



To: Florida District School Superintendents
From: Brian T. Moore, FADSS General Counsel
Subject: FADSS Legislative Update – Week of February 15, 2021
Date: Friday, February 19, 2021

The Legislature completed its fifth and final week of interim committee meetings with certain issues coming into more focus – budget and FEFP issues, COVID liability, and voucher programs.

FY 2021-2022 Budget

The 2021-2022 budget and the impact of federal funding came up in multiple meetings this week. First, in the *Senate Pandemic Preparedness and Response Committee*, Alex Kelly, the Department of Education (DOE) Chief of Staff, gave a presentation on the education system’s response and recovery under COVID-19. He detailed many of the added costs districts are facing, as well as revenue losses (food service, rental of facilities, athletic events, etc.).

On February 18, 2021, five Superintendents testified before the *House PreK-12 Appropriations Subcommittee* about two subjects: 1) current enrollment, “missing” students, and the effects of both on the FEFP; and 2) district spending of ESSER I funds and plans for ESSER II funds. **Mr. Bill Husfelt** (Bay), **Mr. Will Hartley** (Bradford), **Dr. Mark Mullins** (Brevard), **Mr. Alberto Carvalho** (Miami-Dade), and **Dr. Donald Fennoy** (Palm Beach) each addressed efforts they have made to locate students since the start of the year and the immense costs associated with running a district under COVID-19. Chair Fine repeatedly referred to the 87,000 “phantom” or “missing” students and stated that districts were overpaid \$700 million to teach no one even before receiving the CARES money, but the superintendents did a thorough job detailing why the financial hold harmless language included in the Commissioner’s emergency orders was so vital to the successful reopening and ongoing operation of our schools this year. I have attached a portion of the committee meeting packet so that you can see how the issue was being framed.

Committee members asked numerous questions, and the superintendents demonstrated their command over the issues with detailed explanations to dispute any notion that districts are awash in federal funds with no idea how to spend them. In all five cases, the districts expected to spend down the ESSER I funds by the end of the school year if they have not done so already, and they discussed the numerous other expenses that were not covered by ESSER I. Finally,

they also mentioned how important the ESSER II funds will be in addressing the expected student learning losses due to COVID. This is expected to take multiple years to correct, and those ESSER II funds will help districts add instructional hours and opportunities, as well as other programs to bring our students back up to level (particularly those students who are not at all or only partially engaged this year).

Assessments and Accountability

On Monday, February 15, 2021, the Commissioner of Education, Richard Corcoran, issued a new Emergency Order ([2021-EO-01](#)), which expanded the testing windows for multiple spring assessments. This additional time is designed to allow for better distancing during testing and to accommodate the many districts that delayed their start date until the end of August. As a result, assessment results will be delayed beyond the statutory deadlines.

On the same day, during the *Pandemic Committee* meeting mentioned above, Alex Kelly addressed and responded to questions about spring assessments. As of now, the plan is to proceed normally (as much as that is possible). The 95% testing rate remains in place, and Mr. Kelly indicated that schools that earn it will be able to exit turnaround status, while schools that need additional help could enter turnaround status. However, he added that he expected a continuing application of grace and compassion as the department makes data-driven decisions to best serve all the stakeholders once the results are obtained.

Proposed Legislation

The following substantive bills were heard in committee this week:

- **[HB 7 \(McClure\)](#)**, reported favorably by the *House Judiciary Committee*. This is the House COVID-19 liability bill which would protect districts, among other employers, from tort claims related to COVID-19 in most situations. This was the third and final committee stop for HB 7, which will now move on to the full House.
- **[SB 72 \(Brandes\)](#)**, temporarily postponed in the *Senate Commerce and Tourism Committee*. The Senate version of the COVID-19 liability bill was not heard because Senator Brandes had another commitment at the same time. It is expected that the committee will take it up again during the first week of session in early March.
- **[SB 48 \(Diaz\)](#)**, a committee substitute that did not contain too many substantive changes was approved and reported favorably by the *Senate Appropriations Subcommittee on Education*. This is the bill which consolidates the states' K-12 voucher/scholarship programs, converts all existing K-12 scholarship/voucher programs to education savings accounts (ESAs), and funds them through a line item in the FEFP. An effort to amend the Family Empowerment Scholarship program to prevent the possibility of families making almost \$500,000 a year from being eligible in a few years failed.
- **[SB 280 \(Baxley\)](#)**, reported favorably by the *Senate Education Committee*. This bill would require basic first aid instruction and CPR training to be incorporated into 9th and 11th

grade instruction. The vote was unanimous and included several public speakers who talked about the importance of knowing CPR. The bill will now move on to the *Senate Appropriations Subcommittee on Education*.

- [SB 538 \(Polsky\)](#), reported favorably by the *Senate Education Committee*. This bill would require, not just authorize, all public schools to buy a supply of epi-pens to have on hand on all campuses. There was no debate, and the vote was unanimous in support.
- [SB 760 \(Burgess\)](#), reported favorably by the *Senate Education Committee*. This bill would allow schools to join an athletic association by sport without losing any status within the association. The primary issue offered to the committee involved beach volleyball, which the FHSAA did not recognize previously. According to supporters of the bill, schools that do not join the FHSAA for all sports are not eligible to play for any championships. So, now that the FHSAA is including beach volleyball, the 80-100 schools which participate in a different conference for that sport will be forced to join the FHSAA or find themselves ineligible to play for any FHSAA championships. Although numerous questions were asked and several senators expressed some reservations that would need to be resolved before they could offer final support, the initial vote on the bill was unanimous.
- [HB 529 \(Fine\)](#), reported favorably by the *House Early Learning and Elementary Education Subcommittee*. This is the House version of the moment of silence bill ([SB 282](#) - Baxley). Similar to the debates in the Senate, there were concerns about discipline for students who may not wish to engage in a 1-2 minute moment of silence and possible peer pressure or bullying of students whose beliefs or methods of expression differ from the majority. The bill will now move on to the *House Secondary Education and Career Development Subcommittee*.
- [SB 590 \(Harrell\)](#), reported favorably by the *Senate Children, Families, and Elder Affairs Committee*. This bill addresses the involuntary examination of minors (Baker Act). Although most Baker Act cases are initiated by law enforcement or an authorized, licensed professional and not anyone employed by a school, the bill would require a school to notify a parent before a child is removed from school unless the principal believes that delaying the removal would harm the student. It also requires DCF to start collecting data about school-initiated commitments, and it directs school boards to adopt a policy requiring superintendents to report these numbers to the DOE annually. In addition, it requires all safe schools officers to undergo mental health crisis intervention training. Finally, it requires districts to enter into agreements locally with a crisis response service whereby the crisis unit must be consulted before an involuntary examination can be initiated. The bill received unanimous approval from the committee members.

Secondary Education

On February 17, 2021, the *House Secondary Education and Career Development Subcommittee* met to discuss school choice and the preparation of students for college and careers. Lee County's Superintendent, **Dr. Gregory Adkins**, was one of the participants in the discussion, and he shared information about his district's CTE, career dual enrollment, and other exciting options available to Lee County students. In addition, OPPAGA provided information about statewide school choice numbers, including information about various programs like IB, AICE, dual enrollment, and AP courses.

The Week Ahead

The Legislature will take a break next week before starting the 2021 session on March 2, 2021. I will be participating in a school board workshop on February 25 and then attending the Heartland Education Consortium Board of Directors meeting in Lake Placid on the 26th, so this update will take a week off as well.

As always, please let me know if you have any questions about a bill or anything else happening here in Tallahassee.