

February 12, 2016

MEMORANDUM

TO: District School Superintendents

FROM: Joy Frank
Alex Sarsfield, Legislative Intern
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RE: Legislative Update – Week of February 8, 2016

General Information

The House and Senate has both passed their respective General Appropriations Act, implementing bills, etc. and are now in a position to conference. Basically, there were no major changes to the budgets as they were passed out of each of the budget committees.

Also, many of you have asked for the PowerPoint on school grades. I think DOE sent out earlier this week, but if not, it is attached.

Fixed Capital Outlay

The House amended HB 873 in the full House Appropriations Committee on Tuesday. The underlying bill only dealt with the Special Facilities Program. The amendments established a process by which school districts will be required to share a portion of the discretionary millage (1.5) with charter school under certain circumstances. In addition, there were several changes to the cost per student station requirements for regular public schools. Superintendents Malcolm Thomas and Kurt Browning testified as to the impact of these provisions on school districts capital outlay projects and school construction projects.

Yesterday the Senate presented a proposal that imposed greater requirements on charter school for the receipt of capital funds and did not address the discretionary millage issue. The proposal also included changes to cost per student station requirements.

Both of these proposals are summarized in attachments.

FEFP Funding/Senate Proposal

On February 11, 2016 the Senate Education Appropriations Subcommittee heard proposed language concerning the proportion of state and local funds that could be used to pay for an increase in total potential funding in the Florida Education Finance Program (FEFP). The language would stipulate that for the 2016-2017 FY any increase in total potential funding for the FEFP could include no more than 50% of local funds from the Required Local Effort. The subcommittee provided illustrations of the impact of the proposed language. For example, if the total funding increase proposed in SB 2500 (General Appropriations Act) were retained, the Required Local Effort would have to be reduced about \$183.2 million and state funds would have to be increased by the same amount to retain the level of funding. If

there were no increase in state funding in the FEFP proposed by SB 2500 and this language were approved the total funding increase would be reduced about by about \$250 million.

Florida Retirement System

HB 7107 proposed changes in policies related to the Florida Retirement System. The bill proposes a death benefit for survivors of FRS members killed in the line of duty. The benefit would allow the survivors of FRS members killed in the line of duty to receive a survivor's benefit equal to half of the annual salary of the member at the time of his or her death. Survivors of members who were enrolled in the Investment Plan may receive the death benefits by transferring the balance in the investment plan to the FRS fund in exchange for the continuing payment of the death benefit.

The change that impacts the largest number of potential employees changes the default FRS enrollment of new employees. The bill proposes that FRS members initially enrolled on or after July 1, 2017 will have the election period for selecting either the Pension or the Investment Plans extended from the last business day of the fifth month after the date of hire to the last business day of the eighth month after hire. If the member fails to make an affirmative election by that time, the member will default to the Investment Plan, not the Pension Plan as is now the case.

Absent the provision of the funds to pay for its reinstatement, the Cost of Living Adjustment (COLA) that was formerly part of the Pension Plan, but has been in abeyance since 2011, will not be restored. This makes the Pension Plan somewhat less attractive to new employees.

SB 7012 has been passed by the Senate and sent to the House for its consideration. SB 7012 provides for the death benefit for FRS members killed in the line of duty. It does not contain the provisions to change the initial default placement of new FRS members in the Investment Plan.

General Senate Committee Action

SB 268 by Ring re to Bullying and Harassment Policies in Schools. The bill requires periodic revision of a school district's anti-bullying and harassment policy, modifies the information that must be contained in the policy, and requires schools to implement the policy.

The bill was reported favorable by the Senate Education Appropriations Subcommittee.

SB 686 by Gaetz re to Government Accountability. The bill is an omnibus government accountability bill. The bill:

- Prohibits legislators from accepting employment with private entities that directly receive funding through state revenues appropriated by the General Appropriations Act. A member who is employed by such an entity may keep his or her employment, however, there are limitations on advancement, promotions, additional compensation, or anything of value that is given because of his or her legislative position. Additionally, such advancement, promotion, additional compensation, or thing of value may not be inconsistent with that given to any other similarly situated employee. For acceptance of future employment by legislators with such entity, several criteria must be met, including the position must already exist or be created without the knowledge or anticipation of the legislator's interest in the position and the position must be open to other candidates.

- Extends the conflicting contractual relationship ban in s. 112.313(7)(a), F.S., to include contracts held by a business entity in which a public officer or public employee holds a controlling interest in a business entity or are an officer, director, or a member who manages such an entity.
- Requires that, beginning in 2016, all elected municipal officers must file the more detailed CE Form 6 financial disclosure with their qualifying papers and for each year that they hold office.
- Amends Florida’s criminal provisions relating to Bribery, Misuse of Public Office, Unlawful Compensation or Reward for Official Behavior, Official Misconduct, Bid Tampering to replace the corrupt intent mens rea requirement with the knowingly and intentionally mens rea requirement. The bill also applies the crimes of Official Misconduct and Bid Tampering to “public contractors.”
- Requires local governmental entities to keep their final budgets, and any amendments thereto, on their website for a period of 2 years after adoption.
- Requires various governmental entities to adopt internal controls to prevent and detect fraud, waste, and abuse.
- The bill requires governmental entities to investigate claims of unauthorized compensation.
- Allows the Governor or Commissioner of Education, or their designees, to report that a local governmental entity has failed to comply with applicable auditing, financial reporting, bond issuance notification, bond verification provisions, or failed to disclose a financial emergency or provide information required during a financial emergency. It increases the Single Audit Act threshold from \$500,000 to \$750,000 and allows the Auditor General to review the threshold periodically and make appropriate recommendations to the Legislature. It makes changes to the financial reporting requirements and independent audit requirements. The bill specifies who can serve as members of the auditor selection committees for local governmental entities. It requires the Florida Virtual School to have an independent financial audit each year.
- Requires the Governor or the Commissioner of Education must notify the Legislative Auditing Committee of financial emergencies instead of notifying the members of the Legislative Auditing Committee.
- Clarifies that members of the public are not required to provide an advance written copy of his or her testimony or comments as a precondition to being given the opportunity to be heard.

The bill was reported favorable by the Senate Governmental Oversight and Accountability as a committee substitute.

SB 834 by Detert re to Minimum Term School Funding. The bill revises minimum school term requirements and associated funding provisions for public school students and schools. Specifically, the bill:

- Provides that schools (including double-session schools and schools utilizing an experimental calendar) that operate for less than the minimum term will generate proportionally fewer full-time equivalent (FTE).
- Repeals alternative minimum term provisions for double-session schools and schools utilizing an experimental calendar.
- Repeals the requirement for the Department of Education (DOE) to approve an experimental school calendar.
- Clarifies minimum term requirement by which DOE may approve the operation of schools under emergency conditions.

The bill was reported favorable by the Senate Education Appropriations Subcommittee.

SB 836 by Gaetz re to Rapid Response Education and Training Program. The bill establishes a Rapid Response Education and Training Program within the Complete Florida Plus Program at the University of West Florida (UWF) to award competitive grants to public or private education and training providers for the purpose of enhancing business and industry recruitment and retention efforts.

The bill was reported favorable by the Appropriations Subcommittee.

SB 894 by Detert re to Education Personnel. The bill modifies and expands several statutory provisions relating to education personnel. Specifically, the bill:

- Adds Department of Education (DOE) employees and agents, who investigate or prosecute educator misconduct, to the list of individuals authorized to access records relating to child abuse, abandonment, or neglect.
- Authorizes the DOE to use information from the Central Abuse Hotline for educator certification discipline and review.
- Authorizes the Commissioner of Education to issue a letter of guidance to an educator in lieu of finding probable cause to prosecute misconduct.
- Modifies the membership of the Education Practices Commission.
- Exempts the Educational Certification and Service Trust Fund from the General Revenue service charge.
- Prohibits postsecondary education institutions and school districts from requiring students participating in a clinical field experience to purchase liability insurance.
- Authorizes DOE to sponsor an educator job fair.
- Requires DOE to coordinate a best practices community to assist school districts with teacher recruitment and other human resource functions.
- Removes State Board of Education rulemaking authority regarding school district assignment of newly hired instructional personnel.
- Establishes in law state approval of school leader preparation programs.

The bill was reported favorable by the Senate Education Appropriations Subcommittee.

SB 1026 by Simmons re to High School Athletics. The bill modifies certain provisions of the Florida High School Athletic Association (FHSAA). The bill provides any high school in the state, including private schools, traditional public schools, charter schools, virtual schools, and home education cooperatives, may become a member of the FHSAA and participate in the activities of the FHSAA. In addition, the FHSAA must allow a private school the option of joining the association as a full-time member or on a per-sport basis and may not prohibit or discourage a private school from simultaneously maintaining membership in the FHSAA and another athletic association. The FHSAA may allow a public school the option to apply for consideration to join another athletic association on a per-sport basis.

The FHSAA must also provide a process for the resolution of student eligibility disputes which includes the opportunity to use an informal conference procedure. The bill provides for a formal process that must include the resolution of an eligibility dispute by a neutral third party whose decision is binding on the parties to the dispute. The bill specifies that the third party may be a retired or former judge, a dispute resolution professional approved by the Florida Bar or applicable circuit court, or a certified mediator or arbitrator.

The bill was reported favorable with committee substitute by the Senate Appropriations Subcommittee on Education. For your information, attached is a summary of the three major bills concerning high school athletics.

SB 1226 by Ring re to Administrative Procedures. The bill requires a statement of estimated regulatory costs to include the adverse impacts and regulatory costs estimated to occur five years after the effective date of a rule.

The bill was reported favorable by the Senate Appropriations Subcommittee on General Government.

SB 1360 by Gaetz re to Student Assessments. The bill establishes performance-based alternative means for students to demonstrate subject area and grade level competency and college and career readiness. However, the bill maintains the statewide, standardized assessments as the default common battery of assessments for all students attending public schools, and provides parents the option to select, for their child, statewide, standardized assessments in lieu of district-selected rigorous alternative assessments.

The bill was reported favorable by the Senate Education Appropriations Subcommittee.

General House Committee Action

HB 669 by Sprowls re to Educational Choice. The bill revises provisions relating to public and private educational choice options by:

- Specifying that career and professional education (CAPE) digital tools, CAPE industry certifications, and collegiate high school programs are considered public educational choice options and the Florida Personal Learning Scholarship Account Program is a private educational choice option.
- Requiring that parents be provided information about the average amount expended per student in their child's school.
- Authorizing district school board auditors to perform additional audits and reviews as directed by the school board.
- Requiring each district school board to allow parents to seek enrollment in, and transport his or her child to, any public school that has not reached capacity in the district.
- Requiring district school boards to establish a transfer process by which a parent may request that his or her child be transferred to another teacher.
- Providing that, beginning in the 2017-2018 school year, a parent may seek enrollment in, and transport his or her child to, any public school that has not reached capacity in the state.

The bill revises the Credit Acceleration Program (CAP) to allow students to earn high school credit in a course by passing an end-of-course assessment or an Advanced Placement (AP) Examination.

The authorization in the bill for students to enroll in any school district in the state would result in redistribution of funding among the 67 school districts in the FEFP. See fiscal comments.

The bill was amended to require that the parent of each public school students in grades 6 through 12 must be provided, for each course offered at the school in which the student is enrolled, a course syllabus with a complete listing by title of the instructional materials to be used in the course. The

syllabus must identify any materials containing mature or adult content and notify the parent of the procedures for objecting to his or her child's use of a specific instructional material.

The bill expands choice options, but an amendment was added to provide that enrollment preferences provided pursuant to a donation of land or funding agreement executive prior to July 1, 2016, shall take priority over the enrollment provisions specified in the bill.

The bill requires a study to determine the portability of the local portion of FEFP funds. The bill was amended to expand the study to determine portability of all FEFP funds, not just local.

The bill passed the House Education Committee favorably as a committee substitute and has been placed on the House Calendar.

HB 705 by Berman re to Qualifications for Educational Interpreters. The bill requires the State Board of Education to adopt in rule standards for educational interpreters. The bill defines educational interpreters as individuals who facilitate direct instruction from professionals and direct communication between students who are deaf or hard of hearing and their peers.

The bill was reported favorable by the Education Committee and was placed on calendar on second reading.

HB 759 by Diaz re to Statewide Charter School Authorizer. The House Joint Resolution directs the State Board of Education to establish a statewide charter school authorizer to authorize, operate, control and supervise charter schools as provided by law. Additionally, it clarifies that a school board has the authority to operate, control and supervise all free public schools within its district, except charter schools under the control and supervision of the statewide charter school authorizer.

The joint resolution was reported favorable by the Education Committee and was placed on calendar on second reading.

HB 791 by Ingoglia re to Local Tax Referenda. The bill was amended to require any referendum to levy a discretionary sales surtax held on the day of the general election to be approved by a majority of electors voting and any referendum to levy a discretionary sales surtax held during a primary or presidential preference primary election to be approved by 60 percent of electors voting. The bill prohibits any referendum to levy a discretionary sales surtax from being held during a special election. The bill does not take effect until July 1, 2017.

The bill was reported favorable with committee substitute by the House Local and Federal Affairs Committee.

HB 793 by O'Toole re to Florida Bright Futures Scholarship Program. The bill creates the Florida Gold Seal CAPE Scholars award as an alternative to the current Florida Gold Seal Vocational Scholars award. A student may qualify for the Florida Gold Seal CAPE Scholars award if he or she meets the general eligibility requirements for the Florida Bright Futures Scholarship program and earns a minimum of five postsecondary credits through CAPE industry certifications which articulate for college credit. The new scholarship allows for additional credit hours upon completion of a technical degree in certain instances.

The bill modifies the initial eligibility period for the Florida Bright Futures Scholarship Program for students who are unable to accept an award due to full-time religious or service obligations lasting at least 18 months. Eligible students can defer the 2-year initial award period and the 5-year renewal period until the student completes the religious or service obligation. The organization sponsoring the full-time religious or service obligation must be a federal government service organization or satisfy the Internal Revenue Code's requirements for nonprofit status.

The bill modifies student community service work requirements for the Florida Bright Futures Scholarship Program awards, including Florida Academic Scholars (FAS), Florida Medallion Scholars (FMS), Florida Gold Seal Vocational Scholars (FGSVS) awards, and adding the requirement for the newly created Florida Gold Seal CAPE Scholars award.

The bill modifies the requirements by:

- Clarifying that community service work must be volunteer work and prohibits any student from receiving remuneration or academic credit for such work;
- Expanding volunteer service work areas to include a civic issue or a professional area of interest;
- Providing that volunteer work may include, but not be limited to, a business or government internship, employment with a nonprofit community service organization, or activity on behalf of a candidate for public office; and
- Establishing accountability requirements for student volunteer work that includes documentation in writing by the student, the student's parent, and a representative of the organization for which the student worked.

The number of community service hours required for each Bright Futures award remains unchanged.

The bill eliminates references to outdated eligibility requirements for the FAS and FMS awards, and removes the higher test score requirement for home education students whose parents cannot document a college-preparatory curriculum. Specifically, the bill provides that test score requirements are the same for students enrolled in home education programs as they are for all other high school students qualifying for the FMS award.

The bill passed the House Education Appropriations Subcommittee favorably as a committee substitute and is now on the House Calendar.

HB 833 by Plasencia re to Public School Recess. The bill requires each district school board to provide 100 minutes of supervised, safe, and unstructured free- play recess each week for students in kindergarten through grade 5 and for students in grade 6 who are enrolled in a school that contains one or more elementary grades. The recess must be provided for at least 20 consecutive minutes each day and may not be withheld for academic or punitive reasons.

The bill passed the House Education Committee favorably and has been placed on the Calendar.

HB 873 by Diaz re to Special Facility Construction Account or now Education Funding. The bill was substantially amended to require the sharing of the 1.5 discretionary millage with charter schools under certain circumstances and to regulate school construction.

Section 1. Amends s. 1011.71 re to district school tax (1.5). Provides that charter school shall be provided an amount equal to the remaining balance of funding needed to achieve the state funding allocation provided in statute after the state appropriation is deducted.

Annually, by December 30, DOE must calculate the amount of payments to eligible charter schools using the certified taxable value and millage rate as provided in the TRIM notice and certify to each district the amount it must pay to each charter school based on the remaining balance of funding needed to achieve the amount of the state funding allocation after the deduction of the state appropriation.

Districts must make payments to charter schools no later than February 1 of each year, beginning on February 1, 2017, for the 2016-2017 fiscal year.

This section also allows Enterprise resource software to be acquired by annual license fees, maintenance fees, or lease agreements.

Section 2. Amends s. 1013.62 re to Charter schools capital outlay funding. To be eligible a charter school must:

- Have been in operation for 2 other than 3 years;
- Have no more than two consecutive school grades lower than “B” unless the school is at least 50% free or reduced lunch;
- Have an annual audit that does not reveal any financial emergency conditions for the most recent audit;
- Have received final approval from sponsor for operations; and
- Serve students in facilities that are not provided by the district.

Charter school’s allocation may not exceed 1/40th of the cost per student station or the amount of revenue per COFTE generated by the school district’s 1.5 levy, whichever is less.

Modifies formula for charter school application: unless otherwise provided in the GAA, the state funding allocation shall be determined by multiplying the school’s projected FTE by 1/40th of the cost per student station. If funds appropriate are not sufficient, the charter school shall receive funding to achieve 1/40th of the cost per student station or the amount of revenue per COFTE generated by the 1.5 levy, whichever is less.

Section 3. Amends s. 1013.64 re to Funds for comprehensive educational plant needs; construction costs maximums for school district capital outlay. The bill modifies requirements related to the Special Facility Construction Account. Specifically, the bill makes the following modifications:

- Proposed language states that a district shall not receive funding for more than one project during any 3 year period *or while any share or portion of the district’s project costs is outstanding.*
- Specifies that a school board must request a preapplication review before developing construction plans.
- Clarifies that only the Chair of the committee can convene the Special Facility Construction Committee.

- Establishes timeframe for district to request preapplication review, adding requirement that districts seeking funding in the following fiscal year *must submit the preapplication request prior to February 1.*
- Increases the timeframe from 60 to 90 days for the committee to meet in the district to review the project proposal and existing facilities.
- Requires use of Revenue Estimate Data in Determining Districts existing and projected COFTE.
- Requires when the committee is determining the districts capital outlay FTE that it must use information *from the demographic, revenue, and education estimating conferences pursuant to s. 216.136.*
- Requires site surveys and amendments be *prepared cooperatively by the department and the district and approved by the department pursuant to State Board rules.*
- Provides that if the district employs a consultant in preparation of a survey or survey amendment, the consultant may not be employed by or receive compensation from a third party that designs or constructs a project recommended by the survey.
- Provides that the total project cost must not exceed the cost per student station as provided in subsection s.1013.64 (6) *except for costs overruns necessitated by a disaster as defined in s.252.34 or unforeseeable circumstances beyond the district's control as determined by the Special Facility Construction Account Committee.*
- Requires that beginning with the 2019-20 FY, districts seeking SFCA funding will have to levy 1.5 mills for 3 years prior to the request in addition to the maximum levy of 3 years beginning the first year of funding.
- Provides that the annual budgeting commitment to the project reduced to no more than the value of 1.0 mill until the district's participation requirement of 4.5 mills is met.
- Proposal defines commitment to be an amount equivalent all of the encumbered and future revenue acquired in 3 year period following the year of the initial appropriation from PECO and s. 1011.71(2).
- Proposal amends the required timeframe for submittal of School Board Certified Final Phase III plans *to June 1* of the year the application is made August 1.
- Proposal clarifies that the DOE representative shall serve as the Chair of the Special Facility Construction Account Committee.

The bill expands the funds that must abide by the per student station requirement to basically all funds generated from any source use for capital outlay. . Effective July 1, 2017, in addition to current requirements, a school board may not use funds from the 1.5, proceeds from any district millage election (2 or 4 years) authorized in s. 1011.73, proceeds provided by school district bonds; sales surtax funds; impact fees; and funds from pari-mutuel wagering, if applicable for any new construction of educational plant space with a total cost per student station, including change orders, that equals more than the current adjusted amounts for the costs per student station.

New construction initiated after July 1, 2017, may not exceed the cost per student station. A district that exceeds such costs is ineligible for PECO allocations for the next 3 years in which the district would have received allocations had the violation not occurred.

Cost per student station are expanded to include site costs and offsite improvement costs.

The bill requires DOE to conduct a study, in consultation with the Office of Economic and Demographic Research, of the total cost per student station amounts using the most recent available information. DOE must report the final results to the Governor and Legislature by March 1, 2017.

Effective date: July 1, 2016.

HB 887 by Adkins re to Computer Coding Instruction. The bill promotes student access to education in computer science and related fields by requiring Higher Education Coordinating Council to develop recommendations that identify high school courses in computer science, including computer coding and programming, which may be used to satisfy state university admissions requirements for foreign language, math, and science. The bill requires the Commissioner to establish academic standards for such courses and for DOE to annually report to the Board of Governors and the Legislature. The bill appropriates one FTE to DOE to implement the provisions of the legislation.

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

HB 1147 by Latvala re to Character-development Instruction. Currently law requires each school district to develop or adopt a curriculum for a K-12 character-development program and submit it to DOE for approval. The bill expands the requirements to include instruction on developing leadership skills, creating a resume, etc.

The bill passed the House Education Appropriations Subcommittee favorable.

HB 1155 by Eisnaugle re to Membership Associations. The bill prohibits a membership association from expending moneys received from public funds on litigation against the state. The bill also authorizes the Auditor General to conduct annual financial and operational audits of the accounts and records of each membership association. The bill only applies to the Florida School Board's Association.

The bill passed the House Education Committee favorably and it is now on the House Calendar.

HB 1220 by Garcia re to Public Records. The bill establishes circumstances under which enforcement costs and attorney fees are permitted and forbidden in an action to require an agency to disclose a public record. A court must award reasonable enforcement costs, including attorney fees, if:

- The complainant provided written notice to the records custodian that clearly and conspicuously identified the record;
- The request was provided at least 5 business days before filing the suit; and
- The agency unlawfully refused the request.

Written notice of the request, however, is not required if the agency does not post the records custodian's contact information in the agency's primary administrative building where the records are generally maintained or if the contact information is not posted on the agency's website.

A court may not award enforcement costs and fees if the court finds that:

- The action or request was frivolous, malicious, or intended to harass the agency or cause a violation of the public records chapter; or
- The delay or error in permitting access to the record was a technical violation that constitutes harmless error.

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

HB 1305 by Eagle re to Student Health. The bill includes private schools in the definition of authorized entities for the purpose of acquiring a supply of and administering EAIs. The law also applies the civil liability immunity protections in the Good Samaritan Act to private schools.

The bill passed the House Education Committee favorably and is now on the Calendar.

HB 1365 by Rodrigues re to Competency-Based Education Pilot Program. The bill creates the Competency-Based Education Pilot Program within the Department of Education to provide an educational environment that allows students to progress based upon the mastery of concepts and skills.

The bill passed the House Education Committee and the bill is now on the Calendar.

HB 1403 by Broxson re to Pledge of Allegiance. The bill repeals the requirement to conspicuously post notice of the right not to participate and instead provides that students shall be informed of the right not to participate in the pledge by a written notice published in the student handbook, the code of student conduct or a similar school publication.

The bill passed the House Education Appropriations Subcommittee favorably.

General Senate Floor Action

SB 350 by Montford re to Online Procurement. The bill authorizes district school boards, Florida College System institution boards of trustees and university boards of trustees to make purchases through an online procurement system, electronic auction service, or other efficient procurement tool.

The bill has passed the full Senate.

SB 500 by Montford re to Children & Youth Cabinet. The bill expands the total membership of the Children and Youth Cabinet to 16 by adding a Governor appointed superintendent of schools to the cabinet, and revises the title “the director of the Office of Child Abuse Prevention” to “the director of the Office of Adoption and Child Protection.”

The Senate took up HB 241 in lieu of the Senate bill and passed it.

SB 962 by Gaetz re to Vocational Rehabilitation. The bill requires the Division of Vocational Rehabilitation to develop and implement a performance improvement plan to achieve specified goals and to annually submit a performance report with specified data to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill passed the full Senate.

SB 7016 by Military & Veterans Affairs re to Interstate Compact on Educational Opportunity for Military Dependents, etc. The bill reenacts provisions of law establishing and implementing the Interstate Compact on Educational Opportunity for Military Children and provides for future legislative review and repeal of the compact.

The bill has passed the full Senate.

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