

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB SLC 08-07                      Teacher Lead Program Revision

**SPONSOR(S):** Schools & Learning Council

**TIED BILLS:**                                      **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Schools & Learning Council	15 Y, 0 N	Ahearn	Cobb
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

“The Florida Teachers Lead Program Stipend (Teachers Lead),” created in 1997, provides funds to classroom teachers for the purchase of materials and supplies for their students. Funding for this program is determined by the Legislature in the General Appropriations Act. In order for classroom teachers to receive the funds, they must sign a statement, the required contents of which are set forth in law, acknowledging receipt of the funds and agreeing to use the funds for the purchase of classroom materials and supplies only. The law further requires that, if a classroom teacher does not expend the funds before the end of the “regular school year,” the teacher must return the unused funds to the school board. The law does not authorize teachers to purchase materials after the regular school year ends and then reimburse themselves from the next school year’s Teacher Lead funds.

This bill changes the name of the program from “The Florida Teachers Lead Program Stipend” to “The Florida Teachers Lead Program,” thereby eliminating superfluous language; expressly prohibits expenditure of Teachers Lead funds on equipment; requires the Commissioner of Education to disburse the Teachers Lead funds to the school districts by July 15; specifies that a district school board or charter school board may distribute the Teachers Lead funds to the classroom teachers by way of, for example, debit card, direct deposit, check, or purchasing card; limits to 4 years (currently, no limit) the amount of time that a classroom teacher must keep receipts for classroom materials and supplies purchased with Teachers Lead funds; clarifies that Teachers Lead funds do not affect a classroom teacher’s wages, hours, or terms and conditions of employment and are therefore not subject to collective bargaining; and clarifies that a classroom teacher may decline receipt of or return the funds without explanation or cause.

This bill does not appear to have a fiscal impact on state or local governments or school districts.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the principles.

### B. EFFECT OF PROPOSED CHANGES:

#### Current Law

“The Florida Teachers Lead Program Stipend (Teachers Lead),” created in 1997, provides funds to classroom teachers<sup>1</sup> for the purchase of materials and supplies<sup>2</sup> for their students.

Funding for this program is determined by the Legislature in the General Appropriations Act. Once an appropriation is made, the Commissioner of Education calculates a prorated amount to be distributed to each school district based upon each district’s proportionate share of the total state preK-12 unweighted full-time equivalent student enrollment.<sup>3</sup> School districts, in turn, determine the amount each classroom teacher receives by dividing the district’s total allocation by the number of classroom teachers. School districts must distribute the funds to the classroom teachers no later than September 30.<sup>4</sup>

In order for classroom teachers to receive the funds, they must sign a statement, the required contents of which are set forth in law, acknowledging receipt of the funds and agreeing to use the funds for the purchase of classroom materials and supplies only.<sup>5</sup> The law further requires that, if a classroom teacher does not expend the funds before the end of the “regular school year,” the teacher must return the funds to the school board.<sup>6</sup> The law does not authorize teachers to purchase materials after the regular school year ends and then reimburse themselves from the next school year’s Teacher Lead funds. To allow reimbursement from a subsequent year’s funds anticipates an appropriation in advance of legislative action. In addition, use of the funds for reimbursement of purchases made outside the “purchase window”<sup>7</sup> is unlawful. More particularly, the statement signed by the classroom teacher provides, in pertinent part:

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<sup>1</sup> A “classroom teacher” means “[a] certified teacher[ ] employed by a public school district or a public charter school, on or before September 1 of each year, whose full-time or job-share responsibility is the classroom instruction of students in prekindergarten through grade 12, including full time media specialists and guidance counselors who serve students in prekindergarten through grade 12, who are funded from the Florida Education Finance Program.” s. 1012.71(6), F.S. A job-share classroom teacher is defined as two teachers whose combined full-time equivalent employment for the same teaching assignment equals one full-time classroom teacher. *Id.*

<sup>2</sup> “Materials and supplies” is defined in the Financial and Program Cost Accounting and Reporting for Florida Schools (2001 Red Book) to mean “[a]mounts paid for items of an expendable nature that are consumed, worn out, or deteriorated in use, or items that lose their identity through fabrication or incorporation into different or more complex units or substances.” In a November 6, 2006, memorandum from the Commissioner of Education to the district school superintendents, the Commissioner advised that “all purchases of classroom equipment from these funds would be considered materials and supplies.” Whether such a determination was within the power and authority of the Commissioner is subject to debate.

<sup>3</sup> Section 1012.71(1), F.S.

<sup>4</sup> Section 1012.71(2), F.S.

<sup>5</sup> Section 1012.71(3), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> The “purchase window” is that time period between the distribution of the funds to the classroom teachers, which must occur “no later than September 30,” and the end of the regular school year when unspent funds must be returned to the school district.

In accepting custody of *these funds*, I agree to keep receipts for all expenditures. I understand that if I do not keep receipts showing *these funds were spent* to purchase classroom materials and supplies for use with my students, it will be my personal responsibility to pay any federal taxes due on these funds. *I also agree to return any unused funds to the district school board at the end of the regular school year ....* (Emphasis added)

“[T]he Legislature is conclusively presumed to have a working knowledge of the English language”<sup>8</sup> and therefore capable of using the term “reimbursement” if a reimbursement program were intended. Also, courts must adhere to the plain meaning of words or phrases should legislative intent become an issue and, courts may not interpret a statute in a manner that would betray its express terms.<sup>9</sup>

Teachers must keep receipts for all expenditures made with Teachers Lead funds. The law does not state how long a teacher must keep the receipts. However, it is the teacher’s “personal responsibility [if audited by the Internal Revenue Service and unable to produce the expenditure receipts] to pay any federal taxes due on these funds.”<sup>10</sup>

Teachers Lead funds must be provided to each classroom teacher in addition to any other funds appropriated for public school operations. In other words, “These funds should not be used to supplant any other operational funds used to purchase classroom materials and supplies.”<sup>11</sup> This does not, however, in any way change the requirement that only “materials or supplies” are purchased.

Purchases made with the funds are not subject to state or local competitive bidding requirements.

### **Proposed Changes**

This bill:

- Changes the name of the program from “The Florida Teachers Lead Program Stipend” to “The Florida Teachers Lead Program,” (Teachers Lead), thereby eliminating superfluous language.
- Expressly prohibits expenditure of Teachers Lead funds on equipment. Current law does not contemplate expenditure of “materials and supplies” money for equipment, despite a Technical Assistance Paper (TAP) issued by the Department of Education to the contrary.<sup>12</sup> The express prohibition is included in this bill in response to the TAP.
- Requires the Commissioner of Education to disburse the Teachers Lead funds to the school districts by July 15. According to Department of Education staff, the disbursements now occur in August. By disbursing the funds earlier to the school districts, school districts can in turn disburse the funds earlier to the classroom teachers.
- Specifies that a district school board or charter school board may distribute the Teachers Lead funds to the classroom teachers by way of, for example, debit card, direct deposit, check, or purchasing card. Currently the Teachers Lead law is silent with regard to the method of distribution. Most school districts distribute the funds by check. This bill clarifies the board’s

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<sup>8</sup> *State Racing Commission v. McLaughlin*, 102 So.2d 574, 575 (Fla. 1958); *State v. Bradford*, 787 So.2d 811 (Fla. 2001).

<sup>9</sup> *Silva v. Southwest Florida Blood Bank, Inc.*, 601 So.2d 1184, 1186 (Fla. 1992); *McLaughlin v. State*, 721 So.2d 1170, 1172 (Fla. 1998).

<sup>10</sup> Section 1012.71(3), F.S.

<sup>11</sup> Memorandum dated November 6, 2006, from the Commissioner of Education to the district school superintendents.

<sup>12</sup> *Id.* In the memorandum (also known as a Technical Assistance Paper) the Commissioner advised that “all purchases of classroom equipment from these funds would be considered materials and supplies.” Whether such a determination was within the power and authority of the Commissioner is subject to debate.

existing authority to exercise control and discretion over its organization, operation, and administration of the Teachers Lead funds.<sup>13</sup>

- Limits to 4 years the amount of time that a classroom teacher must keep receipts for classroom materials and supplies purchased with Teachers Lead funds.<sup>14</sup> Current law does not limit how long a teacher must retain receipts. Income Tax Regulations require that the Internal Revenue Service (IRS) assess a tax within 3 years after the tax return is filed with the IRS.<sup>15</sup> By keeping the receipts for 4 years a classroom teacher will have the necessary proof, if audited by the IRS, to show that the funds were spent appropriately and were not spent for personal use.
- Clarifies that Teachers Lead funds do not affect a classroom teacher's wages, hours, or terms and conditions of employment and are therefore not subject to collective bargaining. Distribution of funds is a managerial function that falls within a "[b]oard's responsibility to efficiently conduct its operations, including budgetary and revenue areas."<sup>16</sup>
- Clarifies that a classroom teacher may decline receipt of or return the funds without explanation or cause.

#### C. SECTION DIRECTORY:

Section 1. Substantially rewords s. 1012.71, F.S., establishing the Florida Teachers Lead Program which, contingent upon funding by the Legislature, provides funds to classroom teachers for the purchase of materials and supplies for their students.

Section 2. Provides an effective date of upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

1. Revenues:

None

2. Expenditures:

None

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<sup>13</sup> Provides a retroactive effective date for this provision as of July 1, 2007, which comports with the date the law was last amended to, among other things, include job-share teachers.

<sup>14</sup> Under section 6501(a) of the Internal Revenue Code (Tax Code) [Title 26, Subtitle F, Chapter 66, Subchapter A] and section 301.6501(a)-1(a) of the Income Tax Regulations (Tax Regulations), the IRS is required to assess tax within 3 years after the tax return was filed with the IRS. Similarly, under 301.6501(a)-1(b) of the Tax Regulations no proceeding in court by the IRS without assessment for the collection of any tax can begin after the expiration of 3 years.

[www.wwwebtax.com/audits/statute\\_of\\_limitations.htm](http://www.wwwebtax.com/audits/statute_of_limitations.htm)

[www.law.cornell.edu/uscode/search/display.html?terms=6501\(a\)&url=/uscode/html/uscode26/usc\\_sec\\_26\\_00006501---000-.html](http://www.law.cornell.edu/uscode/search/display.html?terms=6501(a)&url=/uscode/html/uscode26/usc_sec_26_00006501---000-.html)

<sup>15</sup> *Id.*

<sup>16</sup> *In Re State Employment Relations Bd. v. Cleveland Heights-Univ. Heights Bd. of Ed.*, 14 Ohio Pub. Employee Rep. ¶1265 (OSERB 1997); *see also, Hillsborough Classroom Teachers Ass'n. v. Sch. Bd. of Hillsborough County*, 423 So.2d 969 (1<sup>st</sup> DCA 1982); *Fraternal Order of Police, Miami Lodge 20 v. City of Miami*, 609 So.2d 31, 33 (Fla. 1992).

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

1. Revenues:

None

2. Expenditures:

None

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

None

**D. FISCAL COMMENTS:**

None

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This 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:**

None

**D. STATEMENT OF THE SPONSOR**

Not applicable

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

None