver employed by the school board, and

18 WHEREAS, rather than depositing Brooke Ingoldsby, who was  
 19 the last student on the bus, at her appointed bus stop where her  
 20 grandmother was waiting for her, the substitute bus driver  
 21 dropped Brooke Ingoldsby off on the corner of 90th Avenue and  
 22 the east side of 9th Street North, an extremely busy  
 23 thoroughfare in St. Petersburg, Pinellas County, Florida, and

24 WHEREAS, when the substitute bus driver dropped off Brooke  
 25 Ingoldsby, he did not turn on the bus's flashing lights or  
 26 display its stop sign, and

27 WHEREAS, as Brooke Ingoldsby attempted to cross 9th Street  
 28 North, another school bus of the Pinellas County School Board,

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29 | which was also operated by an employee of the school board, was  
 30 | northbound on 9th Street North, and

31 |       WHEREAS, as that school bus was slowing to a stop at the  
 32 | intersection of 90th Avenue and 9th Street North, the driver did  
 33 | not turn on the red flashing lights or extend the stop sign on  
 34 | the side of the bus even though the driver saw southbound  
 35 | traffic approaching the intersection as Brooke Ingoldsby started  
 36 | to cross 9th Street North, and

37 |       WHEREAS, Brooke Ingoldsby was subsequently struck by a  
 38 | southbound sports utility vehicle in the west-most southbound  
 39 | lane of 9th Street North and was pronounced dead 3 hours later  
 40 | at Bayfront Medical Center, and

41 |       WHEREAS, Brooke Ingoldsby suffered multisystem trauma, head  
 42 | injury, bilateral closed femur injury, a closed right humerus  
 43 | fracture, and a severe abrasion to her right waistline, and

44 |       WHEREAS, it was later determined that the substitute bus  
 45 | driver was uncertain where to allow Brooke Ingoldsby to exit the  
 46 | school bus and was given an incomplete drop-off schedule, and

47 |       WHEREAS, before this accident, Brooke Ingoldsby's mother,  
 48 | Michelle Allen, had made numerous complaints to the Pinellas  
 49 | County School Board regarding the lack of safety of the children  
 50 | in the school district's transportation system, and

51 |       WHEREAS, the Pinellas County School Board admitted  
 52 | liability for Brooke Ingoldsby's death and agreed to pay the  
 53 | total sum of \$2.5 million for the damages and losses sustained  
 54 | by the estate of Brooke Ingoldsby and for the losses suffered by  
 55 | Brooke Ingoldsby's mother, Michelle Allen, and

56 |       WHEREAS, judgment was entered in the amount of \$2.5

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57 million, including \$200,000 in damages and losses sustained by  
 58 the estate of Brooke Ingoldsby and \$2.3 million for the losses  
 59 suffered by Brooke Ingoldsby's mother, Michelle Allen, and

60 WHEREAS, the school district has paid \$100,000 to the  
 61 estate and \$100,000 for the losses suffered by Michelle Allen,  
 62 thus exhausting the limits of the waiver of sovereign immunity,  
 63 and

64 WHEREAS, the school district maintained a liability policy  
 65 of \$1 million, which was paid to Michelle Allen, and

66 WHEREAS, the remaining sums owed under the judgment include  
 67 \$100,000, which is owed to the estate, and \$1.2 million, which  
 68 is owed to Michelle Allen, NOW, THEREFORE,

69  
 70 Be It Enacted by the Legislature of the State of Florida:

71  
 72 Section 1. The facts stated in the preamble to this act  
 73 are found and declared to be true.

74 Section 2. The Pinellas County School Board is authorized  
 75 and directed to appropriate from funds of the school board not  
 76 otherwise encumbered and to draw a warrant payable to the estate  
 77 of Brooke Ingoldsby, decedent minor, for the total amount of  
 78 \$100,000 as compensation to the estate of Brooke Ingoldsby for  
 79 the wrongful death of Brooke Ingoldsby as a result of the  
 80 negligence of the Pinellas County School Board.

81 Section 3. The Pinellas County School Board is authorized  
 82 and directed to appropriate from funds of the school board not  
 83 otherwise encumbered and to draw a warrant payable to Michelle  
 84 Allen, parent and natural guardian of Brooke Ingoldsby, her

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85 deceased minor child, for the total amount of \$1.2 million for  
86 the wrongful death of her daughter, Brooke Ingoldsby, as a  
87 result of the negligence of the Pinellas County School Board.

88 Section 4. This act shall take effect upon becoming a law.





## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – The bill authorizes the Board of Governors to delegate to a university board of trustees the authority to establish an academic enhancement fee.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

Section 1001.705(2)(c), F.S., delineates the constitutional duties of the Legislature with regard to state universities. This includes establishing tuition and fees.

Section 1009.01, F.S., defines “tuition” as the basic fee charged to a student for instruction provided by a public postsecondary educational institution.

Section 1009.24, F.S., provides specific statutory authority and guidelines for the fees and fines that state universities may assess. These include: tuition; out-of-state fees; activity and service fees; health fees; athletic fees; a financial aid fee; a Capital Improvement Trust Fund fee; a building fee; and a variety of user fees and fines. Except as otherwise provided by law, undergraduate tuition is established annually in the General Appropriations Act. The Board of Governors, or the board’s designee, may establish tuition for graduate and professional programs and out-of-state fees for all programs in accordance with guidelines included in s. 1009.24(3), F.S. The sum of tuition and out-of-state fees assessed to nonresident students must be sufficient to offset the full instructional cost of serving such students. However, any adjustments to out-of-state fees or tuition for graduate and professional programs are limited to 10 percent in any year. The aggregate sum of the activity and service, health, and athletic fees may not exceed 40 percent of tuition. Any increase in the aggregate sum of these three fees is limited to 5 percent annually.

The value of awards from the Bright Futures Scholarship Program range from the amount required to pay 75% of tuition and fees at a public postsecondary education institution (Medallion Scholars and Gold Seal Scholars) up to the amount required to pay 100% of tuition and fees at a public postsecondary education institution, plus \$600 per year for college-related expenses annually (Academic Scholars).<sup>1</sup>

The Stanley G. Tate Florida Prepaid College Program (Prepaid Program) was created by the Florida Legislature to provide a medium through which the cost of registration and dormitory residence could be paid in advance at a rate lower than the projected corresponding cost at the time of actual enrollment. Students who enroll in a state postsecondary institution pursuant to the provisions of s. 1009.98, F.S., are to be charged no fees in excess of the terms delineated in the student’s advance payment contract.<sup>2</sup> The Prepaid Program offers advanced payment contracts for tuition plans, local fee plans, and dormitory plans. The tuition plans cover the registration fees associated with a specific number of hours of enrollment. Registration fees are defined in law to include tuition, the building fee, capital improvement fee, and student financial aid fee. As of June 30, 2006, a total of 1,146,676 Prepaid Plans have been purchased statewide and enrollment is growing.<sup>3</sup>

During its November 16, 2006 meeting, the Board of Governors approved a motion to establish an Academic Enhancement Program and to request legislative authorization for the Board of Governors to

<sup>1</sup> See ss. 1009.534, 1009.535, and 1009.536, F.S.

<sup>2</sup> See s. 1009.98, F.S.

<sup>3</sup> Florida House of Representatives, *Education Fact Sheets 2007*

delegate authority to a university board of trustees to implement a new student fee to support the program. The Board of Governors approved the University of Florida to serve as the pilot for implementation of the program. The proposal presented during the meeting by representatives of the University of Florida (UF) indicates that UF plans to implement the program with new, incoming undergraduate students for the 2007-2008 year. According to documents distributed during the meeting:

- New, incoming undergraduate students will be assessed an academic enhancement fee of \$500 per semester. Current students will not be affected.
- 100% of all new revenue will be earmarked for 200 new faculty and 100 new academic advisers.
- Students demonstrating financial need will not be burdened.
- The program will be monitored by the UF Board of Trustees and reviewed by the Board of Governors periodically.

### **Effect of Proposed Changes**

HB 905 permits the Board of Governors to delegate to a university board of trustees the authority to establish an academic enhancement fee to support an academic enhancement program approved by the Board of Governors. The bill stipulates that the academic enhancement fee will not be subject to statutory provisions governing the Florida Bright Futures Scholarship Program.

The bill provides no guidelines as to the amount of the fee, who would pay the fee, when the fee would go into effect, or how the fee revenues must be used other than to support “an academic enhancement program approved by the Board of Governors.”

The bill includes no guidelines or criteria to guide the approval or disapproval of the academic enhancement programs. As noted previously, to date, the Board of Governors has only approved an academic enhancement program at one state university – the University of Florida. The Board of Governors has not discussed any proposals with regard to the other state universities.<sup>4</sup> It is not known at this time how many other universities may seek to establish a similar program or what criteria the Board of Governors would use in reaching a decision to approve or deny such proposals.

The impact on the Prepaid Program is not clear. The bill is silent with regard to the Prepaid Program. The University of Florida has indicated that revenues from the academic enhancement fee will be used, in part, to hire additional faculty. Because it will be used to support instructional activities, the fee could be considered a form of “tuition” even though it is not called “tuition”. If the new “fee” is determined to be a part of tuition, the Florida Prepaid Tuition Board could be required to pay the amount on behalf of its contract holders. This could have a significant impact on the actuarial reserves of the Prepaid College Trust Fund.<sup>5</sup>

### **C. SECTION DIRECTORY:**

**Section 1:** Amends s. 1009.24, F.S., authorizing the establishment of an academic enhancement fee to support certain programs approved by the Board of Governors.

**Section 2:** Provides an effective date of July 1, 2007.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

<sup>4</sup> Florida Board of Governors bill analysis of HB 905

<sup>5</sup> Florida Prepaid College Board bill analysis of HB 905



1. Revenues:  
See FISCAL COMMENTS.
2. Expenditures:  
See FISCAL COMMENTS.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.
2. Expenditures:  
None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill stipulates that the fee is not covered by the Bright Futures Scholarship Program so families who may rely on that program to cover a portion of the costs associated with attending a state university will incur additional costs they may not have expected.

If the fee is not covered by the Prepaid Program, contract holders will incur additional costs in attending a state university approved to establish an academic enhancement program.

**D. FISCAL COMMENTS:**

The fiscal impact of the bill is indeterminate. The bill provides no guidelines as to the amount of the fee, who will pay the fee, or when the fee will go into effect.

In addition, the bill provides no guidelines or criteria to guide the approval or disapproval of proposals for academic enhancement programs from other institutions. To date, the Board of Governors has approved an academic enhancement program at one state university – the University of Florida. However, it is not known at this time how many other universities may wish to establish a similar program or what criteria the Board of Governors would use in reaching a decision regarding such proposals.

The University of Florida has indicated that its program will charge all new, full-time undergraduates \$500 per fall and spring term, beginning in the 2007-08 academic year. Estimates provided by the Board of Governors project increased revenues of \$8,450,000 for the first year of the program; \$16,901,000 for the second year of the program; and, \$25,351,500 for the third year of the program.<sup>6</sup>

The impact on the Prepaid Program is not clear. The bill is silent with regard to the program. Because the University of Florida has indicated that fee revenues will be used, in part, to hire additional faculty to provide instruction, the fee could be considered a form of "tuition" even though it is not called "tuition". If the new "fee" is determined to be a part of tuition, the Florida Prepaid Tuition Board could be required to pay the amount on behalf of its contract holders. At the request of the Florida Prepaid College Board, Ernst & Young estimated that the fee would have the following fiscal impact on the Prepaid College Trust Fund if the Prepaid Board is required to cover the fee for existing customers:

If the academic enhancement fee is implemented statewide and the Prepaid Board is required to pay the fee for existing customers, the liability will total \$1.450 billion. The actuarial reserve

of the Prepaid College Trust Fund would be reduced from \$586 million to a negative \$864 million.

If the academic enhancement fee is implemented only at the University of Florida and the Prepaid Board is required to pay the fee for existing customers, the liability will total \$326 million. The actuarial reserve of the Prepaid College Trust Fund would be reduced from \$586 million to \$260 million.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

Section 1001.705(2)(c), F.S., delineates the constitutional duties of the Legislature with regard to state universities. This includes establishing tuition and fees.

Because the establishment of tuition and fees is a constitutional duty of the Legislature, delegation of that responsibility, absent sufficient guidelines, may represent unlawful delegation of legislative authority and violate the separation of powers doctrine.

Florida's separation of powers doctrine aims to avoid an excessive concentration of power. Florida courts have opted for a formal interpretation. As a result, this makes it difficult for the Legislature to delegate decision-making authority to agencies and private organizations. The constitution's language is very explicit. Article II, Section 3, provides, "no person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein."

The Florida Supreme Court, in *Askew v. Cross Key Waterways*, 372 So.2d 913 (Fla. 1978), provided a framework for measuring the constitutionality of legislative power delegations. The court adopted a formal interpretation of the delegation-of-powers doctrine. It acknowledged that "[w]here the Legislature makes the fundamental policy decision and delegates to some other body the task of implementing that policy under adequate safeguards, there is no violation of the doctrine." *Id.* at 921 (quoting *C.E.E.D., v. California Coastal Zone Conservation Commission*, 43 Cal.App.3d 306, 325 (Cal. App. 4 Dist. 1974)). However, the court warned, "[w]hen legislation is so lacking in guidelines that neither the agency nor the courts can determine whether the agency is carrying out the intent of the legislature in its conduct, then, in fact, the agency becomes the lawgiver rather than the administrator of the law." *Id.* at 918-919.

The Legislature must promulgate standards sufficient to guide administrative agencies in the performance of their duties. *Avatar Development Corporation v. State*, 723 So.2d 199 (Fla. 1998); *Florida Gas Transmission Company v. Public Service Commission*, 635 So.2d 941 (Fla. 1994); *Miami Dolphins, Ltd. V. Metropolitan Dade County*, 394 So.2d 981 (Fla. 1981); *Lewis v. Bank of Pasco County*, 346 So.2d 53 (Fla. 1977); *Flesch v. Metropolitan Dade County*, 240 So.2d 504 (Fla. 3d DCA 1970).

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Section 1009.01, F.S., defines "tuition" as the basic fee charged to a student for instruction provided by a public postsecondary educational institution. The University of Florida has indicated that revenues from the academic enhancement fee will be used, in part, to hire additional faculty. Use of the term "fee" to describe the proposed charge appears to be inconsistent with the current statutory definition of tuition.

**D. STATEMENT OF THE SPONSOR**

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 27, 2007, the Committee on Postsecondary Education adopted a strike-all amendment to HB 905. The amendment:

- Limits the authority to assess an academic enhancement fee to the University of Florida.
- Authorizes the fee to be implemented beginning Fall 2008.
- Authorizes the fee to be assessed to any student who registers for an undergraduate course; includes the fee within the 40% cap on local fees and excludes the aggregate sum of the activity and service, health, athletic, and academic enhancement fees from the 5% cap on annual increases to these fees (*These provisions do not apply to new undergraduates who enter the University of Florida in Fall 2012 or thereafter*).
- Sets the academic enhancement fee at \$500 per semester or \$1,000 per year, whichever is less, for new undergraduate students who enter the University of Florida in Fall 2012 or thereafter.
- Provides that the fee is not covered by the Florida Bright Futures Scholarship Program for new undergraduate students entering the University of Florida in Fall 2012 or thereafter.
- Requires proceeds from the fee to be used to hire additional faculty and counselors to serve undergraduate students, improve the undergraduate student-faculty ratio, reduce class-size in undergraduate classes; and offer more high demand courses.
- Requires the University of Florida to provide grant aid or a fee waiver for the following students:
  - Any student who demonstrates financial need unless the fee would otherwise be covered by the Florida Bright Futures Scholarship Program;
  - Any student who is the beneficiary of an advanced payment contract issued by the Florida Prepaid College Board and entered into prior to July 1, 2007, unless the fee would otherwise be covered by the Florida Bright Futures Scholarship Program.
- Requires an annual report.
- Authorizes the Florida Prepaid College Board to provide an advanced payment contract to cover the academic enhancement fee.
- Exempts the Florida Prepaid College Board and the Florida Prepaid College Trust Fund from all payment of academic enhancement fees unless the beneficiary has an advanced payment contract that specifically covers the academic enhancement fee.

1                                   A bill to be entitled  
 2           An act relating to state university student fees; amending  
 3           s. 1009.24, F.S.; authorizing the establishment of an  
 4           academic enhancement fee to support an academic  
 5           enhancement program approved by the Board of Governors of  
 6           the State University System; providing restrictions;  
 7           providing an effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Subsections (12), (13), and (14) of section  
 12   1009.24, Florida Statutes, are renumbered as subsections (13),  
 13   (14), and (15), respectively, and a new subsection (12) is added  
 14   to that section to read:

15           1009.24 State university student fees.--

16           (12) The Board of Governors may delegate to a university  
 17   board of trustees the authority to establish an academic  
 18   enhancement fee as required to support an academic enhancement  
 19   program approved by the Board of Governors. This fee is not  
 20   subject to the provisions of ss. 1009.53, 1009.534, 1009.535,  
 21   and 1009.536.

22           Section 2. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 905

COUNCIL/COMMITTEE ACTION

ADOPTED                                    \_\_\_ (Y/N)  
ADOPTED AS AMENDED                    \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION                Y (Y/N)  
FAILED TO ADOPT                         \_\_\_ (Y/N)  
WITHDRAWN                                \_\_\_ (Y/N)  
OTHER                                        \_\_\_\_\_

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1 Council/Committee hearing bill: Committee on Postsecondary  
2 Education

3 Representative(s) Dean offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 1009.245, Florida Statutes, is created  
8 to read:

9 1009.245 University of Florida Academic Enhancement Pilot  
10 Program.--

11 (1) The University of Florida Board of Trustees is  
12 authorized to establish an academic enhancement fee to support  
13 the academic enhancement pilot program approved by the Board of  
14 Governors to improve the quality of education provided to  
15 undergraduate students at the University of Florida. The fee may  
16 be implemented beginning Fall 2008.

17 (a) Except as otherwise provided in this section and  
18 notwithstanding any other provision of law to the contrary, the  
19 sum of the activity and service, health, and athletic fees  
20 authorized pursuant to s. 1009.24 and the academic enhancement  
21 fee authorized pursuant to this section shall not exceed 40  
22 percent of the undergraduate tuition established in law or in

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

23 the General Appropriations Act. Annual increases in the  
24 aggregate sum of the activity and service, health, athletic, and  
25 academic enhancement fees are not subject to the 5 percent cap  
26 imposed by s. 1009.24. The provisions of this paragraph shall  
27 not apply to new undergraduate students who enter the University  
28 of Florida in Fall 2012 or thereafter.

29 (b) Except as otherwise provided in this section, the  
30 academic enhancement fee may be assessed to any student who  
31 registers for an undergraduate course.

32 (c) An increase in the academic enhancement fee may occur  
33 only once each fiscal year and must be implemented beginning  
34 with the fall term.

35 (d) Effective with new undergraduate students entering the  
36 University of Florida in Fall 2012 and thereafter, the academic  
37 enhancement fee may not exceed \$500 per semester or \$1,000 per  
38 year, whichever is less.

39 (e) The proceeds from the academic enhancement fee  
40 authorized by this section shall be used to hire additional  
41 tenure-track faculty and academic counselors to serve  
42 undergraduate students, improve the undergraduate student-  
43 faculty ratio, reduce the class size in undergraduate courses,  
44 and offer more high-demand undergraduate courses.

45 (3) Except as otherwise provided in this section, the  
46 University of Florida shall provide grant aid or a waiver from  
47 the academic enhancement fee authorized by this section for:

48 (a) Any student who demonstrates financial need by  
49 completing the Free Application for Federal Student Aid unless  
50 the fee would otherwise be covered by the Florida Bright Futures  
51 Scholarship pursuant to the provisions of this section. A  
52 student is not required to receive a Pell Grant to be eligible  
53 for the grant aid or waiver required by this paragraph.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

54 (b) That portion of the academic enhancement fee not  
55 covered by the Florida Bright Futures Scholarship Program for  
56 any student who receives a Florida Medallion Scholars award or a  
57 Florida Gold Seal Vocational Scholars award if the student  
58 entered the University of Florida prior to Fall 2012 and is the  
59 beneficiary of an advanced payment contract issued pursuant to  
60 s. 1009.98 and entered into prior to July 1, 2007.

61 (c) Any student who is the beneficiary of an advanced  
62 payment contract issued pursuant to s. 1009.98 and entered into  
63 prior to July 1, 2007, if the student entered the University of  
64 Florida prior to Fall 2012 and is not eligible to receive an  
65 award from the Florida Bright Futures Scholarship Program.

66 (d) Any student who enters the University of Florida in  
67 Fall 2012 or thereafter and is the beneficiary of an advanced  
68 payment contract issued pursuant to s. 1009.98 and entered into  
69 prior to July 1, 2007.

70 (4) Effective with new undergraduate students entering the  
71 University of Florida in Fall 2012 and thereafter, and  
72 notwithstanding any other provision of law to the contrary, the  
73 academic enhancement fee authorized by this section is not  
74 covered by the Florida Bright Futures Scholarship Program  
75 established pursuant to ss. 1009.53-1009.536.

76 (5) The University of Florida shall report annually by  
77 December 1 to the Board of Governors, the Executive Office of  
78 the Governor, the President of the Senate, and the Speaker of  
79 the House of Representatives on the revenues collected pursuant  
80 to this section, the number of students paying the fee, the  
81 number of students for whom grant aid was provided or the fee  
82 was waived, the number of new faculty hired from fee revenues,  
83 the number of new academic counselors hired from fee revenues,  
84 improvements in the student-faculty ratio, improvements in

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

85 undergraduate class size, increases in the number of  
86 undergraduate course offerings, improvements in retention rates,  
87 and improvements in graduation rates.

88 Section 2. Paragraph (b) of subsection (2) and subsection  
89 (7) of section 1009.98, Florida Statutes are  
90 amended to read:

91 1009.98 Stanley G. Tate Prepaid College Program.--

92 (2) PREPAID COLLEGE PLANS.--At a minimum, the board shall  
93 make advance payment contracts available for two independent  
94 plans to be known as the community college plan and the  
95 university plan. The board may also make advance payment  
96 contracts available for a dormitory residence plan. The board  
97 may restrict the number of participants in the community college  
98 plan, university plan, and dormitory residence plan,  
99 respectively. However, any person denied participation solely on  
100 the basis of such restriction shall be granted priority for  
101 participation during the succeeding year.

102 (b)1. Through the university plan, the advance payment  
103 contract shall provide prepaid registration fees for a specified  
104 number of undergraduate semester credit hours not to exceed the  
105 average number of hours required for the conference of a  
106 baccalaureate degree. Qualified beneficiaries shall bear the  
107 cost of any laboratory fees associated with enrollment in  
108 specific courses. Each qualified beneficiary shall be classified  
109 as a resident for tuition purposes pursuant to s. 1009.21,  
110 regardless of his or her actual legal residence.

111 2. Effective July 1, 1998, the board may provide advance  
112 payment contracts for additional fees delineated in ss.  
113 1009.24(8)-(11), for a specified number of undergraduate  
114 semester credit hours not to exceed the average number of hours  
115 required for the conference of a baccalaureate degree, in



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

116 conjunction with advance payment contracts for registration  
117 fees. Such contracts shall provide prepaid coverage for the sum  
118 of such fees, to a maximum of 45 percent of the cost of  
119 registration fees. University plan contracts purchased prior to  
120 July 1, 1998, shall be limited to the payment of registration  
121 fees as defined in s. 1009.97.

122 3. Effective July 1, 2007, the board may provide advance  
123 payment contracts for the academic enhancement fee authorized in  
124 s. 1009.245, for a specified number of undergraduate semester  
125 credit hours not to exceed the average number of hours required  
126 for the conference of a baccalaureate degree, in conjunction  
127 with advance payment contracts for registration fees.

128 (7) OBLIGATIONS OF BOARD.—

129 (a) The state shall agree to meet the obligations of the  
130 board to qualified beneficiaries if moneys in the fund fail to  
131 offset the obligations of the board. The Legislature shall  
132 appropriate to the Florida Prepaid College Trust Fund the amount  
133 necessary to meet the obligations of the board to qualified  
134 beneficiaries.

135 (b) Notwithstanding any other provision of law to the  
136 contrary, the Florida Prepaid College Board and the Florida  
137 Prepaid College Trust Fund are exempt from all payment of the  
138 fee assessed pursuant to s. 1009.245, Florida Statutes, on  
139 behalf of all contract beneficiaries except those with advance  
140 payment contracts provided by the Florida Prepaid College Board  
141 for the fee authorized pursuant to s. 1009.245, Florida  
142 Statutes.

143 Section 4. This act shall take effect July 1, 2007.

144 ===== T I T L E A M E N D M E N T =====

145 Remove the entire title and insert:

146 A bill to be entitled

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

147 An act relating to state university student fees; creating  
148 s. 1009.245, F.S.; authorizing the establishment of an  
149 academic enhancement fee at the University of Florida to  
150 support the academic enhancement program approved by the  
151 Board of Governors of the State University System;  
152 providing guidelines; providing exceptions; providing for  
153 use of proceeds; requiring grant aid or waivers for  
154 certain students; providing restrictions; requiring an  
155 annual report; amending s. 1009.98, F.S.; authorizing the  
156 Florida Prepaid College Board to provide advance payment  
157 contracts for the academic enhancement fee; providing  
158 exemptions; providing an effective date.

159





## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate the House principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Educational Facilities

Current law requires the SBE to adopt rules authorizing state and local officials to cooperate in establishing and maintaining educational facilities.<sup>1</sup> Florida law encourages school districts, community colleges, and state universities to implement energy conservation measures for reducing energy consumption and costs. These entities are also encouraged to improve facilities' indoor air quality and improve energy efficiency.<sup>2</sup> Such entities may contract with energy performance contractors to assist it in meeting these goals.<sup>3</sup> When feasible, Florida law provides that educational facilities must be constructed using low energy use designs, solar energy, or waste heat recovery systems.<sup>4</sup>

##### U.S. Green Building Council

The USGBC is a national building industry organization that promotes environmentally friendly building practices. The USGBC is a nonprofit organization consisting of 7,500 member organizations and 75 regional chapters. According to the USGBC, its core purpose is "to transform the way buildings and communities are designed, built and operated, enabling an environmentally and socially responsible, healthy, and prosperous environment that improves the quality of life."<sup>5</sup> The USGBC provides resources and conducts workshops to educate and assist members of the building industry, state and local governments, and the general public in implementing green building practices.<sup>6</sup> There are four USGBC chapters in Florida.<sup>7</sup>

##### Leadership in Energy and Environmental Design

Developed by the USGBC, the LEED building rating system "is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings."<sup>8</sup> LEED is a rating system that measures a building's environmental performance in five categories:

- Sustainable site development;
- Water savings;
- Energy efficiency;
- Materials selection, and
- Indoor environmental quality.

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<sup>1</sup> Section 1013.37, F.S. Development and publication of the state uniform building code for public educational facilities construction is provided for in Rule 6A-2.0010, F.A.C. and *available at* <http://www.firm.edu/doe/edfacil/sref.htm>.

<sup>2</sup> Section 1013.23, F.S.

<sup>3</sup> Id.

<sup>4</sup> Section 1013.44, F.S.

<sup>5</sup> U.S. Green Building Council, About USGBC *available at* <http://www.usgbc.org/DisplayPage.aspx?CategoryID=1>.

<sup>6</sup> Id.

<sup>7</sup> U.S. Green Building Council, Chapters *available at* <http://www.usgbc.org/Chapters/ChapterList.aspx?CMSPageID=&190&CategoryID=24&>.

<sup>8</sup> U.S. Green Building Council, Leadership in Energy and Environmental Design *available at* <http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>.

Each category consists of various subtopics. Each subtopic is assigned a point value. A building is rated based on its total number of points and assigned one of four certification levels: "certified," "silver," "gold," and "platinum."<sup>9</sup>

### **Effect of Proposed Changes**

House Bill 1257 establishes the Green Schools Pilot Project to enable selected school districts to utilize LEED silver or higher building certification standards in new building projects and in the renovation of existing schools. The bill requires the DOE, in consultation with the Florida Energy Office, to establish an application process for the pilot project by August 1, 2007. The bill requires the SBE to select three school districts for participation in the pilot project by August 1, 2008. One school district each must be selected from each of the following:

- A county with a population of one million or more residents;
- A county with a population 250,000 to 999,999 residents; and
- A county with a population of less than 250,000 residents.

To the extent feasible, selected school districts must represent geographically different regions of the state.

The bill requires each of the three participating school district to build a minimum of one school that meets the LEED silver or higher certification standards. The bill provides for such schools to be designated as "green schools." Each participating district must submit a report on the effects that green schools have on student health and performance, operational costs, energy consumption, and the environment. This report must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1 of the third full year that a green school has been in operation.

The bill establishes the Green Schools Grant Program within the DOE to fund selected school districts' participation in the pilot project. The bill appropriates \$3.5 million in general revenues to the DOE. The funds are to be used by selected school districts to cover the additional costs associated with building one elementary, one middle, and one high school to LEED silver or higher building certification standards. Notwithstanding ss. 216.301 and pursuant to 216.351, F.S., the bill provides that unused Green Schools Grant Program funds shall be retained by the DOE for uses associated with the pilot project.

#### **C. SECTION DIRECTORY:**

**Section 1.:** Creating s. 1013.441, F.S.; establishing the Green Schools Pilot Project; requiring the DOE to establish an application process; requiring the SBE to select three school districts and providing specifications for school district selection; establishing the Green Schools Grant Program; providing an appropriation; and requiring participating school districts to submit a report to the Governor, President of the Senate, and the Speaker of the House of Representatives.

**Section 2.:** Providing an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

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<sup>9</sup> LEED for Schools for New Construction and Renovation *available at* <http://www.usgbc.org/ShowFile.aspx?DocumentID=1753>.

This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

This bill appropriates \$3.5 million from general revenues to fund the pilot project.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

The bill establishes the Green Schools Grant Program within the DOE to fund selected school districts' participation in the pilot project. The bill appropriates \$3.5 million in general revenues to the DOE. Such funds must be used to offset higher construction costs incurred by participating districts when building green schools. Notwithstanding ss. 216.301 and pursuant to 216.351, F.S., the bill provides that unused Green Schools Grant Program funds shall be retained by the DOE for uses associated with the pilot project.

Research indicates that the initial cost of building green schools is more expensive than conventional building methods. Increased construction costs are attributed to use of more expensive building materials, more efficient mechanical systems, better design, modeling, and integration.<sup>10</sup> "Green schools" employ environmentally friendly design features that exploit "daylighting" and natural ventilation patterns as well as more efficient heating and cooling systems. Research indicates that, once constructed, "green schools" experience significant operational cost savings resulting from reduced energy consumption and improved energy efficiency.<sup>11</sup> Thus, initial construction costs for green schools may be higher than the cost to build schools using traditional methods. However, green school's increased energy efficiency and reduced energy consumption may result in long term operational cost savings to school districts.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

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<sup>10</sup> Gregory Kats, Capital-E, Greening America's Schools: Costs and Benefits (October 2006) *available at* <http://www.cap-e.com/publications/default.cfm>; See also Gregory Kats, Capital-E, The Costs and Financial Benefits of Green Buildings, A Report to California's Sustainable Building Task Force (October 2003) *available at* <http://www.cap-e.com/ewebeditpro/items/O59F3259.pdf>.

<sup>11</sup> *Id.*

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

This bill does not appear to create, modify, or eliminate rulemaking authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Subsection (4) of the bill requires each of the three participating school district to build *a minimum of one school* that meets the LEED silver or higher certification standards. Subsection (6), which provides an appropriation for the pilot program, states that appropriated funds are to be used by selected school districts to cover the additional costs associated with building one elementary, one middle, and one high school to LEED silver or higher building certification standards. Consideration might be given to clarifying the number and type of schools that a participating school district must build.

**D. STATEMENT OF THE SPONSOR**

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 27, 2007, the Committee on Education Innovation and Career Preparation adopted one amendment and reported the bill favorably as amended. The amendment:

- Requires three school districts to be selected for the pilot program; whereas, the bill provided that “a maximum” of three school districts could be selected.
- Permits participating school districts to build any type of school; whereas, the bill required the construction of one elementary, one middle, and one high school.
- Authorizes the SBE when evaluating applicants for participation in the program to target districts that have a high percentage of environmentally inefficient schools or districts that suggest innovative methods to improve environmental efficiency.
- Requires districts selected for the program to demonstrate sound financial practices and to engage design teams with experience in green building construction.
- Requires participating districts to annually report expenditures to the DOE for review. Districts must return funds improperly expended, as well as funds received for buildings that are not certified to silver-level or better standards within one year of completion.



1                   A bill to be entitled  
 2           An act relating to educational facilities; creating s.  
 3           1013.441, F.S.; establishing the Green Schools Pilot  
 4           Project to enable selected school districts to comply with  
 5           certain building certification standards; providing for an  
 6           application and selection process for participation in the  
 7           pilot project; providing minimum requirements for  
 8           participation; establishing the Green Schools Grant  
 9           Program through which funds shall be made available to  
 10          participating school districts; providing an appropriation  
 11          and specifying that funds shall not revert; requiring  
 12          reporting; providing an effective date.

13  
 14 Be It Enacted by the Legislature of the State of Florida:

15  
 16           Section 1. Section 1013.441, Florida Statutes, is created  
 17 to read:

18           1013.441 Green Schools Pilot Project.--

19           (1) The Legislature recognizes that it is both cost  
 20 effective and healthy for citizens and the environment to build  
 21 schools that maximize low water usage and the use of energy  
 22 efficiencies, renewable energy, and recycling technologies. As  
 23 such, there is established the Green Schools Pilot Project to  
 24 create a program for selected school districts to utilize  
 25 Leadership in Energy and Environmental Design (LEED) silver-  
 26 level or better building certification standards in new  
 27 educational building construction projects and, where feasible,  
 28 in educational building renovation projects.

29 (2) LEED building certification standards are defined by  
 30 the U.S. Green Building Council and address the total impact  
 31 that new buildings have on the environment so as to maximize  
 32 their energy efficiency and to minimize their adverse  
 33 environmental impacts.

34 (3) The Department of Education in consultation with the  
 35 Florida Energy Office shall develop by August 1, 2007, an  
 36 application process for school districts to participate in the  
 37 pilot project. A maximum of three school districts shall be  
 38 selected by the State Board of Education by January 1, 2008, to  
 39 participate in the pilot project. One school district shall be  
 40 in a county with a population of 1 million or more residents;  
 41 one school district shall be in a county with a population of  
 42 250,000 to 999,999 residents; and one school district shall be  
 43 in a county with a population under 250,000 residents. School  
 44 districts selected to participate in the pilot project shall, to  
 45 the greatest extent possible, represent geographically different  
 46 regions of the state.

47 (4) At a minimum, each school district selected to  
 48 participate in the pilot project must build one complete school  
 49 to the LEED silver-level or better building certification  
 50 standards. Schools built to such building certification  
 51 standards shall be designated as "Green Schools."

52 (5) The Green Schools Grant Program is established in the  
 53 Department of Education through which funds appropriated by the  
 54 Legislature shall be allocated to school districts selected for  
 55 participation in the pilot project.

56        (6) There is hereby appropriated from the General Revenue  
 57 Fund to the Department of Education for fiscal year 2007-2008  
 58 the sum of \$3.5 million to cover the additional costs of  
 59 building one elementary school, one middle school, and one high  
 60 school to the LEED silver-level or better building certification  
 61 standards. The Legislature may appropriate funds to cover  
 62 additional costs to meet the LEED silver-level or better  
 63 building certification standards for other school construction  
 64 projects of a participating school district. Notwithstanding s.  
 65 216.301 and pursuant to s. 216.351, undisbursed balances of  
 66 appropriations for the Green Schools Grant Program shall not  
 67 revert to the General Revenue Fund but shall be retained by the  
 68 Department of Education to be used for the purposes of this  
 69 section.

70        (7) School districts selected for participation in the  
 71 pilot project shall deliver to the Governor, the President of  
 72 the Senate, and the Speaker of the House of Representatives a  
 73 report on the effects Green Schools have had on student  
 74 performance and health, operational costs, energy consumption,  
 75 and the environment. This report shall be submitted by July 1 of  
 76 the year after a Green School has been in full operation for a  
 77 period of 3 years.

78        Section 2. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 1257**

COUNCIL/COMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Education Innovation and Career  
 2 Preparation  
 3 Representative Richardson offered the following:

**Amendment (with title amendment)**

Remove lines 34-77 and insert:

7 (3) (a) The Department of Education in consultation with the  
 8 Florida Energy Office shall develop by August 1, 2007, an  
 9 application process for school districts to participate in the  
 10 pilot project. Three school districts shall be selected by the  
 11 State Board of Education by January 1, 2008, to participate in  
 12 the pilot project. One school district shall be in a county with  
 13 a population of 1 million or more residents; one school district  
 14 shall be in a county with a population of 250,000 to 999,999  
 15 residents; and one school district shall be in a county with a  
 16 population under 250,000 residents. School districts selected to  
 17 participate in the pilot project shall, to the greatest extent  
 18 possible, represent geographically different regions of the  
 19 state.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

20 (b) At a minimum, each school district selected by the  
21 State Board of Education to participate in the pilot project  
22 must:

23 1. Demonstrate that it implements sound financial  
24 management practices.

25 2. Engage a design team with demonstrated knowledge and  
26 experience in high-performance green building construction.

27 3. Commit to building at least one complete school to the  
28 LEED silver-level or better building certification standards.  
29 Schools built to such building certification standards shall be  
30 designated as "Green Schools."

31 (c) When selecting school districts to participate in the  
32 pilot project, evaluation criteria implemented by the State  
33 Board of Education may include, but are not limited to,  
34 targeting school districts with a high percentage of  
35 environmentally inefficient schools or school districts that  
36 propose innovative methods to improve water savings, energy  
37 efficiency, or indoor environmental quality.

38 (4) (a) From funds appropriated for the Green Schools Pilot  
39 Program, the Department of Education shall distribute to each  
40 participating school district an amount sufficient to fund the  
41 additional costs required to build one complete school to LEED  
42 silver-level or better building certification standards. If  
43 funds remain after the distribution, such funds may be  
44 distributed by the Department of Education to one or more of the  
45 participating school districts to fund the additional costs  
46 required to build other new schools, or to renovate existing  
47 schools, to LEED silver-level or better building certification  
48 standards.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

49 (b) Participating school districts must annually report to  
50 the Department of Education the expenditure of funds received  
51 under paragraph (a) and the Department of Education must review  
52 the reports to ensure that the funds were properly expended. A  
53 participating school district must return to the Department of  
54 Education:

- 55 1. Any improperly expended funds.  
56 2. Funds received under paragraph (a) for the construction  
57 or renovation of a school if LEED silver-level certification or  
58 better is not obtained for the school within one year after its  
59 completion.

60 (c) Notwithstanding s. 216.301 and pursuant to s. 216.351,  
61 undisbursed balances of appropriations for the Green Schools  
62 Pilot Program shall not revert to the General Revenue Fund but  
63 shall be retained by the Department of Education to be used for  
64 purposes of this section.

65 (5) Each participating school district shall deliver to  
66 the Governor, the President of the Senate, and the Speaker of  
67 the House of Representatives a report on the effects Green  
68 Schools have had on student performance and health, operational  
69 costs, energy consumption, and the environment in the district.  
70 This report shall be submitted by July 1 of the year after a  
71 Green School has been in full operation for a period of 3 years.

72 Section 2. For fiscal year 2007-2008, the sum of  
73 \$3,500,000 is appropriated from the General Revenue Fund to the  
74 Department of Education to fund the Green Schools Pilot Project.

75  
76 ===== T I T L E A M E N D M E N T =====  
77 Remove lines 8-12 and insert:

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

78 participation; providing for evaluation criteria that may  
79 be used during the selection process; providing for the  
80 distribution of funds by the Department of Education;  
81 requiring the reporting of expenditures by participating  
82 school districts; providing for the return of improperly  
83 expended funds and of specified funds if a constructed or  
84 renovated school fails to achieve specified certification  
85 standards; providing that appropriated funds shall not  
86 revert; requiring reporting; providing an appropriation;  
87 providing an effective date.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. **HB 1257**

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Schools and Learning Council  
2 Representative Richardson offered the following:

3  
4 **Substitute Amendment for Amendment #1 by Representative**  
5 **Richardson (with title amendment)**

6 Remove lines 34-77 and insert:

7 (3) For purposes of this section, the term "additional  
8 costs" means the expenditures which are necessary to build a  
9 complete school to LEED silver-level or better building  
10 certification standards and which exceed the expenditures  
11 necessary to build a complete school in compliance with chapter  
12 1013. Such additional costs may include, but are not limited to,  
13 registration and certification fees charged for certification of  
14 the school to LEED silver-level or better building certification  
15 standards.

16 (4) (a) The Department of Education in consultation with the  
17 Florida Energy Office shall develop by August 1, 2007, an  
18 application process for school districts to participate in the  
19 pilot project. Three school districts shall be selected by the  
20 State Board of Education by January 1, 2008, to participate in  
21 the pilot project. One school district shall be in a county with  
22 a population of 1 million or more residents; one school district



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

23 shall be in a county with a population of 250,000 to 999,999  
24 residents; and one school district shall be in a county with a  
25 population under 250,000 residents. School districts selected to  
26 participate in the pilot project shall, to the greatest extent  
27 possible, represent geographically different regions of the  
28 state.

29 (b) At a minimum, each school district selected by the  
30 State Board of Education to participate in the pilot project  
31 must:

32 1. Demonstrate that it implements sound financial  
33 management practices by producing documentation that indicates  
34 that the school district for the preceding 3 years has had no  
35 material weaknesses or instances of material noncompliance noted  
36 in its annual audits required under s. 218.39.

37 2. Engage a design team with demonstrated knowledge and  
38 experience in high-performance green building construction.

39 3. Commit to building at least one complete school to the  
40 LEED silver-level or better building certification standards.  
41 Schools built to such building certification standards shall be  
42 designated as "Green Schools."

43 (c) When selecting school districts to participate in the  
44 pilot project, evaluation criteria implemented by the State  
45 Board of Education may include, but are not limited to,  
46 targeting school districts that demonstrate a high percentage of  
47 environmentally inefficient schools or school districts that  
48 propose innovative methods to improve water savings, energy  
49 efficiency, or indoor environmental quality.

50 (5) (a) From funds appropriated for the Green Schools Pilot  
51 Program, the department shall distribute to each participating  
52 school district an amount sufficient to fund the additional  
53 costs required to build one complete school to LEED silver-level

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

54 or better building certification standards. If appropriated  
55 funds:

56 1. Are insufficient to fund the total of additional costs  
57 required to build three complete schools to LEED silver-level or  
58 better building certification standards, the department shall  
59 prorate funds available and make distributions based on the  
60 ratio of each school's additional costs relative to the total of  
61 additional costs for the three schools.

62 2. Remain after the distribution, such funds may be  
63 distributed by the department to one or more of the  
64 participating school districts to fund the additional costs  
65 required to build other new schools or to renovate existing  
66 schools to LEED silver-level or better building certification  
67 standards.

68 (b) Participating school districts must annually report to  
69 the department the expenditure of funds received under paragraph  
70 (a). The reports shall be open to inspection and examination by  
71 the Auditor General. A participating school district must return  
72 to the department:

73 1. Any funds found by the Auditor General to have been  
74 improperly expended.

75 2. Funds received under paragraph (a) for the construction  
76 or renovation of a school if LEED silver-level certification or  
77 better is not obtained for the school within one year after its  
78 completion.

79 (c) Notwithstanding s. 216.301 and pursuant to s. 216.351,  
80 undisbursed balances of appropriations for the Green Schools  
81 Pilot Program shall not revert to the General Revenue Fund but  
82 shall be retained by the department to be used for purposes of  
83 this section.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

84       (6) Each participating school district shall deliver to  
85 the Governor, the President of the Senate, the Speaker of the  
86 House of Representatives, and the Commissioner of Education a  
87 report on the effects Green Schools have had on student  
88 performance and health, operational costs, energy consumption,  
89 and the environment in the district. This report shall be  
90 submitted by July 1 of the year after a Green School has been in  
91 full operation for a period of 3 years.

92       Section 2. For fiscal year 2007-2008, the sum of  
93 \$3,500,000 in nonrecurring funds is appropriated from the Public  
94 Education Capital Outlay and Debt Service Trust Fund to the  
95 Department of Education to fund the additional costs required  
96 for the new construction of three complete schools to LEED  
97 silver-level or better building certification standards under  
98 the Green Schools Pilot Project.

99  
100 ===== T I T L E   A M E N D M E N T =====

101       Remove lines 5-12 and insert:  
102       certain building certification standards; defining a term;  
103       providing for an application and selection process for  
104       participation in the pilot project; providing requirements  
105       for school districts to participate; providing for  
106       evaluation criteria that may be used during the selection  
107       process; providing for the distribution of funds by the  
108       Department of Education; providing for prorated  
109       distribution of funds under specified circumstances;  
110       providing authority to distribute excess funds for  
111       specified purposes; requiring the reporting of  
112       expenditures by participating school districts;  
113       authorizing inspection and evaluation of the reports by  
114       the Auditor General; providing for the return of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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115 |       improperly expended funds and of specified funds if a  
116 |       constructed or renovated school fails to achieve specified  
117 |       certification standards; providing that appropriated funds  
118 |       shall not revert; requiring a report by each participating  
119 |       school district; providing an appropriation; providing an  
120 |       effective date.  
121 |



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1371  
**SPONSOR(S):** Altman  
**TIED BILLS:**

Governor's School for Science and Technology

**IDEN./SIM. BILLS:** SB 2598

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Education Innovation &amp; Career Preparation</u>	<u>6 Y, 0 N</u>	<u>White</u>	<u>White</u>
2) <u>Schools &amp; Learning Council</u>	<u></u>	<u>White TW</u>	<u>Cobb lcc</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

**SUMMARY ANALYSIS**

Currently, a number of Florida schools operate specialized science and technology programs. For example, Project Lead the Way, a high school engineering program designed to prepare students for postsecondary engineering programs, is offered in 40 Florida high schools. Additionally, some Florida magnet schools offer curriculums focused on math, science, and/or technology. Florida does not, however, have a statewide, residential public high school specializing in math, science, and/or technology.

House Bill 1371 creates the Governor's School for Science and Technology (school) for students statewide in grades nine through 12 and for teacher summer programming. The school is to be managed and controlled by the Florida Virtual School (FLVS) and is to be located in Brevard County in an area where connections with the Kennedy Space Center may be readily established. The bill creates an advisory council consisting of 13 representatives to provide the FLVS with insight, expertise, and recommendations in developing and implementing the school.

Classes are to begin in the 2009-2010 academic year and students are to reside on the school's premises. Admission to the school may only be granted to qualified students pursuant to requirements and standards established in rule. The school is to offer: (a) accelerated programs in the areas of math, science, and technology to qualified students in grades nine through 12; and (b) summer programs for elementary, middle, or high school teachers.

The bill's fiscal impact on the state for Fiscal Year 2007-2008 is \$1 million. The bill does not appear to have a fiscal impact on local government. Please see the FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT, *infra*.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government** – The bill's creation of the Governor's School for Science and Technology (school) expands the responsibilities of the Florida Virtual School and will require additional employees. The bill also creates a 13-member advisory council.

**Empower Families** – The bill provides parents of eligible students, who excel or demonstrate an interest in the areas of math, science, or technology, with an additional educational opportunity via its creation of the school.

**Safeguard Individual Liberty** – The bill maintains parental choice by providing parents of eligible students, who excel or demonstrate an interest in the areas of math, science, or technology, with an additional educational opportunity via its creation of the school.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

*Specialized Schools:* School districts nationwide operate specialized mathematics, science, engineering, and technology programs and schools. For example, Project Lead the Way, a high school engineering program designed to prepare student for postsecondary engineering programs, has been implemented in high schools across the country. Forty Florida high schools currently offer this program.<sup>1</sup> The National Consortium of Specialized Secondary Schools of Mathematics, Science, and Technology lists 97 specialized math and science schools among its nationwide membership. There are three such schools in Florida.<sup>2</sup> Additionally, numerous Florida magnet schools offer curriculums focused on math, science, and/or technology

Currently, Florida does not have a statewide, residential public high school specializing in math, science, and/or technology.

*U.S. Student Performance in International Assessments of Math and Science:* International assessments allow educators and policy makers to compare the overall performance of U.S. students with those in other countries. U.S. students participate in the following two international assessments for mathematics and science performance:

- The Trends in International Mathematics and Science Study (TIMMS) -- a mathematics and science assessment, which has been conducted every four years since 1995 for students in grades four and eight.<sup>3</sup>
- The Program for International Student Assessment (PISA) -- a reading, mathematics, and science assessment, which has been conducted every three years since 2000 for fifteen year old students.<sup>4</sup>

Data from the 2003 TIMMS for math performance indicates that U.S. fourth graders ranked 12<sup>th</sup> out of 24 countries in math and that U.S. eighth graders ranked 15<sup>th</sup> out 45 countries. Data from the 2003 PISA for math performance indicates that U.S. 15 year olds ranked 26<sup>th</sup> out of 39 countries.<sup>5</sup>

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<sup>1</sup> Project Lead the Way, Network of Schools available at <http://www.pltw.org/schoollist.asp?toSelect=FL>.

<sup>2</sup> The National Consortium of Specialized Secondary Schools of Mathematics, Science, and Technology, Institutional Members available at <http://www.ncsssmst.org/institutionalmembers.aspx>.

<sup>3</sup> TIMMS and PIRLS Study Center, Lynch School of Education, Boston College, available at <http://timss.bc.edu/timss2003.html>.

<sup>4</sup> U.S. Department of Education, National Center for Education Statistics, International Comparisons in Education: Program for International Assessment (PISA), available at <http://nces.ed.gov/surveys/pisa/>.

<b>U.S. Mathematics Performance on International Assessments relative to other Countries in 2003.<sup>6</sup></b>				
Grade or Age	Number of Countries (total excludes the U.S.)	Score Significantly Higher than U.S.	Score Not Significantly Different than U.S.	Score Significantly Lower than U.S.
4 <sup>th</sup> Graders	24	11	0	13
8 <sup>th</sup> Graders	44	9	10	25
15 Year Olds	38	23	4	11

Data from the 2003 TIMMS for science performance indicates that U.S. fourth graders ranked sixth out of 25 countries and that U.S. eighth graders ranked ninth out of 45 countries. Data from the 2003 PISA for science performance indicates that U.S. 15 year olds ranked 22<sup>nd</sup> out of 39 countries.<sup>7</sup>

<b>U.S. Science Performance on International Assessments relative to other Countries in 2003.<sup>8</sup></b>				
Grade or Age	Number of Countries (total excludes the U.S.)	Score Significantly Higher than U.S.	Score Not Significantly Different than U.S.	Score Significantly Lower than U.S.
4 <sup>th</sup> Graders	24	3	5	16
8 <sup>th</sup> Graders	44	7	5	32
15 Year Olds	38	18	9	11

*The Florida Virtual School:* In 1997, the Florida Legislature funded a grant-based pilot project to create Florida's first Internet-based, public high school. This high school was codified by the Legislature in 2000 at s. 228.082, F.S.,<sup>9</sup> and named the Florida Virtual School (FLVS).

The FLVS is a component of the delivery of public education within Florida's K-20 education system<sup>10</sup> and is administratively housed within the Commissioner of Education's Office of Technology and Information Services in the Department of Education. The Commissioner is required to monitor the FLVS's performance and to report on its performance to the State Board of Education (SBE) and the Legislature.<sup>11</sup>

The FLVS is governed by a seven-member Board of Trustees, which is authorized to create rules and procedures for the FLVS, enter into agreements with distance learning providers, and acquire, enjoy, use, and dispose of patents, trademarks, copyrights, licenses. The Board of Trustees is required to administer personnel programs in accordance with rules of the SBE and is permitted to adopt rules, policies, and procedures related to the appointment, employment, and removal of personnel.

<sup>5</sup> U.S. Department of Education, National Center for Education Statistics, U.S. Student Performance on International Assessments of Educational Achievement, NCES 2006-073 (June 2006), available at <http://nces.ed.gov/pubs2006/2006073.pdf>.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Recodified at s. 1002.37, F.S.

<sup>10</sup> Section 1000.04(4), F.S.

<sup>11</sup> Section 1002.37(1), F.S.



Funding for the FLVS is through the Florida Education Finance Program (FEFP) and an independent certified public accountant must annually audit the FLVS. The Board of Trustees for the FLVS must submit an annual report to the Governor, Commissioner of Education, SBE, and Legislature on its operations and accomplishments, marketing plan, and assets and liabilities.

### **Effect of Bill**

House Bill 1371 creates the Governor's School for Science and Technology (school) for Florida students statewide in grades nine through 12. The school is designated as a component of the delivery of public education within Florida's K-20 education system and is to be managed and controlled by the FLVS.

The school is to be located in Brevard County in an area where connections with the Kennedy Space Center may be readily established. The school's mission is to provide students in grades nine through 12 with advanced educational opportunities in the areas of science, math, and technology in order to gain the knowledge and skills necessary to succeed in those areas.

In order to facilitate innovative practices at the school, the bill exempts the school from each requirement of the Florida School Code relating to curriculum and operations, unless the requirement relates to civil rights or student health, safety, and welfare. The bill provides that the school is subject to the public records requirements of ch. 119, F.S., and the public meetings requirements of s. 286.011, F.S.

Classes are to begin in the 2009-2010 academic year and students are to reside on the school's premises. Admission to the school is a privilege, not a right, and may only be granted to selected, qualified students. The school is to offer: (a) accelerated programs in the areas of math, science, and technology to qualified students in grades nine through 12; and (b) summer programs for elementary, middle, or high school teachers.

The FLVS is required to:

- Appoint a director; and
- Adopt rules that specify:
  - The school's requirements and standards for admission, which must provide priority for students who excel or demonstrate an interest in the areas of math, science, or technology and which may include consideration of test scores or favorable faculty recommendations.
  - The number of students that may be enrolled given available resources.
  - The procedures for application to the school and for appealing an admission decision. The procedures must provide adequate standards for due process.
  - The procedures for the school's operation so as to maximize achievement of its mission.

The bill also establishes an advisory council to provide the FLVS with insight, expertise, and recommendations for the development and implementation of a plan for the school. Appointments to the council are to be made by the FLVS's Board of Trustees and are to be for five-year terms, except that the initial terms are to be staggered; i.e., five members are to be appointed for three-year terms, four members are to be appointed for four-year terms, and four members are to be appointed for five-year terms. Further, the bill provides that:

- The council must meet at least once each quarter.
- Absence by a council member for three consecutive meetings results in the termination of his or her membership.
- Council vacancies are to be filled for the remainder of the unexpired term.
- No member of the council may serve more than two consecutive terms.
- A majority of members of the council constitutes a quorum.

- Members of the council may not receive compensation, but shall receive per diem and travel expenses in accordance with s. 112.061, F.S.

Appointments to the council are to consist of the following 13 representatives: (1) one member representing the Technological Research and Development Authority; (2) two members representing the Sunshine State Scholars Recognition Program; (3) one member representing the Florida Institute of Technology; (4) one member representing the Department of Education; (5) two members representing the Florida Center for Mathematics and Science Education Research; (6) one member representing the Embry-Riddle Aeronautical University; (7) one member representing the University of Central Florida; (8) one member representing the University of Florida; (9) one member representing the National Aeronautics and Space Administration; and (10) two members representing the faculty of the Florida Virtual School.

The FLVS is designated as the fiscal agent for the school and is required to annually prepare a legislative budget request for the school. Funding for the costs of room, board, and transportation for students who attend the school is to be as authorized in the General Appropriations Act. Further, the bill states that other funding for the school is to be provided by:

- Appropriations from the Legislature or a state agency;
- Donations from private entities; and
- Moneys generated through the Florida Education Finance Program (FEFP) or a categorical fund based on student enrollment in the school.

FEFP funding is to be generated for each student attending the school in the same manner and amount that such moneys would be provided to a district school board for the enrollment of the student in a public school.

The bill takes effect on July 1, 2007.

#### C. SECTION DIRECTORY:

**Section 1.:** Creates s. 1002.371, F.S.; establishes the Governor's School for Science and Technology (school) for Florida students in grades nine through 12 and for teachers; requires classes at the school to begin in the 2009-2010 academic year; provides for management and control of the school by the FLVS; specifies FLVS responsibilities for managing the school; requires the FLVS to adopt rules; establishes an advisory council; and provides funding.

**Section 2.:** Amends s. 1000.04, F.S.; specifies that the school is a component of the delivery of public education within Florida's K-20 education system.

**Section 3.:** Amends s. 1002.20, F.S.; provides that the school is a public school choice option.

**Section 4.:** Amends s. 1003.02, F.S.; requires parents of high school students to be notified at the beginning of each school year of the opportunity and benefits of the school.

**Section 5.:** Provides an appropriation.

**Section 6.:** Provides an effective date of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

The bill provides an appropriation of \$1 million from the General Revenue Fund to the Florida Virtual School (FLVS). The appropriation specifies that its purpose is to fund salaries and other administrative expenses necessary to develop a plan, secure facilities, develop the sequence of courses for each grade level, and undertake other activities necessary to commence operation of the Governor's School for Science and Technology (school) in the 2009-2010 academic year.

The fiscal impact that will be generated when the school begins offering classes in the 2009-2010 academic year is indeterminate. The bill provides that funding for the costs of room, board, and transportation for students who attend the school is to be as authorized in the General Appropriations Act. Further, the bill states that other funding for the school is to be:

- Provided by state agency or legislative appropriation;
- Donations from private entities; and
- Moneys generated through the Florida Education Finance Program (FEFP) or a categorical fund based on student enrollment in the school.

FEFP funding is to be generated for each student attending the school in the same manner and amount that such moneys would be provided to a district school board for the enrollment of the student in a public school.

The bill does not specify the number of students who may enroll in the school; rather, the bill provides that this number is to be set forth in rule adopted by the FLVS based on available resources. As a result, the amount of FEFP funding that may be generated cannot be projected.

As of the date of this analysis, a fiscal analysis for this bill has not been received from the Department of Education.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have an economic impact on the private sector.

D. FISCAL COMMENTS:

Please see FISCAL IMPACT ON STATE GOVERNMENT *supra*.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Section 1, Article IX of the State Constitution provides that the State Board of Education (SBE) shall have supervision of the system of free public education as is provided by law and shall appoint the Commissioner of Education. Section 1003.03(2)(a), F.S., provides that the SBE, "... shall oversee the enforcement of all laws and rules, and the timely provision of direction, resources, assistance, intervention when needed, and strong incentives and disincentives to force accountability for results." Further, s. 1003.03(2)(c), F.S., provides that the Commissioner of Education shall serve as the chief executive officer of the K-20 education system and shall be responsible for enforcing compliance with the mission and goals of the K-20 education system.

To facilitate the above described constitutional and statutory oversight and enforcement requirements, statute creating the Florida Virtual School (FLVS) requires the Commissioner to monitor the FLVS's performance and to report on its performance to the SBE and the Legislature.<sup>12</sup> Consideration might be given to amending the bill to include similar requirements for the Commissioner with regard to the Governor's School for Science and Technology (school).

B. RULE-MAKING AUTHORITY:

The bill authorizes the FLVS, as the managing authority of the school, to adopt rules for the school's admission standards and requirements, enrollment capacity, application and appeal procedures, and operation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill presents a number of issues that may warrant clarification. These include:

- Specifying the types of summer programs that are to be offered by the school for teachers, the admission procedures and funding mechanisms for these programs, and if the programs are residential.
- Identifying the entity responsible for appointments to the council in the event of a vacancy, the vote required for the advisory council to take action, and the council's duties once the school begins operation.
- Identifying the supervisory authority of the State Board of Education and the responsibilities of the Commissioner of Education. Please see CONSTITUTIONAL ISSUES, *supra*.
- Providing for an accountability system that measures student performance and the school's achievement of its mission.

D. STATEMENT OF THE SPONSOR

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

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<sup>12</sup> Section 1002.37(1)(a), F.S.



29 Science and Technology; amending ss. 1000.04, 1002.20, and  
 30 1003.02, F.S., relating to the components for the delivery  
 31 of public education, the rights of students and parents  
 32 concerning public school choice, and parental notice of  
 33 acceleration mechanisms by district school boards;  
 34 conforming provisions to changes made by the act;  
 35 providing an appropriation; providing an effective date.  
 36

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

38  
 39 Section 1. Section 1002.371, Florida Statutes, is created  
 40 to read:

41 1002.371 Governor's School for Science and  
 42 Technology.--The Governor's School for Science and Technology  
 43 is established and shall be managed and controlled by the  
 44 Florida Virtual School in a manner that conforms to this  
 45 section.

46 (1) The Governor's School for Science and Technology is a  
 47 public school for grades 9 through 12. The attendance area for  
 48 the school is the entire state; however, admission to the school  
 49 is a privilege reserved for those qualified students who are  
 50 selected and is not a right afforded to the general population  
 51 of students in this state. The school shall be located in  
 52 Brevard County and be situated where connections between the  
 53 school and the Kennedy Space Center may most readily be  
 54 established. Students enrolled in the school must reside on the  
 55 school's premises. The school's first classes must commence in  
 56 the 2009-2010 academic year. The school shall offer:

57        (a) Accelerated programs in the areas of math, science,  
 58 and technology to qualified students in grades 9 through 12.

59        (b) Summer programs for elementary, middle, or high school  
 60 teachers.

61        (2) The mission of the Governor's School for Science and  
 62 Technology is to provide students in grades 9 through 12 with  
 63 advanced educational opportunities in the areas of science,  
 64 math, and technology in order to gain the knowledge and skills  
 65 necessary to succeed in those areas. The Florida Virtual School  
 66 shall administer and operate the Governor's School for Science  
 67 and Technology and shall:

68        (a) Appoint a director; and

69        (b) Adopt rules specifying:

70        1. The requirements that an individual must meet in order  
 71 to be qualified for admission to the Governor's School for  
 72 Science and Technology and the standards by which applicants  
 73 will be selected for admission to the school. Priority must be  
 74 given to individuals who excel or demonstrate interest in the  
 75 areas of math, science, or technology. The requirements and  
 76 standards may include, but are not limited to, scores on tests  
 77 or favorable recommendations from teachers or other school  
 78 officials.

79        2. The number of students that may be enrolled at the  
 80 school given the resources that are available.

81        3. The procedures by which an individual may apply for  
 82 admission to the school or appeal a decision concerning an  
 83 application to attend the school. Such procedures must conform  
 84 to applicable standards concerning the adequacy of due process.

85        4. The procedures by which the school must operate so as  
 86 to maximize achievement of its mission.

87        (3) The Florida Virtual School may adopt rules under ss.  
 88 120.536(1) and 120.54 to administer this section.

89        (4) (a) The Governor's School for Science and Technology  
 90 Advisory Council is created within the Florida Virtual School.  
 91 The purpose of the advisory council is to provide the Florida  
 92 Virtual School with insight, expertise, and recommendations  
 93 concerning the development and implementation of a plan for the  
 94 Governor's School for Science and Technology.

95        (b) The advisory council consists of 13 members who shall  
 96 be appointed by the board of trustees of the Florida Virtual  
 97 School as follows:

98        1. One member representing the Technological Research and  
 99 Development Authority.

100        2. Two members representing the Sunshine State Scholars  
 101 Recognition Program.

102        3. One member representing the Florida Institute of  
 103 Technology.

104        4. One member representing the Department of Education.

105        5. Two members representing the Florida Center for  
 106 Mathematics and Science Education Research created under s.  
 107 1004.86.

108        6. One member representing the Embry-Riddle Aeronautical  
 109 University.

110        7. One member representing the University of Central  
 111 Florida.

112        8. One member representing the University of Florida.



113 9. One member representing the National Aeronautics and  
 114 Space Administration.

115 10. Two members representing the faculty of the Florida  
 116 Virtual School.

117 (c) Initial appointments shall be made by August 1, 2007.  
 118 Advisory council members shall be appointed to 5-year terms,  
 119 except that the initial terms shall be staggered so that five  
 120 members are appointed to 3-year terms, four other members are  
 121 appointed to 4-year terms, and four other members are appointed  
 122 to 5-year terms. An advisory council member who is absent from  
 123 three consecutive meetings of the council is automatically  
 124 removed from the council. Any vacancy on the advisory council  
 125 must be filled for the remainder of the unexpired term. An  
 126 advisory council member may not serve more than two consecutive  
 127 terms.

128 (d) The advisory council shall meet at least once each  
 129 quarter. A majority of the members of the advisory council  
 130 constitutes a quorum.

131 (e) Members of the advisory council shall serve without  
 132 compensation, but are entitled to reimbursement for per diem and  
 133 travel expenses in accordance with s. 112.061 while performing  
 134 their duties.

135 (4) In order to facilitate innovative practices, the  
 136 Governor's School for Science and Technology is exempt from each  
 137 requirement of the Florida School Code which relates to  
 138 curriculum and operations unless the requirement also relates to  
 139 civil rights or student health, safety, and welfare. This  
 140 subsection does not exempt the school from chapter 119 or s.

HB 1371

2007

141 286.011.

142 (5) The Florida Virtual School is the fiscal agent of the  
 143 Governor's School for Science and Technology and shall annually  
 144 prepare and submit a legislative budget request for the  
 145 Governor's School for Science and Technology in accordance with  
 146 chapter 216.

147 (6) Funding for room, board, and transportation of  
 148 students of the Governor's School for Science and Technology  
 149 shall be as authorized in the General Appropriations Act. Other  
 150 funding for the Governor's School for Science and Technology  
 151 shall be provided from:

- 152 (a) Appropriations from the Legislature or a state agency;
- 153 (b) Contributions or endowments from private entities; and
- 154 (c) Moneys generated through the Florida Education Finance  
 155 Program or a categorical fund by virtue of a student's  
 156 enrollment in a public school. Moneys so generated must be  
 157 provided for each student who is enrolled in the Governor's  
 158 School for Science and Technology in the same manner and amount  
 159 that such moneys would be provided to a district school board if  
 160 the same student were enrolled in a standard public school.

161 Section 2. Subsection (5) is added to section 1000.04,  
 162 Florida Statutes, to read:

163 1000.04 Components for the delivery of public education  
 164 within the Florida K-20 education system.--Florida's K-20  
 165 education system provides for the delivery of public education  
 166 through publicly supported and controlled K-12 schools,  
 167 community colleges, state universities and other postsecondary  
 168 educational institutions, other educational institutions, and

169 | other educational services as provided or authorized by the  
 170 | Constitution and laws of the state.

171 | (5) THE GOVERNOR'S SCHOOL FOR SCIENCE AND TECHNOLOGY.--The  
 172 | Governor's School for Science and Technology is a component of  
 173 | the delivery of public education within Florida's K-20 education  
 174 | system.

175 | Section 3. Paragraph (a) of subsection (6) of section  
 176 | 1002.20, Florida Statutes, is amended to read:

177 | 1002.20 K-12 student and parent rights.--Parents of public  
 178 | school students must receive accurate and timely information  
 179 | regarding their child's academic progress and must be informed  
 180 | of ways they can help their child to succeed in school. K-12  
 181 | students and their parents are afforded numerous statutory  
 182 | rights including, but not limited to, the following:

183 | (6) EDUCATIONAL CHOICE.--

184 | (a) Public school choices.--Parents of public school  
 185 | students may seek whatever public school choice options that are  
 186 | applicable to their students and are available to students in  
 187 | their school districts. These options may include controlled  
 188 | open enrollment, lab schools, charter schools, charter technical  
 189 | career centers, magnet schools, alternative schools, special  
 190 | programs, advanced placement, dual enrollment, International  
 191 | Baccalaureate, International General Certificate of Secondary  
 192 | Education (pre-AICE), Advanced International Certificate of  
 193 | Education, early admissions, credit by examination or  
 194 | demonstration of competency, the New World School of the Arts,  
 195 | the Florida School for the Deaf and the Blind, the Governor's  
 196 | School for Science and Technology, and the Florida Virtual

197 School. These options may also include the public school choice  
198 options of the Opportunity Scholarship Program and the McKay  
199 Scholarships for Students with Disabilities Program.

200 Section 4. Paragraph (i) of subsection (1) of section  
201 1003.02, Florida Statutes, is amended to read:

202 1003.02 District school board operation and control of  
203 public K-12 education within the school district.--As provided  
204 in part II of chapter 1001, district school boards are  
205 constitutionally and statutorily charged with the operation and  
206 control of public K-12 education within their school district.  
207 The district school boards must establish, organize, and operate  
208 their public K-12 schools and educational programs, employees,  
209 and facilities. Their responsibilities include staff  
210 development, public K-12 school student education including  
211 education for exceptional students and students in juvenile  
212 justice programs, special programs, adult education programs,  
213 and career education programs. Additionally, district school  
214 boards must:

215 (1) Provide for the proper accounting for all students of  
216 school age, for the attendance and control of students at  
217 school, and for proper attention to health, safety, and other  
218 matters relating to the welfare of students in the following  
219 fields:

220 (i) Parental notification of acceleration mechanisms.--At  
221 the beginning of each school year, notify parents of students in  
222 or entering high school of the opportunity and benefits of  
223 advanced placement, International Baccalaureate, Advanced  
224 International Certificate of Education, dual enrollment, the

225 Governor's School for Science and Technology, and Florida  
 226 Virtual School courses.

227 Section 5. The sum of \$1 million is appropriated from the  
 228 General Revenue Fund to the Florida Virtual School for the  
 229 purpose of paying salaries and other administrative expenses  
 230 necessary to develop a plan, secure facilities, develop the  
 231 sequence of courses for each grade level, and undertake other  
 232 activities necessary to commence operation of the Governor's  
 233 School for Science and Technology in the 2009-2010 academic  
 234 year.

235 Section 6. This act shall take effect July 1, 2007.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS - Revised

**BILL #:** HB 1507  
**SPONSOR(S):** Altman  
**TIED BILLS:**

Tuition Rates at Community Colleges and State Universities  
**IDEN./SIM. BILLS:** SB 2862

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Postsecondary Education</u>	<u>6 Y, 2 N</u>	<u>Barnhill</u>	<u>Tilton</u>
2) <u>Schools &amp; Learning Council</u>	<u></u>	<u>Tilton</u> <i>PT</i>	<u>Cobb</u> <i>lcc</i>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

HB 1507 provides that it is the intent of the Legislature to discourage undergraduate students from exceeding the number of credit hours required to complete the students' respective degree programs and that, accordingly, a student will be required to pay 75 percent more than the in-state tuition rate for any credit hours taken in excess of the hours required to complete the degree program in which the student is enrolled.

This bill requires a student enrolled in a community college to pay 75 percent more than the in-state tuition rate for credit hours taken in excess of 120 percent of the credit hours required to earn an associate degree. This requirement does not apply to a maximum of 24 credit hours taken at a community college that apply to a student's baccalaureate degree.

This bill requires an undergraduate student who is enrolled in a state university to pay 75 percent more than the in-state tuition rate for credit hours taken in excess of 120 percent of the credit hours required to complete the degree program in which the student is enrolled, regardless of whether the student took those hours while enrolled at a community college, state university, or at any private postsecondary institution if the student received state funds while enrolled at the private postsecondary institution.

This bill requires a student enrolled in a baccalaureate program at a community college to pay 75 percent more than the in-state tuition rate for credit hours in excess of 120 percent of the number of credit hours required to complete the degree program in which the student is enrolled, regardless of whether the student took those hours while enrolled at a community college, state university, or at any private postsecondary institution if the student received state funds while enrolled at the private postsecondary institution.

Credit hours earned under certain circumstances will not be calculated as hours required to earn a degree. These include: college credit earned through an acceleration mechanism; credit hours earned through an internship program; credit hours required for certification, recertification, or certificate degrees; credit hours in courses from which a student withdrew due to reasons of medical or personal hardship; credit hours required to achieve a dual major; credit hours in remedial or ESOL courses; credit hours taken by active duty military personnel; and credit hours earned in military science courses..

This bill has an indeterminate impact on both state revenues and expenditures. Please see FISCAL ANALYSIS, section II.

The Committee on Postsecondary Education adopted two amendments on March 27, 2007. Please see AMENDMENTS, section IV.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1507c.SLC.doc  
**DATE:** 4/6/2007

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Ensure lower taxes** – The bill requires students at community colleges and state universities to pay 75% more than the in-state tuition rate for certain credit hours taken in excess of 120 percent of the number of hours required to complete the degree program in which the student is enrolled.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Excess hours are costly to both the state and students who take credit hours in excess of what is required to complete the students' respective degree programs. Students who take excess hours may also limit access opportunities for other students. Since 2004, the Office of Program Policy Analysis & Government Accountability (OPPAGA) has studied excess hours at state universities and community colleges to identify financial incentives the Legislature could mandate to help decrease state higher education funding costs by encouraging students to earn degrees with fewer excess hours.

In 2004, OPPAGA studied the excess hours accumulated by students graduating from state universities in 2002-03.<sup>1</sup> According to OPPAGA Report 04-44, the Fiscal Year 2002-2003 graduating class from state universities accumulated 438,344 in credit hours over 110% of their degree requirements, with 20% of the graduates taking about 74% of these credit hours. If students were required to pay the full cost of the excess credit hours, the state could save approximately \$37 million annually under a 110% threshold.

In addition, OPPAGA Report 04-44 found that the Fiscal Year 2002-2003 graduating class from state universities accumulated 337,837 credit hours in excess of 115% of their degree requirements. A small proportion (20%) of these students earned 83% of the excess credit hours. If students were required to pay the full costs of these excess credit hours, the state could save approximately \$29 million under a 115% threshold.

OPPAGA Report 04-44 identified several options used by other states that the Legislature could consider to reduce the costs of excess hours. These options included:

- Charging higher tuition for excess hours;
- Providing tuition rebates for students who graduate with few excess hours; and
- Offering "locked-in" tuition to encourage students to graduate in four years.

In 2005, OPPAGA was asked to determine the extent to which students take excess hours at the community college level and identify options for reducing these hours. In response to this request, OPPAGA analyzed courses taken over a six-year period by a cohort of 14,015 students who earned an AA, AS, or AAS degree from a Florida community college in 2001-2001.<sup>2</sup> Students who did not appear to earn enough credit hours to graduate, all remedial courses, and graduates who transferred between institutions or earned more than one degree were excluded from the OPPAGA analysis. As a result, the cohort used by OPPAGA represented approximately 39% of all 2001-02 community college graduates. The cohort of 14,015 community students examined by OPPAGA accumulated 293,714 excess hours.

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<sup>1</sup> See *Stronger Financial Incentives Could Encourage Students to Graduate with Fewer Excess Hours*, Office of Program Analysis & Government Accountability, Report 04-44, June 2004.

<sup>2</sup> See *Excess Hours at Community Colleges Warrant Attention by the Department of Education and the Legislature*, Office of Program Analysis & Government Accountability, Report 05-30, April 2005



OPPAGA Report 05-30 found that approximately 97% of the community college students in the cohort of 2001-02 graduates accumulated at least one excess hour and 61% accumulated hours that exceeded 120% of degree requirements. The report further found that a relatively small percentage of students in the cohort (20%) accounted for almost half (47%) of the total excess hours and 68% of the hours in excess of the 120% standard. Less than 9% of the excess hours of students in the cohort resulted from dropped or failed courses. The report found that the state paid approximately \$30 million for the excess hours students in the cohort attempted, while the students paid \$16.2 million in tuition. Excess hours taken by students who exceeded 120% of degree requirements cost the state \$26.6 million.

Based on interviews with community college administrators, OPPAGA Report 05-30 concluded that the main causes of excess hours at the community college level were student characteristics (such as age, marital status, employment status, English language proficiency, and educational preparedness) and inadequate academic advising. In addition, the report found that some students take community college courses that will satisfy upper division requirements, which causes excess hours to be taken at the community college level.

OPPAGA report 05-30 recommended that all community colleges strengthen their advising such as providing career counseling to help incoming students select appropriate majors and developing plans for the courses the students would need to take for those majors. OPPAGA also recommended that community colleges examine other ways to reduce excess hours such as examining schedules to ensure that they do not impede students from getting required courses in the proper sequence and, when appropriate, helping students to access and complete coursework on line. In addition, the report recommended that the Legislature consider providing institutional and student-based financial incentives including:

- Instituting higher tuition rates for students who accumulate excess hours above some level established by the legislature; and
- Creating a shared savings incentive program in which community colleges retain a portion of the cost savings associated with a reduction in excess hours.

In 2006, OPPAGA issued a progress report to inform the Legislature of actions taken in response to Report 04-44.<sup>3</sup> Report 06-58 found that while public postsecondary institutions have taken steps to reduce time to graduation and excess hours, it is too early to draw conclusions on their effectiveness. OPPAGA analyzed the records of 37,424 students receiving bachelor degrees from state universities in Fiscal Year 2004-2005 and found that they attempted 780,769 credits in excess of graduation requirements. While over three-quarters of students accumulated some excess hours, most excess hours were earned by a relatively small number of students. Twenty percent of the students accounted for over one-half (58%) of all credit hours over the minimum graduation requirements. The report noted that the percentage of graduates with excess credit hours and the average number of excess credit hours students accumulated upon graduation from a state university remained about the same from 2001-02 to 2004-05. The 780,769 excess hours that students took in Fiscal Year 2004-05 cost the state \$62 million and increased student tuition and fees by \$71 million.

## **Effects of Proposed Changes**

### **Community Colleges – Associate Degree**

Effective with freshmen enrolled in the fall semester or term 2007 and all freshmen thereafter, community college students who take more than 120 percent of the credit hours required to earn an associate degree are required to pay 75 percent more than the in-state tuition rate. For the 2006-2007 school year, a resident student at a public community college would pay \$54.92 per credit hour. Using the 2006-2007 tuition rates, a student who takes excess credit hours as outlined above would pay on

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<sup>3</sup> See *Excess Hours Cost State \$62 Million Annually; University Actions May Help Address Problem*, Office of Program Analysis and Government Accountability, Report 06-58, August 2006

average \$41.19 more for each credit hour taken in excess of 120 percent of the credit hours required to complete his or her degree.

This bill exempts up to 24 credit hours taken by a community college student while enrolled at a community college if the credit hours apply to the student's baccalaureate degree. This provision is designed to encourage students to continue taking lower level courses at the community college rather than at the state university where costs per credit hour are greater.

The excess credit hour requirements proposed by this bill may adversely impact certain students. Students who work may experience problems scheduling the courses needed for their major and may sign up for classes they do not need in order to keep their status as full-time students. Students need to retain this status to be eligible for federal financial aid, to be covered under their parents' health insurance policies, and to be classified as dependents for income taxes. Part-time students may also experience scheduling problems, especially when they cannot take courses in the proper sequence.<sup>4</sup> In addition, the bill may penalize transfer students to the extent a community college does not accept for transfer the credit hours for courses taken at another institution and requires the student to take a similar course(s) to satisfy graduation requirements.

### State Universities

Effective with freshmen enrolled in the fall semester or term 2007 and all freshmen thereafter, an undergraduate student who is enrolled in a state university must pay 75 percent more than the in-state tuition rate for credit hours taken in excess of 120 percent of the credit hours required to complete the degree program in which he or she is enrolled, regardless of whether the student took those hours while enrolled at a community college, state university, or at any private postsecondary institution if the student received state funds while enrolled at the private postsecondary institution. For the 2006-2007 school year, the resident undergraduate rate for tuition is \$73.77 per credit hour. Using the 2006-2007 tuition rates, a student who takes excess credit hours as outlined above would pay on average \$52.33 more for each credit hour taken in excess of 120 percent of the credit hours required to complete his or her degree.

The excess credit hour requirements proposed by this bill may adversely impact certain students. Students who work may experience problems scheduling the courses needed for their major and may sign up for classes they do not need in order to keep their status as full-time students. Students need to retain this status to be eligible for federal financial aid, to be covered under their parents' health insurance policies, and to be classified as dependents for income taxes. Part-time students may also experience scheduling problems, especially when they cannot take courses in the proper sequence. In addition, the bill may penalize transfer students to the extent a state university does not accept for transfer credit hours for courses taken at another institution and requires the student to take a similar course(s) to satisfy graduation requirements.

### Community Colleges – Baccalaureate Degree

Effective with freshmen enrolled in the fall semester or term 2007 and all freshmen thereafter, an undergraduate student who is enrolled in a baccalaureate degree program at a community college must pay 75 percent more than the in-state tuition rate for credit hours taken in excess of 120 percent of the credit hours required to complete the degree program in which he or she is enrolled, regardless of whether the student took those hours while enrolled at a community college, state university, or at any private postsecondary institution if the student received state funds while enrolled at the private postsecondary institution. Tuition at community colleges for baccalaureate degrees is limited by proviso in Specific Appropriation 139 of the General Appropriations Act<sup>5</sup> to no more than 85 percent of

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<sup>4</sup> OPPAGA Report 05-30

<sup>5</sup> General Appropriations Act, 2006.

the cost of the tuition at the state university closest to the community college. If the tuition was at the maximum for the 2006-2007 school year, the rate for tuition would be \$62.70 per credit hour. Using the 2006-2007 tuition rates, a student who takes excess credit hours as outlined above would pay on average \$47.03 more for each credit hour taken in excess of 120 percent of the credit hours required to complete his or her degree.

The excess credit hour requirements proposed by this bill may adversely impact certain students. Students who work may experience problems scheduling the courses needed for their major and may sign up for classes they do not need in order to keep their status as full-time students. Students need to retain this status to be eligible for federal financial aid, to be covered under their parents' health insurance policies, and to be classified as dependents for income taxes. Part-time students may also experience scheduling problems, especially when they cannot take courses in the proper sequence.<sup>6</sup> In addition, the bill may penalize transfer students to the extent a community college does not accept for transfer credit hours for courses taken at another institution and requires the student to take a similar course(s) to satisfy graduation requirements.

### Exceptions

Credit hours earned under the following circumstances are not calculated as hours required to earn a degree:

- College credits earned through an acceleration mechanism (e.g. dual enrollment, advanced placement)
- Credit hours earned through internship programs;
- Credit hours required for certification, recertification, or certificate degrees;
- Credit hours in courses from which a student must withdraw due to reasons of medical or personal hardship;
- Credit hours taken by active-duty military personnel;
- Credit hours required to achieve a dual major undertaken while pursuing a degree;
- Credit hours in remedial courses and English as a Second Language; and
- Credit hours earned in military science courses (e.g., R.O.T.C.).

### Notification

This bill requires postsecondary educational institutions to implement a process for notifying students regarding this additional cost for credit hours over 120 percent of graduation or degree requirements. Students must be notified upon their initial enrollment and again upon reaching the number of credit hours required to complete the degree program. The notice must include a recommendation for those students intending to earn credit hours beyond those required for their enrolled degree program to meet with their academic advisor.

## C. SECTION DIRECTORY:

- Section 1. Creates s. 1009.286, requiring students to pay 75 percent more than the in-state tuition rate for credit hours in excess of a specified number of credit hours required to complete a degree program; excluding certain credit hours from calculation as hours required to earn a degree; providing for notification of students by a postsecondary institution; and providing applicability.
- Section 2. Provides an effective date of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

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<sup>6</sup> OPPAGA Report 05-30

1. Revenues:  
Please refer to Fiscal Comments.
2. Expenditures:  
Please refer to Fiscal Comments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
This bill does not appear to impact local government revenues.
2. Expenditures:  
This bill does not appear to impact local government expenditures.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Students who take more than 120 percent of the credit hours required for graduation or a degree would incur additional expenses for those credit hours in excess of the required credit hours for graduation.

**D. FISCAL COMMENTS:**

This bill may increase the revenues of state universities and community colleges by the additional fees paid by students taking hours in excess of 120 percent required for graduation or a degree.

On May 26, 2005, the Revenue Estimating Conference reviewed a similar bill and estimated that for university students the similar legislation would cause an increase in tuition revenues of roughly \$13,272,030. The Conference then estimated that for community college students the similar legislation would cause an increase in tuition revenues of roughly \$6,040,253. Due to increases in tuition rates since 2005, it is anticipated that there will be a greater revenue impact for this bill.

The implementation of this bill may impact the expenditures of state universities and community colleges. The costs associated with the implementation of the provisions of this bill are unknown.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

This bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:  
None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Line 55 of the bill references “college credits earned through an **accelerated** mechanism identified in s. 1007.27.” Section 1007.27, F.S., identifies a number of “articulated acceleration mechanisms.” Staff recommends an amendment to replace “accelerated” with “articulated acceleration”.

D. STATEMENT OF THE SPONSOR

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

The Committee on Postsecondary Education adopted two amendments on March 27, 2007. Representative Altman’s first amendment changes the intent of the Legislature from *discouraging* undergraduate students from exceeding the number of credit hours required to complete the degree program to *encouraging* undergraduate students to complete their degree program in the most efficient way possible. The legislative intent is also expanded to include providing access to additional college courses.

Representative Altman’s second amendment reduces the additional percent of tuition a student must pay on credit hours taken in excess of 120 percent of graduation requirements from 75 percent to 50 percent. This amendment applies to students enrolled in both community colleges and state universities.

A bill to be entitled

An act relating to tuition rates at community colleges and state universities; creating s. 1009.286, F.S.; requiring students to pay 75 percent more than the in-state tuition rate for credit hours in excess of a specified number of credit hours required to complete a degree program; excluding certain credit hours from calculation as hours required to earn a degree; providing for notification of students by a postsecondary institution; providing applicability; providing an effective date.

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

Section 1. Section 1009.286, Florida Statutes, is created to read:

1009.286 Additional student payment required for hours exceeding graduation requirements.--

(1) It is the intent of the Legislature to discourage undergraduate students in postsecondary education from exceeding the number of credit hours required to complete the students' respective degree programs. Accordingly, a student must pay 75 percent more than the in-state tuition rate for any credit hours that the student takes in excess of 120 percent of the number of credit hours required to complete the degree program in which he or she is enrolled.

(2) A student who is enrolled in a community college must pay 75 percent more than the in-state tuition rate for credit hours that the student takes in excess of 120 percent of the

29 credit hours required to earn an associate degree, except that a  
 30 community college student who has earned an associate degree  
 31 need not pay the full cost for a maximum of 24 hours taken while  
 32 enrolled at a community college that apply to his or her  
 33 baccalaureate degree.

34 (3) An undergraduate student who is enrolled in a state  
 35 university must pay 75 percent more than the in-state tuition  
 36 rate for credit hours that the student takes in excess of 120  
 37 percent of the credit hours required to complete the degree  
 38 program in which he or she is enrolled, regardless of whether  
 39 those hours were taken while enrolled at a community college, a  
 40 state university, or any private postsecondary institution if  
 41 the student received state funds while enrolled at the private  
 42 postsecondary institution.

43 (4) An undergraduate student who is enrolled in a  
 44 baccalaureate degree program at a community college must pay 75  
 45 percent more than the in-state tuition rate for credit hours  
 46 that the student takes in excess of 120 percent of the number of  
 47 credit hours required to complete the degree program in which he  
 48 or she is enrolled, regardless of whether those hours were taken  
 49 while enrolled at a community college, a state university, or  
 50 any private postsecondary institution if the student received  
 51 state funds while enrolled at the private postsecondary  
 52 institution.

53 (5) Credit hours earned under the following circumstances  
 54 are not calculated as hours required to earn a degree:

55 (a) College credits earned through an accelerated  
 56 mechanism identified in s. 1007.27;

57        (b) Credit hours earned through internship programs;  
 58        (c) Credit hours required for certification,  
 59 recertification, or certificate degrees;  
 60        (d) Credit hours in courses from which a student must  
 61 withdraw due to reasons of medical or personal hardship;  
 62        (e) Credit hours taken by active-duty military personnel;  
 63        (f) Credit hours required to achieve a dual major  
 64 undertaken while pursuing a degree;  
 65        (g) Credit hours in remedial courses and English as a  
 66 Second Language; and  
 67        (h) Credit hours earned in military science courses  
 68 (ROTC).  
 69        (6) Each postsecondary institution shall implement a  
 70 process for notifying students regarding this section. The  
 71 notice must be provided upon the student's initial enrollment in  
 72 the institution and again upon the student's having earned the  
 73 credit hours required to complete the degree program in which he  
 74 or she is enrolled. The notice must include a recommendation  
 75 that each student who intends to earn credit hours at the  
 76 institution beyond those required for his or her enrolled degree  
 77 program meet with his or her academic advisor.  
 78        (7) This section applies to freshmen enrolled in the fall  
 79 semester or term 2007 and all freshmen thereafter.  
 80        Section 2. This act shall take effect July 1, 2007.



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 1507

COUNCIL/COMMITTEE ACTION

ADOPTED                                    \_\_\_ (Y/N)  
ADOPTED AS AMENDED                    \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION                Y (Y/N)  
FAILED TO ADOPT                        \_\_\_ (Y/N)  
WITHDRAWN                               \_\_\_ (Y/N)  
OTHER                                      \_\_\_\_\_

1 Council/Committee hearing bill:    Committee on Postsecondary  
2 Education

3 Representative(s) Altman offered the following:  
4

**Amendment (with title amendment)**

Remove line(s) 21-44 and insert:

7 respective degree programs. Accordingly, a student must pay 50  
8 percent more than the in-state tuition rate for any credit hours  
9 that the student takes in excess of 120 percent of the number of  
10 credit hours required to complete the degree program in which he  
11 or she is enrolled.

12       (2) A student who is enrolled in a community college must  
13 pay 50 percent more than the in-state tuition rate for credit  
14 hours that the student takes in excess of 120 percent of the  
15 credit hours required to earn an associate degree, except that a  
16 community college student who has earned an associate degree  
17 need not pay the full cost for a maximum of 24 hours taken while  
18 enrolled at a community college that apply to his or her  
19 baccalaureate degree.

20       (3) An undergraduate student who is enrolled in a state  
21 university must pay 50 percent more than the in-state tuition

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

22 rate for credit hours that the student takes in excess of 120  
23 percent of the credit hours required to complete the degree  
24 program in which he or she is enrolled, regardless of whether  
25 those hours were taken while enrolled at a community college, a  
26 state university, or any private postsecondary institution if  
27 the student received state funds while enrolled at the private  
28 postsecondary institution.

29 (4) An undergraduate student who is enrolled in a  
30 baccalaureate degree program at a community college must pay 50  
31

32 ===== T I T L E A M E N D M E N T =====

33 Remove line(s) 4 and insert:  
34 students to pay 50 percent more than the in-state tuition

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (2)

Bill No. 1507

COUNCIL/COMMITTEE ACTION

ADOPTED                                        (Y/N)  
ADOPTED AS AMENDED                        (Y/N)  
ADOPTED W/O OBJECTION                  Y   (Y/N)  
FAILED TO ADOPT                            (Y/N)  
WITHDRAWN                                   (Y/N)  
OTHER                                           

1 Council/Committee hearing bill:    Committee on Postsecondary  
2 Education

3 Representative(s) Altman offered the following:

4  
5                    **Amendment**

6                    Remove line(s) 18-21 and insert:

7                    (1) It is the intent of the Legislature to encourage  
8 undergraduate students in postsecondary education to complete  
9 the student's respective degree program in the most efficient  
10 way possible and to provide access to additional college course  
11 work. Accordingly, a student must pay 50