

March 14, 2014

MEMORANDUM

TO: District School Superintendents
FROM: Joy Frank
Re: Legislative Update – Week of March 10, 2014

General Information

The Senate and House continued moving substantial education proposals through committees this week. Both chambers have announced a break during Passover/Easter week in April.

The House published their funding allocations for the 2014-2015 fiscal year. For education, they are as follows:

| General Revenue Fund | Recurring | Non-Recurring | Total |
|-----------------------------|------------------|----------------------|--------------|
| PreK-12 | \$10,717.6 | \$ 77.8 | \$10,795.4 |
| Higher Education | \$ 3,538.1 | \$ 39.6 | \$ 3,577.7 |

It is difficult to make a comparison with last year at this time, as the details have not been released. Preliminary proposals are expected from the respective appropriations subcommittees next week.

The House Education Appropriations Subcommittee had a presentation by the Department of Management Services on the Florida Broadband Initiative including Internet access and data transport service known as the Florida Information Resource Network or FIRN. Currently 49 schools districts buy off of the FIRN contract. A map of Florida indicating the access to broadband is available at <http://map.broadbandfla.com/>. It is interesting to note that much of the state still does not have sufficient access to broadband.

Senate Committee Action

SB 530 by Flores re to Postsecondary Education Textbook and Instructional Materials. This is similar to HB 355 by Porter that was summarized last week. The Senate incorporated the House bill language to require textbooks to be used for an undergraduate courses for a minimum of 3 years. There are exceptions.

Senator Montford then offered an amendment that was approved which provided that for an undergraduate courses in which a dual enrollment student may be enrolled, the textbook or instructional materials must remain in use for a minimum of 5 years. The amendment passed the committee favorably.

The bill passed the Senate Education Committee favorably as a committee substitute.

SB 598 by Bean re to Juvenile Justice Education Programs. The bill makes changes to the provisions of law governing the accountability, deliverance, and review of juvenile justice education programs that provide educational services to students within the Department of Juvenile Justice (DJJ).

The bill revises the accountability of juvenile justice education programs by:

- Requiring cost and effectiveness information on programs and program activities be provided in order to compare, improve, or eliminate a program or program activity;
- Requiring program and program activity cost and effectiveness data be provided to the Legislature and the public;
- Implementing an accountability system to meet client needs;
- Requiring the Department of Education (DOE), in partnership with the DJJ, to develop a comprehensive accountability and school improvement process;
- Requiring the DOE in collaboration with the DJJ to monitor and report on the educational performance of students in commitment, day treatment, prevention, and detention programs;
- Requiring the DOE, in consultation with the DJJ, district school boards, and providers, to adopt rules for objective and measurable student performance measures and program performance ratings for the delivery of educational services by prevention, day treatment, and residential programs;
- Requiring the DJJ, in consultation with the DOE, to publish by March 1 of each year a report on program costs and effectiveness, educational performance of students, and recommendations for modification or elimination of programs or program activities; and
- Requiring the DOE, in partnership with the DJJ, district school boards, and providers to:
 - Develop and implement requirements for contracts and cooperative agreements regarding the delivery of appropriate education services to students in DJJ programs.
 - Maintain standardized procedures for securing student records.

The bill revises provisions related to juvenile justice programs by:

- Requiring school districts and juvenile justice education providers, in collaboration with others, to develop a transition plan during a student's stay in a program;
- Requiring the State Board of Education to adopt rules for academic assessment for students in detention centers;
- Requiring the DOE and the DJJ to provide oversight and guidance on how to implement effective educational transition planning and services;
- Requiring prevention and day treatment programs to provide career readiness and exploration opportunities, as well as truancy and dropout prevention intervention services;
- Requiring residential juvenile justice education programs with a contracted minimum length of stay of nine months to provide career education courses that lead to pre-apprentice certifications, industry certifications, occupational completion points, or work-related certifications;
- Allowing residential juvenile justice programs with a contract length of stay of less than nine months, to provide career education courses that lead to pre-apprentice certifications, industry certifications, occupational completion points, or work-related certifications; and
- Requiring the multiagency plan for career education to eliminate barriers to education and address virtual education.

The bill passed the Senate Education Committee favorably. The House companion, HB 173 by Adkins passed the full House on Wednesday.

SB 864 by Hays re to Instructional Materials for K-12 Public Education. The bill eliminates the state-level instructional materials review, selection and adoption process, and identifies parameters for school boards to satisfy their constitutional duty and responsibility to select and provide adequate instructional materials for K-12 public school students. The bill states that district school boards have the constitutional duty and responsibility to select and provide adequate instructional materials for K-12 public school students. The bill eliminates the state-level review, selection and adoption process for instructional materials conducted by the Florida Department of Education.

School District Instructional Materials Program

The bill expands the optional district school board instructional materials review program into a program that is to be used for all school districts. In doing so, the bill incorporates several accountability and transparency requirements that previously existed in the state-level process, and includes new responsibilities. For example, the bill requires the district school board to adopt rules that must include the:

- Criteria for the review and recommendation of instructional materials, including a thorough review of curriculum content.
- Establishment and composition of the local instructional materials review committee.
- Identification, by subject area, of a review cycle for instructional materials.
- Process by which instructional materials are adopted by the district school board, including a process for the district school board to determine and certify the accuracy of the district adopted instructional materials. As part of the process, the district school board must:
 - Post recommended instructional materials in a read-only format on the district website for public to review. The public may submit comments electronically for review by the district school board members and superintendent.
 - Conduct an open, noticed public hearing for the district school board to receive public comment and review the recommended instructional materials.
 - Hold an open, noticed public meeting for the district school board to approve an annual instructional materials plan, including the adoption of instructional materials.
 - Notice the public meeting and public hearing, which must specifically state which instructional materials are being reviewed and the manner in which the public can access the instructional materials for review. The public meeting must be held on a different date than the public hearing.
 - Establish a process by which the public can appeal the district school board's adoption of specific instructional materials. The district school board must convene a public hearing and re-evaluate the challenged instructional materials to determine suitability for use in accordance with the specified evaluation criteria.

The bill retains the ability of public inspection by requiring the school district to make sample copies of all instructional materials that have been adopted by the district school board available upon public request.

The bill gives the district school board the same duties the Commissioner of Education currently has to conduct an independent investigation to determine the accuracy of adopted instructional materials, and may remove instructional materials from the list of adopted materials if the content is in error and the publisher refuses to correct the error.

Instructional Materials Reviewers

The bill requires district school boards to establish a local instructional materials review committee to review and recommend instructional materials to the district school board for final adoption. Districts may combine their committees.

Each district review committee consists of the following members:

- Each district school board member appoints one person not employed by the district;
- The superintendent appoints a number of classroom teachers equal to the number of school board members that are representative of the subject areas and grade levels of the instructional materials considered for adoption; and
- The district school board and the superintendent each appoint at least one parent of a student currently enrolled in a district public school.

The bill requires district reviewers to comply with the same duties that currently apply to state-level reviewers, including making an affidavit attesting to their independence from bias and a conflict of interest.

Instructional Materials Publishers

The bill requires instructional materials publishers to comply with the same duties and requirements for the district process that currently apply to the state-level process. The bill eliminates the requirement that district school superintendents purchase instructional materials exclusively from the publisher's book depository, and authorizes purchases from any vendor selling the instructional materials. In conjunction with the deletion of the state-level adoption cycle, the bill requires the publisher to maintain in the depository an inventory of instructional materials sufficient to receive and fill orders for core subject areas. The bill authorizes school districts to request assistance from the publisher's book depository to recommend instructional materials for the district's instructional material review committee to review in accordance with the requirements and district review process.

School District Purchase of Instructional Materials

The bill retains the requirement for the district school board to purchase current instructional materials to provide each student in kindergarten through grade 12 with a major tool of instruction in core courses. However, since the state-level adoption process (including the adoption cycle) is being eliminated, the bill deletes the requirement that the purchase must be made within 3 years after the effective date of the adoption cycle.

The bill retains the requirement that the district school board use at least 50 percent of the annual allocation for the purchase of district-adopted digital (no longer electronic) instructional materials. The bill deletes superfluous provisions relating to purchases of instructional materials not on the state-adopted list and the provisions relating to use of the kindergarten and first grade allocation for instructional materials not on the state-adopted list.

School District Transition to Instructional Materials in a Digital Format

The bill deletes the current requirement that instructional materials be provided in an "electronic format," but keeps the current requirement that, beginning in the 2015-2016 school year, instructional materials be provided in a "digital format."

The district school board must adopt rules that identify the process by which the school district will notify parents of their ability to access their children's instructional materials through the district's local

instructional improvement system. The rules must also identify the process by which the school district will encourage parents to access the system. The notification must be displayed prominently on the district school board's website and provided annually to all parents of enrolled students in a written format.

The bill passed the Senate Education Committee and is now in Governmental Oversight and Accountability. The bill does not have an Appropriations reference.

The House K-12 Subcommittee considered the House companion, HB 921 by Rep. Gaetz. The two bills are basically the same but the committee amended the House bill with the following amendments:

- Require that adopted instructional materials, in addition to being accurate; objective; current; and suitable based on a student's needs, comprehension, and grade level, must also be balanced, non-inflammatory, and fact based;
- Provide that school districts, beginning in the 2014-2015 school year, may use all of their instructional materials allocation on digital instructional materials;
- Require that reasonable safeguards be put into place against the unauthorized use, reproduction, and distribution of instructional materials posted online for public review and comment and clarify that the student editions of the instructional materials must be posted; and
- Remove the bill's provision allowing a district school board or consortium of districts to request assistance from the publisher's depository to recommend instructional materials for review, approval, adoption, and purchase.

HB 921 passed the K-12 Subcommittee favorably as a committee substitute. The bill is referenced also to the Education Appropriations Subcommittee and the House Education Committee.

SB 886 by Montford re to Florida Teachers Classroom Supply Assistance Program. The bill revises provisions of the Florida Teachers Classroom Supply Assistance Program providing flexibility for school districts to distribute funds to classroom teachers sooner for the purchase of supplemental materials and supplies for public school students assigned to them.

The bill requires school districts to determine, by July 1st of each year, the expected number of classroom teachers to be employed by the district or a charter school in the district on September 1st of each year. If, by July 1st, a classroom teacher is expected to be employed on September 1st, the district school board and each charter school board *may* distribute the teacher's proportionate share of funds to the teacher by August 1st. If a teacher's expected employment status is determined after July 1st, the district school board and charter school board *must* provide the teacher with the teacher's proportionate share of funds by September 30th, *which is the current distribution date*.

The bill passed the Senate Education Committee favorably. This bill is part of the Governor's legislative agenda.

SB 950 by Stargel re to Educator Certification. The bill revises K-12 educator certification requirements to authorize the use of additional assessment options, align competencies across preparation program types, and provide flexibility for training and inservice requirements

The bill was amended to authorize the following:

In addition to other means of demonstrating professional preparation and education competency, also accepted would be successful completion of a professional education training program provided by Teach for America and achievement of a passing score on the professional education competency examination.

Beginning July 1, 2014, a school district may assign an individual newly hired as instructional personnel to a school that has earned a grade of “F” in the previous year or any combination of three consecutive grades of “D” or “F” in the previous 3 years pursuant to s. 1008.34 if the individual:

- Has received an effective rating or highly effective rating in the immediate prior year’s performance evaluation;
- Has successfully completed a professional education training program provided by Teach for America, holds a certificate, and holds a probationary contract; or
- Holds a probationary contract, holds a certificate, has successful teaching experience, and, in the judgment of the school principal, students would benefit from the placement of that individual.

In addition, language was also added to authorize a superintendent to assign a newly teacher to a school that has earned a grade of “F” in the previous year or any combination of three consecutive grades of “D” or “F” in the previous 3 years if the individual holds a probationary contract, holds a certificate, has successful teaching experience, and, in the judgment of the school principal, students would benefit from the placement of that individual.

The bill passed the Senate Education Committee favorably as a committee substitute.

SB 1512 by Stargel re to Students with Disabilities. This bill was discussed, but was not considered this week. It will be considered by the Senate Education Committee on Tuesday, March 18th. The bill establishes Florida Personalized Account for Learning for parents to meet the individual educational needs of their children who have disabilities. Kindergarten – 12th grade students are eligible if they meet certain criteria.

The bill also revamps the diploma options for students with disabilities. Beginning with students entering 9th grade in the 2014-2015 school year, a parent of a student with a disability in collaboration with the IEP team, must declare an intent for the student to graduate with a standard high school diploma or a certificate of completion. The Special Diploma option is repealed. Various options are available for a student with disabilities to meet the requirements of a standard high school diploma. Graduation with a standard diploma may be deferred under certain conditions and the student will continue to receive services through age 21. In addition, a student who receives a certificate of completion may continue to receive specified instructional services pursuant to the IEP. Another designation is established for students with disabilities – a specialty designation. The bill requires that an IEP team begin the process of transition services to postsecondary education and career opportunities by the time the student attains the age of 14 and postsecondary and career goals be in place when the student attains the age of 16. The bill requires to Commissioner to perfunctorily grant a permanent exemption to a student who suffers from a severe cognitive disability or physical disability that the student permanently lacks the capacity to take statewide, standardize assessments.

SB 968 by Hays re to School Safety. The bill authorizes school principals and district school superintendents to designate employees and volunteers to carry concealed firearms on school campuses or in district administrative buildings. The bill requires that designees meet criteria set forth in the bill including having a military or law enforcement background, successful completion of a training program, and additional screening as required by the principal or superintendent. The Criminal Justice Standards

and Training Commission will establish the training for designees. Criminal Justice Training Centers will administer the training. The Centers will also certify and remit proof of training completion by the designees. Local law enforcement school campus first responders will have the opportunity to recommend related changes to district schools and private schools as noted during a campus tour every three years. Active-shooter training for each school will be conducted by an accredited law enforcement academy. What this training entails is unspecified in the bill. There is legislative intent regarding school safety in the bill. Conforming, technical, and clarifying amendments are made throughout the bill.

The bill passed the Senate Criminal Justice Committee as a committee substitute. The next committee stop is the Senate Education Committee.

SB 792 by Flores re to Tax on Sales, Use and Other Transactions. The bill provides for a state and local sales tax exemption for a 3-day period from August 1 through August 3, 2014, for the purchases of clothing costing \$75 or less, school supplies costing \$15 or less, and personal computers and related accessories costing \$750 or less.

The bill passed the Commerce and Tourism Committee favorably.

SB 1076 by Flores re to Electrical Power or Energy. The bill decreases the sales tax rate on sales of electrical power or energy from the current 7 percent to 1.75 percent in 3 stages (preserving the application of any county discretionary sales surtax). Concurrently the bill imposes an additional rate to the gross receipts tax for electrical power or energy delivered to a retail consumer in this state, beginning at 1.0 percent and ending at 1.75 percent over 3 years. The bill establishes a list of transactions of electrical power or energy to which the new additional rate does not apply.

The bill also creates a sales tax holiday for Energy Star and WaterSense products, with a limit of one purchase per person of each specific type of listed Energy Star or WaterSense product which has a sales price of \$500 or more. The bill authorizes the Department of Revenue to adopt emergency rules to administer the sales tax holiday and deems all requisite conditions to be met.

The bill passed the Communications, Energy, and Public Utilities Committee favorably as a committee substitute. This is the proposal put forth by Commissioner Putnam.

SB 718 by Legg re to Public Meetings. The bill requires that notice of a public meeting include a description of each matter to be considered at the meeting. The bill prohibits board or commission members from taking action on any matter that is not described on the notice. An exception is provided for emergency situations requiring immediate action so long as consideration of the matter is approved by a super majority of the board or commission.

The bill passed the Community Affairs Committee favorably.

Updated Senate Committee Action – Previously Reported Bills

SB 188 by Hukill re to Education Data Privacy. The bill implements the recommendations from the DOE Student Privacy Report. The bill basically prohibits the collection and use of biometric information. The bill was amended in committee this week and permits an exception to the prohibition for Pinellas County.

The bill passed the Judiciary Committee as a committee substitute and has been placed on the Special Order Calendar for March 20.

SB 790 by Legg re to Education. The bill elevates policy and funding for technology-enhanced classroom teaching and learning by requiring a plan and establishing a funding methodology for school districts' technology and digital instruction activities and purchases, and authorizes course substitution options for students to help equip Florida's students with the skills to succeed in a competitive economy.

Senator Montford sponsored an amendment that increased the minimum allocation for technology to \$250,000 per district.

The bill passed the Senate Appropriations Education Subcommittee favorably as a committee substitute.

SB 1642 by Education re to Education Accountability. The bill makes substantial changes to Florida's public school statewide assessment and accountability system, including revisions to school grading and school improvement rating systems. The bill provides for a one-year transition period to new statewide, standardized assessments. The bill was amended to provide that an adjustment must be made to the accountability system if the percentage of schools earning an "A" and "B" in the current year represents 75 percent or more of all graded schools within a particular school type used for accountability. The adjustment must reset the minimum required percentage of points for each grade as a percentage threshold that would yield less than 75% of schools earning an "A" and "B" if applied in the year mandating the adjustment.

The bill passed the Senate Appropriations Education Subcommittee favorably as a committee substitute.

House Committee Action

PCB EDC2 by House Education Committee re to School Accountability. On February 24, 2014, the Commissioner, pursuant to an executive order issued by Florida Governor Rick Scott, presented to the House Education Committee various recommended changes to the school accountability and teacher evaluation systems in Florida, including, among other things, simplifying school grades calculations to focus on graduation, earning college credit, and student performance in core subjects; establishing a transition year for purposes of school grades and teacher evaluations as the state administers new statewide assessments in the 2014-2015 school year; and providing greater district and school control in developing local assessments.

Based on the commissioner's recommendations, this bill:

- Simplifies the school grades calculations for elementary, middle, and high schools by eliminating extraneous point categories and focusing on student performance, graduation, and eligibility for college credit;

- Requires development of a district report card which includes indicators of success, such as student performance, closing of the achievement gap among high- and low-performing subgroups, and grade-level promotion of low achieving students;
- Establishes a hold harmless provision for the 2015-2016 school year that insulates schools and districts from any penalty or reclassification based on 2014-2015 grades as new statewide, standardized assessments in mathematics and English language arts are implemented;
- Restructures school improvement rating provisions to make sure alternative schools and exceptional student education (ESE) centers receive ratings and to focus on learning gains for students in alternative schools and ESE centers;
- Authorizes district school boards to adopt teacher- or principal-selected assessments for certain hard-to-measure courses and subjects such as Band or Art;
- Authorizes district school boards to establish performance standards for teacher evaluation ratings for the 2014-2015 school year as new statewide, standardized assessments are implemented and requires the State Board of Education (SBE) to establish performance levels for teacher evaluation ratings beginning with the 2015-2016 school year; and
- Provides for bonus money, subject to appropriation, to school districts that more effectively align teacher evaluations to student performance and utilize local assessments.

In addition, the bill removes the Department of Education’s rulemaking authority and instead requires the Hillsborough County School District superintendent to attest annually to the SBE that the district meets criteria relating to the approval of certain personnel evaluation and performance pay provisions.

The proposal passed the House Education Committee and was introduced as HB 7117.

CIS2 – by Choice & Innovation Committee re to Personal Learning Accounts for Exceptional Students.

The bill establishes the Florida Personal Learning Account program (account) to provide parents of students with disabilities such flexibility. To be eligible for an account, a student must:

- Be a Florida resident;
- Be eligible to enroll in kindergarten through 5th grade or have received an account in the previous year;
- Be identified as having autism, cerebral palsy, down syndrome, an intellectual disability, Prader-Willi syndrome, or Spina bifida, or for a student in kindergarten, as a high-risk child; and
- Have an individual educational plan (IEP) and be eligible for Florida Education Finance Program (FEFP) matrix support levels IV or V.

The parent must select educational services for the student, pay for the services “up front,” and request reimbursement for services from the account. Parents may be reimbursed for educational services from a private school, specialized instructional services, private tutoring, virtual education, curriculum, educational evaluations, therapy services, and the \$25 application fee charged by the scholarship funding organization (SFO) that administers the account. Educational services from a private school and specialized instructional services must be consistent with the student’s IEP. Funds remaining after educational services are purchased may be used for other medical services for the student, if requirements are met.

Account funding is calculated using the same calculation as the McKay program. In order to enable the Department of Education (DOE) to calculate funding for a student’s account, the student’s school district of residence must report him or her for FEFP funding. DOE calculates funding for the student and then

transfers the funding quarterly to an SFO. The SFO must maintain separate accounts for each eligible student, verify qualifying expenditures, and reimburse the parent for eligible services provided to the student. When requesting reimbursement for services, the parent must submit receipts or other relevant supporting documentation and an affidavit stating compliance with expenditure requirements.

Specialized instructional service providers must be approved by DOE. Private schools selected by the parent to deliver educational services to the student must be participating in a state school choice scholarship program. Each participating student's educational progress must be evaluated annually in a manner that is similar to the home education law. SFOs are audited annually and must submit quarterly reports to DOE.

The fiscal impact on state government is estimated at \$8.8 million.

The proposal passed the Choice & Innovation Subcommittee favorably and was introduced as HB 5103

Updated House Committee Action – Previously Reported Bills

HB 159 by Berman re to Establishment of Mental Health First Aid Training. The bill requires the Department of Children and Families (DCF) to establish a mental health first aid training program. The program is intended to train individuals to identify and understand the signs of mental illnesses and substance use disorders and help someone who is developing or experiencing a mental health or substance use problem. The bill directs that training be provided through contract providers and that first priority for the training be given to the staff of schools. An appropriation of \$300,000 from nonrecurring funds is provided to implement provisions of the bill.

The bill passed the Health Care Appropriations Subcommittee with an appropriation of \$300,000.

Senate Session

SB 860 by Military and Veterans Affairs, Space, and Domestic Security re to Military and Veterans Affairs. In addition to other provisions relating to veterans, the bill amends s. 1002.33, F.S., to state the Legislature's intention to address the unique challenges faced by military children and to encourage military installation commanders and the Commissioner of Education to work together to increase military family student achievement, including the option of establishing charter schools on military installations.

The bill was substituted for HB 7105 which had already passed the House and then passed the Senate. It is now enrolled and will be delivered to the Governor.

House Session

HB 7031 by K-12 Subcommittee re to Education. The bill repeals terminated or unfunded programs, corrects cross references, removes obsolete effective dates, eliminates duplicate reporting requirements, repeals completed pilot programs, and updates nomenclature. The bill clarifies the graduation requirements for certain high school students. Last session the Legislature passed SB 1076 which, in part,

dealt with course and testing requirements for high school graduation. The bill explains how the new graduation requirements impact students who were in high school before SB 1076 passed.

The bill passed the full House. The Senate companion, SB 1226 by Montford is on the agenda of the Senate Education Committee on March 18, 2014.

HB 173 by Adkins re to Juvenile Justice Education Programs. The bill makes changes to the provisions of law that govern the accountability, deliverance, and review of juvenile justice education programs that provide educational services to students within the Department of Juvenile Justice (DJJ).

The bill passed the House. The Senate companion, SB 598 is discussed above.

HB 277 by Spano re to Joint Use of Public School Facilities. The bill:

- Encourages each district school board, at its discretion, to enter into joint-use agreements with local governments or private organizations or adopt public access policies that allow public access to indoor or outdoor recreation and sports facilities on public school property.
- Provides that a school board that enters into a joint-use agreement or adopts a public access policy is only liable for civil damages for personal injury, property damage, or death occurring on public school property if the board is found to have committed gross negligence or intentional misconduct.
- Specifies that the limit on civil liability does not apply to injury, damage, or death occurring during school hours or during a school-sponsored activity or otherwise waive sovereign immunity.

The bill passed the full House. The Senate companion, SB 396 is on the Senate Education Committee agenda for March 18, 2014.

Next Week – Week of March 17th

At the time this report was printed, the following bills are scheduled for consideration.

Senate Education Committee – Tuesday, March 18 from 8:00 – 9:30 a.m.

SB 396 by Bean re to Joint Use of Public School Facilities
SB 514 by Flores re to Gender-Specific School Pilot Project
SB 628 by Montford re to Educational Facilities Financing
SB 1036 by Grimsley re to Nursing Education Programs.
SB 1206 by Montford re to Agricultural Industry Certifications.
SB 1226 by Montford re to Education (repealer bill)
SB 1382 by Hays re to Hazardous Walking Conditions.
SB 1512 by Stargel re to Students with Disabilities.

I hope this information is helpful. If you have any questions, please give me a call.