



To: Florida District School Superintendents  
 From: Brian T. Moore, FADSS General Counsel  
 Subject: FADSS Legislative Update – Week of March 7, 2022  
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The 2022 Legislative Session was scheduled to finish its business today, but delays in the budgeting process have sent it into overtime. It is now expected that the budget will be approved and the Session will end on Monday, March 14, 2022.

**Budget Discussions**

The 2022-23 budget finally started taking shape on Wednesday when the House and Senate agreed on final amounts for all spending, leaving implementing and conforming bills to provide the complete picture. A more detailed analysis will be provided after final approval, but it is worth highlighting some aspects of such an historic budget for PreK-12 education:

	<u>2021-22 (3<sup>rd</sup> Calc)</u>	<u>2022-23</u>	<u>Difference</u>
BSA	\$4372.91	\$4587.40	\$214.49 (4.9%)
Total UFTE	\$7758.30	\$8142.85	\$384.55 (4.96%)
RLE millage	3.606	3.606	N/A
Mental Health	\$120 million	\$140 million	\$20 million
Reading	\$130 million	\$170 million	\$40 million
Safe Schools	\$180 million	\$210 million	\$30 million
TSIA	\$550 million	\$800 million	\$250 million
Transportation	\$459 million	\$515 million	\$56 million

Also, the budget will include \$5 million for Jefferson County as it resumes control of its schools, and FADSS will receive \$750,000 to assist it in training programs.

However, with the historic increase in funding there are also multiple mandatory expenditures baked into the mix. The Legislature approved a requirement that all school employees make at least \$15/hour by October 1, 2022, which may negate a good portion of the BSA increase. Previous estimates put the statewide cost for this at roughly \$400 million, and that did not

include the cost to avoid mass compression at \$15/hour. The costs for retirement funding will also go up roughly \$150 million for school districts, and districts are not immune to the immense inflationary pressures on the economy. Finally, while the additional \$250 million for the Teacher Salary Increase Allocation will be split 50-50 with respect to the \$47,500 minimum salary (as opposed to previous years' 80-20 split), section 1012.22(1)(c)5. still applies: "Beginning July 1, 2021, and until such time as the minimum base salary as defined in s. 1011.62(16) equals or exceeds \$47,500, the annual increase to the minimum base salary shall not be less than 150 percent of the largest adjustment made to the salary of an employee on the grandfathered salary schedule. Thereafter, the annual increase to the minimum base salary shall not be less than 75 percent of the largest adjustment for an employee on the grandfathered salary schedule."

The implementing and conforming bills were presented late Thursday night. They include an amendment to the school recognition fund that would prohibit any school from receiving the fund if it was found to be in violation of Department of Health rules concerning COVID-19. Also, several provisions that had been included in various other bills found their way into the conforming bill. These include:

- significant changes to virtual education and virtual education funding (but not the provision that would have prohibited districts from operating FLVS franchises),
- school grading changes if too many schools get A or B grades,
- requiring any longevity bonuses to be included when calculating salary schedule requirements,
- re-establishing that evaluation system procedures are determined by the Superintendent and are not a mandatory subject of bargaining, and
- requiring all background checks to be conducted through the AHCA Clearinghouse.

There were a significant number of provisions included in the implementing and conforming bills that were brand new or did not get as much attention or discussion during the session as others. These will be unpacked in future updates.

### **The Finish Line**

The following bills have been passed since March 4, 2022, by both chambers and will next be sent to the Governor for approval or veto:

#### **[CS/HB 7 \(Avila\)](#) – Individual Freedom**

This bill has been covered in depth in the previous updates. In summary, it represents an attempt to prevent CRT and other forms of "wokeness" from appearing in the workplace and schools. While several of the provisions are noncontroversial, the major sticking points revolve around the way some information might make students or employees feel. "A person should

not be instructed that they must feel guilt, anguish, or other forms of psychological distress for actions, in which he or she played no part, committed in the past by other members of the same race or sex.” This may not prevent parents from complaining about teachers covering required topics of instruction that evoke strong feelings, but it is certainly less vague than the original language about feeling discomfort.

#### **CS/HB 225 (Hawkins and Beltran)** – Charter School Charters

This bill would amend the law with respect to the nonrenewal and termination of charter schools in response to a renewal issue that arose in Hillsborough County last year. It would require school boards to make the decision not to renew or to terminate a charter at least 90 days before the end of the school year. In the case of a renewal, if the decision is not made by that time, the charter will automatically renew under the same terms and conditions.

Unfortunately, issues that can lead to a termination can happen at any time, so preventing a district from starting the termination process simply because it is near the end of the school year could lead to financial losses or other harms while the district waits until July 1 to initiate non-emergency termination procedures. Finally, the bill also adds a provision for requests to consolidate multiple charters outside the renewal term window.

#### **HB 235 (Plasencia)** – Restraint of Students with Disabilities in Public Schools

This bill would prohibit the use of mechanical restraints in school except by a school resource officer, school safety officer, guardian, or security guard for students in grades 6-12.

#### **SB 236 (Jones)** – Children with Developmental Delays

This bill would expand the definition of “exceptional student” to include children with developmental delays identified from birth through nine years of age or completion of second grade (whichever occurs first), as opposed to the current birth through five years of age. Moving the upper limit to age 9 would align Florida’s definition with the maximum allowable age under federal law.

#### **CS/HB 255 (Plasencia)** – Private Instructional Personnel Providing ABA Services

This bill would expand the definition of “private instructional personnel” allowed to collaborate and provide services to students at school to include registered behavior technicians. The registered behavior technician would have to have a nationally recognized, professional certification and be under the supervision of a certified behavioral analyst.

#### **HB 497 (Persons-Mulicka)** – Lee County School District Lee County

This bill repeals a Lee County School Board decision to have the superintendent be a position appointed by the school board. Local Lee County voters will decide between an elected or appointed Superintendent this November.

#### **CS/CS/CS/SB 706 (Perry)** - School Concurrency

This bill, which was amended several times, would make a few changes to school concurrency law. The provision that would have required applying a districtwide approach to school concurrency decisions was not included in the final bill. The main changes are the following two provisions:

- “Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in the 5-year school board educational facilities plan or must be set aside and not spent until such an improvement has been identified that satisfies the demands created by the development in accordance with a binding developer’s agreement.”
- “The district school board shall notify the local government that capacity is available for the development within 30 days after receipt of the developer’s legally binding commitment.”

#### [CS/SB 758 \(Diaz\)](#) – Charter Schools

This bill creates the Charter School Review Commission and gives it the power to review and approve applications for charter schools overseen by district school boards. There are also multiple provisions that address charter school renewals, funding for charter schools, and charter school access to interlocal agreements between local governments and school districts. Those have been discussed in previous updates.

#### [CS/SB 896 \(Burgess\)](#) – Educator Certification Pathways for Veterans

This bill creates an additional pathway to educator certification for military service members. It specifies that a military service member may receive a nonrenewable, temporary educator certificate for a period of 5 years.

#### [CS/HB 899 \(Hunschofsky\)](#) - Mental Health of Students

This bill would require charter schools to report when a student is Baker Acted from school just as district schools do. It also requires the DOE to share certain data with DCF. In addition, the bill requires districts to include in their annual mental health assistance allocation plans a process for providing parents of a student receiving mental health services with information about other services available at the school or within the local community. It also requires districts to provide other people living in the home information about mental health services that may be available to them that would contribute to the student’s well-being.

#### [CS/CS/HB 921 \(Drake\)](#) – Campaign Financing

Until the last week of session, this bill addressed campaign financing for statewide constitutional amendment initiatives. A late amendment was added that will affect school districts. The bill prohibits local governments from spending public funds to send communications to electors about a local referendum, including factual information, whereas the current law prohibits the expenditure of public funds to advocate for or against a local

referendum. However, it adds, “This subsection does not preclude a local government or a person acting on behalf of a local government from reporting on official actions of the local government's governing body in an accurate, fair, and impartial manner; posting factual information on a government website or in printed materials; hosting and providing information at a public forum; providing factual information in response to an inquiry; or providing information as otherwise authorized or required by law.”

#### **CS/SB 1048 (Diaz)** – Student Assessments

This bill was filed with the goal of eliminating the FSA and switching more to a progress monitoring system beginning with the 2022-23 school year, but it does not provide many substantive changes to the current assessment and accountability system. The main provisions have been discussed in previous updates. With the passage of the Senate version of the bill, the language in the House bill amending turnaround provisions and changes to the school grading system were not adopted here, but some of them found their way into the conforming bill discussed above.

#### **CS/HB 1467 (Garrison)** -- K-12 Education

This bill establishes a 12-year term limit for school board members, beginning this November. It also creates a complicated, bureaucratic process for the purchase of library and classroom books, as well as for the creation of classroom reading lists. Each book made available to students through a school library or classroom list must be selected by a school district employee who holds a media specialist certificate, and then everyone with an opinion – whether or not they live in the district or have a child in the school – can second-guess the knowledge and expertise of media specialists and teachers by challenging those books. In its current form, this bill may stifle a school districts ability to incorporate supplemental books and other written materials into the curriculum.

#### **SB 1054 (Hutson)** - High School Graduation Requirements in Personal Finance

This bill amends high school diploma requirements for students entering the 9<sup>th</sup> grade in the 2023-24 school year to include instruction in financial literacy and money management. This would be a semester/half-credit class and reduce the amount of electives that students can take from 8 credits to 7.5. The instruction would include topics such as types of bank accounts, managing a bank account, balancing a check book, and completing a loan application.

#### **CS/CS/HB 1557 (Harding)** - Parental Rights in Education

This bill requires district school boards to adopt procedures for notifying a student’s parent if there are changes in the student’s mental, emotional, or physical health or well-being and the school’s ability to provide a safe and supportive learning environment. The school district would also be prohibited from withholding information from a parent regarding the student’s mental health or well-being.

The bill also includes provisions that would:

- Prohibit classroom instruction about sexual orientation or gender identity in grades K to 3, or in a manner that is not age appropriate.
- Allow a parent to bring an action against a school district for violating these new provisions and be entitled to reasonable attorney fees and court costs.
- Allow a parent, alternatively, to request a special magistrate be assigned by the Department of Education at district cost if the parent believes that his or her concerns were not resolved by the principal.
- Require districts to inform parents every year about all healthcare services offered at the school, along with the option to withhold or decline consent for any specific service.
- Prohibit administering a well-being questionnaire or health screening form to students in grades K-3 without first sharing with parents and obtaining consent.

Additionally, some other bills that passed but were not tracked as closely or had late changes that would affect school districts include:

**[CS/HB 7049](#) (Grall and Fine) – Legal Notices**

Although there was no Senate companion, the Senate did take up the House’s bill that appears to make it easier for local government agencies, including school boards, to provide public notice on a county website. A similar bill was filed last year, but the final version that became law did not really do anything that would benefit school districts because it required weekly publication of a notice in the newspaper advising people that some notices may be posted on a separate website. This year’s bill appears to require only an annual newspaper notice that online notices may be posted on the county website. Greater analysis of this bill will be provided in the final legislative report.

**[CS/HB 7057](#) – Public Records and Meetings / Cybersecurity**

This bill establishes that information related to cybersecurity, including insurance coverage, network schematics, hardware and software configurations, and cybersecurity incident information is confidential and exempt from public records disclosures. Similarly, board meetings to discuss any of these items are not open to the public but must be recorded and transcribed. However, the recording and transcription are confidential and exempt.

**DNF List**

A few bills that were being tracked did not make it through the process and will not become law this year.

**[CS/CS/CS/SB 974](#) (Gruters) / [CS/CS/HB 985](#) (Beltran) – Sovereign Immunity**

These bills would have changed the sovereign immunity limitations established in statute. Currently, an individual is limited to no more than \$200,000 for a tort claim with a \$300,000 cap for the entire incident.

**[CS/HB 229 \(Arrington\)](#) / [SB 400 \(Bracy\)](#) – Guidance Services on Academic and Career Planning**

This bill would have required school boards to inform students and parents of certain academic and career planning options. It would also have required a personalized academic and career plan to be developed with a school counselor for some students. Finally, the bill would have required expanded discussions with students to include career-themed courses and work-based learning such as apprenticeships, as opposed to just academic options.

**[HB 1317 \(Tant\)](#) / [SB 1674 \(Ausley\)](#) - Individual Education Plans**

To support students with disabilities and their parents when the student attains the age of majority while in school, this bill would have required school districts to provide information and instruction to a student and his or her parent on self-determination and the legal rights and responsibilities relating to educational decisions that transfer to the student upon attaining the age of 18. The information provided needed to include mechanisms for maintaining parental involvement in educational decision-making including a Family Educational Rights and Privacy Act waiver, powers of attorney, guardian advocacy and guardianship.

**[HB 1197 \(Plakon and Byrd\)](#) / [CS/CS/CS/HB 1203 \(Fetterhoff\)](#) / [CS/CS/CS/HB 1505 \(Trabulsy\)](#) / [CS/SB 1386 \(Diaz\)](#) / [SB 1458 \(Baxley\)](#) / [CS/SB 1830 \(Brodeur\)](#) – Collection of bills with overlapping provisions involving employees, background screening, collective bargaining, and union membership**

These were several bills that addressed public employee unions, collective bargaining, and background screenings of employees, but certain provisions moved around or appeared in multiple locations, so they have been grouped together for one discussion.

None of these bills passed both chambers, but many of the provisions from the final version of HB 1203 were relocated to the education conforming bill, SB 2524. These include:

- language in response to a PERC ruling last year concerning the Superintendent’s authority to establish evaluation procedures,
- prohibiting longevity bonuses from being awarded outside the salary schedule restrictions in section 1012.22,
- using the clearinghouse for background checks, and
- establishing criminal penalties for failure to report suspected sexual misconduct of a school employee.

The provision that would prohibit some public sector union employees from having their dues deducted from their paychecks, as well as the language that would give legislators the same unfettered access to public schools as board members, did not survive.

**[HB 155 \(Valdes\)](#) / [SB 1068 \(Jones\)](#) – Certificates of Completion**

These bills would have allowed students who are awarded a certificate of completion to be eligible to enroll in workforce education programs.

**[HB 443 \(Beltran\)](#) / [SB 738 \(Hutson\)](#) – Athletic Associations**

These bills would have allowed additional athletic associations to be formed in Florida.

**[HB 447 \(Trabulsy\)](#) / [SB 1516 \(Jones\)](#) – Required Instruction in the History of African Americans**

These bills would have amended the required instruction of the history of African-Americans to include the following provision: “Members of the instructional staff are encouraged to include the history of local African-American cemeteries in the study of the history of African Americans when practicable.”

**[HB 599 \(Casello\)](#) / [SB 600 \(Berman\)](#) – Upgrades to Education Facilities as Emergency Shelters**

These bills would have allowed up to \$2 million in facility upgrade costs to be excluded from the cost per student station calculation if they were to upgrade the school for use as a hurricane shelter. Eligible expenses included hardening the structure, as well as electrical and generator upgrades.

**[CS/HB 859 \(Williams\)](#) / [SB 1790 \(Farmer\)](#) – Reading Achievement Initiative for Scholastic Excellence (RAISE) Program**

These bills would have allowed tutoring provided from the RAISE Program to be provided after the school day and be eligible for stipends instead of community service hours.

**The Week Ahead**

The budget will come up for a vote on Monday, at which point the Session will be over.