

March 21, 2014

MEMORANDUM

TO: District School Superintendents
FROM: Joy Frank
RE: Legislative Update – Week 3

General Information

You received a letter from the Florida Department of Management Services relating to the procurement and/or order of Telecommunications Services, Internet Access, etc. for the 2014-2015 Fiscal Year. This is a legislative issue and currently the House and Senate have different positions on this issue. I think it would be premature to sign any agreement at this time. If you have any questions, please give me a call at 850.577.5784.

SB 1620 by Galvano re to the Tax Credit Scholarship Program was withdrawn from further consideration yesterday.

The House and Senate proposed budgets are out, but no detailed budget runs. What is available is attached. For complete information go to the House website – www.myfloridahouse.gov and the Senate website – www.flsenate.gov.

Next Monday and Tuesday committee meetings are packed with education bills. The House Education Appropriations Committee is hearing on Monday afternoon:

- HB 85 by Lee Jr. re to Literacy Jump Start Pilot Project.
- HB 87 by McBurney re to Fine Arts Courses.
- HB 279 by Hill re to Public School Instruction (instruction re to terrorist attacks @ September 11).
- HB 355 re to Postsecondary Education Textbook and Instructional Materials.
- HB 7069 by Education Committee re to Early Learning and Child Care Regulation.
- HB 7083 by Choice & Innovation Subcommittee re to School Choice (charter schools).
- HB 7117 by Education Committee re to School Accountability.

The Senate Education Committee is hearing on Tuesday Morning:

- SB 138 by Ring re to Meetings of District School Boards
- SB 212 by Hukill re to High School Graduation Requirements (personal financial literacy)
- SB 396 by Bean re to Joint Use of Public School Facilities.
- SB 420 by Detert re to Fine Arts Courses.
- SB 566 re by Lee re to Florida Bright Futures Scholarship Program.
- SB 628 by Montford re to Educational Facilities Financing.
- SB 908 by Montford re to Education Funding (AVID Program)
- SB 1060 by Evers re to Code of Student Conduct (prohibits disciplinary action for simulating firearm or weapon while playing)

SB 1202 by Montford re to Career Centers and Charter Technical Career Centers.
SB 1206 by Montford re to Agricultural Industry Certifications.
SB 1226 by Montford re to Education (Repealer bill).
SB 1292 by Legg re to Postsecondary Education.
SB 1394 by Legg re to Education (Revising requirements to earn a Merit designation).
SB 1528 by Bradley re to School Choice (charter schools).
SB 7112 by Education re to Postsecondary Education.
SB 7114 by Education re to School Readiness.

Senate Committee Action

SB 514 by Flores re to Gender-Specific School Pilot Project. SB 514 establishes a pilot program for public schools meeting gender-specific requirements. Specifically, the bill creates an unnumbered section of law that requires the Department of Education (DOE) to administer a two-year Gender-Specific School Pilot Project in five school districts with populations of more than 100,000 kindergarten through grade twelve students.

The bill passed the Senate Education Committee favorably. The companion in the House, HB 313 is on the House Calendar.

SB 1382 by Hays re to Hazardous Walking Conditions. SB 1382 requires school boards to address, correct, and plan for all public schools in the district, including schools in operation before current safety requirements went into effect, to comply with safety requirements that address hazardous walking conditions for students. The bill creates a new hazardous walking condition category regarding “crossings over the road” and provides that the determination that a hazardous walking condition exists may not be used as evidence in a civil action for damages against a governmental entity.

Specifically, the bill:

- Requires a district school board and other governmental entities to identify and correct hazardous walking conditions within a two-mile radius of a school.
- Requires correction of a hazardous condition within three years of the determination that such a hazard exists or within five years if more time is necessary to remedy the condition.
- Requires the state or local government with jurisdiction over the road containing the hazardous condition to state whether the correction of the condition will be included in the next five-year capital improvement program within 90 days of receiving the district school superintendent’s request for a position statement and written justification if the correction is not included in the improvement program.
- Requires the state or local entity responsible for correcting such a hazard to reimburse the district school board, until the hazard is corrected, for the cost of student transportation services if the hazard is not remedied by the expected completion date and state funds are not available for continued transportation services for students.
- Requires specific governmental representatives to participate in the determination of whether a hazardous walking condition exists based upon which entity has jurisdiction over the affected road.
- Allows the district school board to initiate an administrative hearing to determine whether a hazardous walking condition exists.
- Adds certain conditions relating to “crossings over the road” as being hazardous walking conditions.

- Provides that the determination of a hazardous walking condition cannot be admitted as evidence in a negligence claim against a governmental.

The bill passed the Senate Education Committee favorably. The House companion, HB 1121 has not been heard in committee in the House.

SB 1512 by Stargel re to Students with Disabilities. The bill establishes the Florida Personalized Accounts for Learning to provide the option for a parent to meet the individual educational needs of his/her child. Disability is defined and means for a student in K-12, autism, Down syndrome, an intellectual disability, Prader-Willi syndrome, or Spina bifida; for a student in kindergarten, being a high-risk child; and Williams syndrome.

Program Eligibility – A parent of a student with a disability may participate if the student is a resident of this state; is eligible to enroll in kindergarten through grade 12; has a defined disability and is eligible for Level 3 to Level 5 services; and is the subject of an IEP written in accordance with SBE Rules.

The parent must request from DOE a participation in the program at least 60 days before the date of the first payment.

A student is not eligible while he/she is enrolled in a public school, enrolled in a DJJ program, receiving a scholarship from the Florida Tax Credit Scholarship Program or McKay Scholarship; or is receiving an educational scholarship pursuant to ch. 1002. A student is not eligible for the program if the student or parents has accepted any payment from a provider of any services that are received through the program; participation has been denied or revoked by the Commissioner; or the parent has forfeited participation for failure to meet comply with specific requirements.

The funds may be used for a variety of services, as specified in the IEP including:

- Instructional materials.
- Curriculum
- Specialized services including analysis, speech-language, occupational therapy, physical therapy, etc.
- Enrollment in, or tuition or fees association with enrollment in, an eligible private school, postsecondary education, private tutoring, virtual program, or approved online course.
- Fees for national examination.
- Contributions to Coverdell education savings accounts.
- Contracted services provided by a public school or district.

Program payments remain in force until a student participates in any prohibited activities, has funds revoked, returns to a public school, graduates from high school, or reaches 22, whichever occurs first.

School districts are obligated to notify the parent of a student who meets eligibility requirements the option to participate in the program by April 1 of each year and within 10 days after an IEP meeting. The bill specifies a timeframe to complete a matrix of services for students who do not have one. School districts must notify the student and parents about locations and times to take all statewide assessments for students who take such assessments. The school district must notify the parent about the availability of a reevaluation at least every 3 years.

The Department must establish an annual enrollment period which must begin on July 1 and end on May 1 of each year for applications for the following state fiscal year. Applications must be approved by June 1 of each year for program participation for the following fiscal year. Compliance audits must be conducted. Financial institutions must be notified by specified dates. A process by which a person may report a violation of laws or rules must be established. The department must select a research organization to which participating entities must report the scores of students on assessments administered by schools as specified in the IEP. The report must indicate learning gains of students, etc. The Department must issue a report by December 15, 2014 annually to the Governor and Legislature.

The bill specifies the authority and obligations of the Commissioners regarding the program including the denial, suspension or revocation of a student's participation and/or use of the program funds.

Parents must affirm that the student meets the minimum attendance requirements, use the program funds only for authorized purposes, affirm that the student take all assessment as specified in the IEP, etc.

The maximum funding must be equivalent to the BASE in the FEFP multiplied by the appropriate cost factor for the educational program which would have been provided for the student, multiplied by the DCD. In addition, an amount equivalent to a share of the guaranteed allocation for ESE student shall be determined and added to the amount. The calculation is based on the methodology and data used to calculate the allocation in 2000. The calculated amount must also include per-student share of SAI, instructional materials, technology and other categorical funds provided in the GAA.

Until the matrix is completed, the calculation must be based on the matrix of services for a level 3. The amount of funds awarded must be 90 percent of the calculated amount. The school district must report all students participating in the program. Those who were previously included in the FEFP and included in public school enrollment counts must be reported separately from other student reported in the FEFP. Participating student enrolled in nonpublic schools must also be reported separately.

The bill provides a process by which funds are transferred from the FEFP into a separate account for the program for quarterly disbursements to the personalized account for learning at an authorized financial institution.

The state is not liable for the award or any use of awarded funds. These provisions do not expand the regulatory authority of the state or any district to impose additional regulation on participating private entities beyond that which is reasonably necessary to enforce expressed provisions in the bill. The SBE must adopt rules to administer the program which must identify the appropriate district personnel who must complete the matrix of services.

The bill also establishes new provisions for students with disabilities to be grants a standard high school diploma. Beginning with students entering 9th grade in the 2014-2015 school year, these provisions apply to a student with an intellectual or cognitive disability for whom the IEP team has determined that the FAA is the most appropriate measure of skills.

A parent, in collaboration with the IEP team, must declare an intent for the student to graduate with either a standard high school diploma or a certificate of completion. A student with a disability who does not satisfy the standard high school diploma requirements will be awarded a certificate of completion. The bill lists several option that may be used to satisfy the standard high school diploma requirements, as specified in the student's IEP.

- A combination of course substitutions, assessments, industry certifications, and other acceleration options appropriate to the student's unique skills and abilities that meet the criteria established by SBE rule.
- A portfolio of quantifiable evidence that documents a student's mastery of academic standards through rigorous metrics established by SBE rule. A portfolio may include, but is not limited to, documentation of work experience, internships, community service, and postsecondary credit.

A student with a disability who meets the standard high school diploma requirements may defer the receipt of a standard high school diploma if the student:

- Has an IEP that prescribes special education, transition planning, transition services, or related services through age 21; and
- Is enrolled in accelerated college credit instruction, industry certification courses that lead to college credit, a collegiate high school program, courses necessary to satisfy the Scholar designation requirements, or a structured work-study, internship, or pre-apprenticeship program.

A student with a disability who receives a certificate of completion and has an IEP that prescribes special education, transition planning, transition services, or related services through 21 years of age may continue to receive the specified instruction and services.

Any waiver of the statewide, standardized assessment requirements by the IEP team must be approved by the parent and is subject to verification for appropriateness by an independent reviewer selected by the parent.

The special diploma provisions are repealed effective July 1, 2015.

The bill establishes specific provisions for transition to postsecondary education and career opportunities. To ensure planning for a successful transition of a student with a disability to postsecondary education and career opportunities, an IEP team shall begin the process of, and develop an IEP for, identifying the need for transition services before the student with a disability attains the age of 14 years in order for his or her postsecondary and career goals to be identified and in place when he or she attains the age of 16 years. This process must include:

- Consideration of the student's need for instruction in the area of self-determination and self-advocacy to assist the student's active and effective participation in an IEP meeting; and
- Preparation for the student to graduate from high school with a standard high school diploma with a Scholar designation unless the parent chooses a Merit designation.

Beginning not later than the first IEP to be in effect when the student turns 16, or younger, if determined appropriate by the parent and the IEP team, the IEP must include the following statements that must be updated annually:

- A statement of intent to pursue a standard high school diploma and a Scholar or Merit designation, as determined by the parent.
- A statement of intent to receive a standard high school diploma before the student reaches the age of 22 and a description of how the student will fully meet such requirements including, but not limited

to, a portfolio. The IEP must also specify the outcomes and additional benefits expected by the parent and the IEP team at the time of 582 student's graduation.

- A statement of appropriate measurable long-term postsecondary education and career goals based upon age-appropriate transition assessments related to training, education, employment, and, if appropriate, independent living skills and the transition services, including courses of study needed to assist the student in reaching those goals.

If a participating agency responsible for transition services, other than the school district, fails to provide the transition services described in the IEP, the school district must reconvene the IEP team to identify alternative strategies. However, this does not relieve any participating agency of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

Any change in the IEP for the goals specified must be approved by the parent and is subject to verification for appropriateness by an independent reviewer selected by the parent.

The bill provides for exemptions from statewide, standardized assessments. Based on information that a reasonably prudent person would rely upon, including, but not 626 limited to, facts contained within an IEP plan, documentation from an appropriate health care provider, or certification from the district school board superintendent, the Commissioner of Education must perfunctorily grant a permanent exemption to a student who suffers from such a severe cognitive disability or physical disability that the student permanently lacks the capacity to take statewide, standardized assessments. The SBE must adopt rules to administer this exemption, including expediting the exemption process to demonstrate the utmost compassion and consideration for meeting the parent's and student's needs.

The bill provides that a parent of a student in third grade who is identified anytime during the year as being at risk of retention may request that the school immediately begin collecting evidence for a portfolio. A student who is promoted to grade 4 with a good cause exemption must be provided intensive reading instruction and intervention that include specialized diagnostic information and specific reading strategies to meet the needs of each student so promoted. The school district must assist schools and teachers with the implementation of reading strategies for students promoted with a good cause exemption which research has shown to be successful in improving reading among students that have reading difficulties. In addition to existing criteria, good cause exemption for 3rd grade retention may include students who have received intensive reading intervention for 2 or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. A student may not be retained more than once in grade 3.

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

SB 1372 by Montford re to Children and Youth Cabinet. SB 1372 adds a superintendent of schools to the Florida Children and Youth Cabinet to bring educational expertise to the work of the cabinet.

The bill passed the Senate Children, Families, and Elder Affairs Committee favorably.

Moving Senate Bills – Previously Reported

SB 850 by Legg re to Education. The bill expands rigorous curricular, instructional, and assessment options available to public elementary, middle, and high school students. The bill expands options to elementary students, expands options and strengthens requirements for middle school and high school students, creates a new middle grades early warning system to identify at-risk students, expands and strengthens anti-hazing provisions, and requires the Florida College System (FCS) institutions to establish a collegiate high school program for students in every school district in the colleges' designated service area.

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

Senate Floor Action

SB 1648 by Governmental Oversight and Accountability re to Public Records and Meetings. The bill substantially amends the public records and public meetings laws. This bill clarifies how the public may access records and how agencies should respond. This bill also outlines what an agency may charge as a service fee and incorporates the cost of litigating attorney fees if an agency loses an enforcement action. This bill places additional requirements on organizations that accept membership fees from the government and on businesses contracted with the government.

The bill is now on 3rd Reading (ready for a vote).

SB 188 by Hukill re to Education Data Privacy. The bill, among other provisions, prohibits the collection or retention of biometric information. An amendment for Pinellas County School Board was adopted to allow them to continue the use of their palm scanner for another year.

The bill is now on 3rd Reading (ready for a vote).

House Committee Action

EDAS2 by Education Appropriations Subcommittee re to Education Funding (Proposed Conforming Bill). The bill conforms statute to the funding decisions in the 2014-2015 GAA (GAA) and addresses issues relating to the education system. Specifically, the bill:

- Establishes the Florida Information Resource Network (FIRN) as the educational data transport service which school districts must use in their preparation for and implementation and administration of the statewide, standardized assessments established pursuant to s. 1008.22.
- Revises the date that a lab school must be in operation to be eligible to receive a proportional share of the sparsity supplement.
- Clarifies that McKay Scholarship payments shall not be reduced due to the 1.0 FTE cap.
- Revises the compliance calculation for public schools that fail to comply with the class size requirements.
- Repeals the undergraduate limitation on New College of Florida and establishes a Master's Degree in Data Science and Analytics.

- Provides the Department of Education authority to assess and collect fees from publishers participating in the instructional materials review and approval process and provide a stipend to be paid to instructional materials reviewers.
- Prohibits dually enrolled students from enrolling in more than 24 college credit hours before completing the college credit general education core coursework.
- Clarifies that eligible students in public schools, private schools, or home education programs are exempt from the payment of registration, tuition, and laboratory fees.
- Revises payment provisions required of school districts for dual enrollment provided by public postsecondary institutions.
- Exempts private secondary institutions from dual enrollment payment provisions.
- Provides that dual enrollment funding shall be provided, subject to annual appropriation, to public postsecondary institutions for specific credit hours not paid by school districts.
- Prohibits a school district from denying a student access to dual enrollment during the hours of instruction that would be necessary to earn 1.0 full-time equivalent student membership.
- Codifies the current standard tuition rates for workforce education programs, Florida colleges, and state universities.
- Clarifies that college transfer students are required to pay excess credit hours.
- Extends the payment provisions applicable to Florida Prepaid contracts to purchases before July 1, 2024, and establishes a maximum payment cap the Florida Prepaid College Board must pay to a state university on behalf of qualified beneficiaries.
- Expands eligibility requirements for independent colleges and universities participating in dual enrollment instruction, and increases opportunities for students to participate in dual enrollment by encouraging school districts to enter into dual enrollment agreements with eligible independent colleges and universities.
- Establishes the Technology Supplemental Allocation in the Florida Education Finance Program and prescribes the use of the funds allocated to this categorical.

The bill has an estimated state funding fiscal impact of \$25,213,283 that will be addressed in the House proposed GAA.

The proposal was considered favorably by the House Education Appropriations Subcommittee and submitted for filing. It is now HB 5101.

HB 295 by Porter re to Employment after Retirement of School District Personnel. The bill clarifies that instructional personnel may be reemployed after retirement but only under a 1-year probationary contract. If the instructional personnel successfully completes the probationary contract, such employee may receive an annual contract; reemployed retired instructional personnel may not receive professional service contracts. The bill further provides legislative intent and clarification for purposes of pending civil and administrative actions.

The bill passed the House Government Operations Subcommittee favorably as a committee substitute.

HB 875 by Diaz re to Education Fiscal Accountability. The proposal requires the Commissioner of Education to establish a return on investment (ROI) rating system by January 31, 2015, in order to evaluate the extent to which public school and school districts use financial resources in a cost-effective manner to improve student performance relative to fiscal peers. The ROI rating must place the most weight on

indicators designed to measure how dollars are being used to facilitate increased student academic performance.

The proposal also creates the Schoolhouse Funding Pilot Program for the purpose of giving pilot school principals increased authority over school budgets and human capital decisions and determining whether the increased authority positively impacts the return on investment for the principals' schools. The committee substitute increases the number of schools that may participate as a pilot school from no more than 14 to at least 15 middle schools and 15 high schools. The committee substitute also removes eligibility for elementary schools to participate as a pilot school, restricting participation to middle schools and high schools that have received a school grade of "C," "D," or "F" in each of the past five years and that represent diverse student populations.

The committee substitute removes administration of the pilot program from DOE and provides for continued local operation of participating schools. In addition, the committee substitute provides that participation in the pilot program by a selected school is subject to district school board approval. The committee substitute requires district school boards that withhold approval for a selected school to provide the commissioner with a detailed written explanation for its refusal. The committee substitute also requires the Auditor General to audit and report any noncompliance by a participating district.

The bill passed the K-12 Subcommittee favorably as a committee substitute.

HB 5103 by Choice & Innovation Subcommittee re to Florida Personal Learning Account Program. The bill was amended this week. The amendments removed provisions requiring that specialized services and instructional services from a private school be consistent with the student's IEP in order to be eligible for reimbursement; and authorizing the expenditure of Personal Learning Account funds on medical services. Also, statutory provisions were repealed which authorized the issuance of a special high school diploma to students with disabilities.

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

Moving House Bills – Previously Reported

HB 7099 by Finance & Tax Subcommittee re to Tax Credit Scholarship Program. The bill was amended in committee to do the following:

- Authorizes a Scholarship-Funding Organization (SFO) to quarterly adjust the amount of the surety bond or letter of credit based upon a statement from a certified public accountant verifying the amount and removed DOE's duty to require a SFO to annually adjust the bond or letter based upon annual financial audits.
- States that the surety bond or letter of credit requirement is waived if the costs of acquiring such bond or letter exceed the average 10 year cost by 200 percent.
- Revises the amount of the surety bond or letter of credit required of initial SFO applicants to 25 percent of the anticipated scholarship funds or \$100,000, whichever is greater. The bill required this amount to be 25 percent of the anticipated funds.
- Adds provisions requiring a renewal application to include a surety bond or letter or credit in an amount equal to undisbursed donations, with a minimum of \$100,000 and maximum of \$25 million.
- Increases the tax credit caps for the next five fiscal years as follows:

- For FY 2014-15, the cap is increased from \$390 million to \$401.45 million.
- For FY 2015-16, the cap is increased from \$475 million to \$490.95 million.
- For FY 2016-17, the cap is increased from \$590 million to \$602.75 million.
- For FY 2017-18, the cap is increased from \$730 million to \$742.55 million.
- For FY 2018-19, the cap is increased from \$873.6 million to \$917.25 million.

The bill passed the Choice & Innovation Subcommittee as a committee substitute.

HB 7057 by Higher Education and Workforce Subcommittee re to Career Centers and Charter Technical Career Centers. Overall, the bill promotes better utilization of career centers and charter technical career centers and increases student access to programs. The bill was amended to do the following:

- Confirms that technical centers that change their name to “technical college” remain under the jurisdiction of their local district school board.
- Provides additional accountability measures that technical centers must meet in order to change their name to “technical college”.
- Eliminates the automatic annual rate of inflation increases currently authorized for workforce education programs.

The bill passed the House Education Committee as a committee substitute.

House Floor Action

HB 7029 by K-12 Subcommittee re to Code of Student Conduct. The bill clarifies that students should not be disciplined for simulating a firearm or weapon while playing or wearing clothing or accessories which depict a firearm or weapon or an opinion regarding Second Amendment rights.

The bill passed the full House.

I hope this information is helpful. If you have any questions, please give me a call. I look forward to seeing you next week.