



To: Florida District School Superintendents
From: Brian T. Moore, FADSS General Counsel
Subject: FADSS Legislative Update – Week of March 27, 2023
Date: Friday, March 31, 2023

Today, the Legislature will complete its fourth week of the 2023 Legislative Session. While multiple bills are still making their way through the committee process, the bulk of the focus this week was on the budget and final passage of numerous bills in both the House and Senate.

2023-24 Budget Discussions

Both the House and Senate completed their initial budget process, with their appropriation committees approving their primary budget bills, as well as their implementing and conforming bills. In addition, several bills affecting the Florida Retirement System, including the district's contribution rates, were heard. One of those bills requires immediate attention.

[CS/CS/HB 239 \(Busatta Cabrera\)](#) – Florida Retirement System

This bill, up until last week, focused solely on special risk FRS employees. However, this week it underwent a complete overhaul and now expands the length of DROP, increases the cost of living increase during DROP from 1.3% to 4%, and resumes the 3% annual cost of living increase for retirees (after first undergoing a one-time, significant bump to make up for the last 12 years without). The estimated cost for all of these changes is over \$3 billion, including a \$973.5 million cost for school districts. This cost would be paid by increasing employer contribution rates for regular class employees by 5.72 percentage points.

Perhaps because of all the other things going on or the fact that HB 239 was not on too many radar screens beforehand, not one representative asked a question or engaged in any debate before the bill was reported favorably by the House *Appropriations Committee* this week. The bill is now ready to be heard on the House floor. It is not clear whether SB 224, which used to be HB 239's companion when it focused on special risk class employees, will receive similar amendments or if any of these new measures will find their way into other Senate bills.

Concerns: Obviously, if the Legislature increases the school districts' cost of doing business by almost \$1 billion just for this one measure, districts will be starting the 2023-24 school year in

much worse shape financially than they are currently. This proposed increase amounts to roughly \$320 per student, so a proposed increase to the BSA of nearly \$200 does not come close to covering this single, new cost. School districts do not have the option to raise taxes, impose fees, or otherwise increase their revenue to cover these costs. Thus, there is no question that this bill would take money from the classroom.

[CS/SB 7024](#) -- Retirement

This bill would make annual adjustments to the employer contribution rates for FRS. Unlike HB 239, discussed above, this bill proposes much more modest changes. It would raise the regular class contribution rate from 10.19% to 10.86% and raise the health insurance subsidy from 1.66% to 2.0%. The total cost to school districts would be \$168.6 million.

[HB 5001](#) / [SB 2500](#) – General Appropriations Act

Both the House and Senate *Appropriations Committees* approved their initial budget proposals for 2023-24. There are links below to both the House and Senate FEFP documentation associated with their budget proposals.

[HB 5003](#) / [SB 2502](#) -- Implementing the GAA RF (5003)

Similarly, both the House and Senate Appropriations Committees approved their implementing bills.

[HB 5101](#) – Conforming Bill

The House *Appropriations Committee* also reported favorably its conforming bill. This bill, among other things, addresses all the changes to the FEFP formula being proposed by the House, including the elimination and collapsing of many categoricals, converting from the district cost differential (DCD) to the comparable wage factor (CWF), and more.

If you have not already done so, please make sure that your CFO reviews both the House and the Senate information to see what they might mean for district finances both in 2023-24 and beyond. You can access all of the most recent budget and appropriations documents here:

[House 2023 Appropriations Documents](#)

[Senate 2023 Appropriations Documents](#)

I have also attached a couple more documents that Merrill Wimberley or I have prepared that may help you and your finance team better understand the proposals.

Bills Signed into Law

[CS/CS/CS/CS/HB 1 \(Tuck and Plascencia\)](#) / [CS/CS/SB 202 \(Simon\)](#) – School Choice (Universal Vouchers)

Governor DeSantis signed HB 1 into law this week. As a reminder, HB 1 requires the State Board of Education (SBE) to “develop and recommend . . . for adoption during the 2024 legislative session repeals and revisions to the Florida Early Learning-20 Education Code, chapters 1000-1013, Florida Statutes, to reduce regulation of public schools.” The SBE is required to “consider input” from multiple stakeholders, including teachers, superintendents, and administrators, and FADSS will be looking to all districts to help provide significant and meaningful input during this process.

[CS/CS/HB 837 \(Gregory and Fabricio\)](#) / [CS/CS/SB 236 \(Hutson\)](#) – Civil Remedies

These bills attempt to accomplish tort reform with limits on attorney fees, statutes of limitations, contributory negligence, and more. I have not spent a lot of time on this bill, but it could result in significant savings to district legal expenses in the long run. However, right now it has resulted in a deluge of new cases filed in the courts with plaintiffs’ lawyers vowing not to give an inch to defense attorneys. You may wish to share with your board attorney or risk manager for their input, and you can probably expect to see a jump in cases filed against the district for at least the near future.

Governor DeSantis signed HB 837 into law last week.

Bills Heard on the House or Senate Floor

[HB 1445 \(Black\)](#) / [CS/CS/SB 256 \(Ingolia\)](#) – Employee Organizations Representing Public Employees

These bills, among other things, would prohibit most public-sector unions from collecting their dues through payroll deductions (the bills exclude law enforcement and firefighter unions). There are also certain reporting requirements for the unions, which the Public Employee Relations Commission (PERC) can investigate. Finally, if a public-sector union has its membership drop below 60% in any given year, the union will have to petition PERC for recertification.

The Senate approved SB 256 this week by a vote of 23-17. HB 1445 still has one committee hearing to complete.

[CS/SB 150 \(Collins\)](#) / [CS/HB 543 \(Brannan and Payne\)](#) – Public Safety (concealed carry and Safe Schools)

The primary focus of these bills is to allow people to carry concealed weapons without needing a concealed weapon permit or license. The bills do not change the prohibition against possessing weapons, concealed or not, on school grounds. However, there are also some safe school provisions included in the bills. For example, they would allow private schools to hire safe schools officers and participate in the guardian program. The bills also require the Office of Safe Schools to “develop a statewide behavioral threat management operational process to guide school districts . . . through the threat management process. The process must be

designed to identify, assess, manage, and monitor potential and real threats to schools.” This will include establishing the duties of threat management teams, using a Florida-specific threat management instrument, creating a statewide threat management portal, methods of continued monitoring of specific threats, and more. Finally, the bills would also create a Florida Safe Schools Canine Program to produce more firearm-detecting canines for schools to employ.

HB 543 completed its journey through the House last week, and the Senate took it up in place of SB 150 this week. HB 543 then passed the Senate by a vote of 27-13. As a reminder, HB 543 received a late amendment in the House that authorizes the SBE to adopt emergency rules to implement these statutory changes immediately, because the Legislature found that “school district discretion over reporting criminal incidents to law enforcement has resulted in significant under-reporting of serious crimes.”

[HB 265 \(Plasencia and Lopez\)](#) / [SB 1004 \(Torres\)](#) – High School Equivalency Diplomas

These bills would prohibit districts from forcing students 16-years-old and older from taking any courses before they can take the GED examination if they pass the GED practice test.

SB 1004 was reported favorably by the Senate *Judiciary Committee*. HB 265 already completed the committee process and was heard on the House floor this week. It will most likely be approved on third reading sometime today.

[CS/CS/HB 19 \(Tant\)](#) / [CS/SB 636 \(Simon\)](#) – Individual Education Plans

These bills require schools to provide students and their parents at IEP meetings with information about what happens with legal rights and responsibilities when the student turns 18. HB 19 completed the committee process previously and was heard on the House floor this week. It is expected to be approved on third reading by the House sometime today. In the Senate, SB 636 received its second of three committee hearings and was reported favorably by the Senate *Judiciary Committee*.

[CS/HB 379 \(Yeager\)](#) / [CS/CS/SB 52 \(Burgess\)](#) – Student Use of Social Media Platforms.

Although not identical, these bills would both require district schools to instruct students on social media and prohibit the use of social media applications on district-owned devices or through district servers. The most recent version of SB 52, which was reported favorably by the Senate *Fiscal Policy Committee*, has been simplified. It would require instruction on the social, emotional, and physical effects of social media for students in grades 6-12. It tasks the DOE to make online material available for use, and districts would be required to notify parents about the availability of the material. Next, SB 52 would prohibit students from using wireless communication devices during instructional time except when used for instructional purposes at the direction of the teacher. It would also allow teachers to collect those devices during instructional time. Finally, SB 52 would require districts to “prohibit and prevent” students from accessing social media platforms from district servers, with an exception when the use is for educational purposes as directed by the teacher.

The Senate version does not address district employees using social media applications, but the House version would apply to all district-owned devices and networks. Also, the House version specifically prohibits TikTok by name. Like the current Senate version, it also allows teachers to collect wireless communication devices from students at the start of class. HB 379 completed the committee process previously and was expected to be approved on third reading by the House today.

[CS/HB 733 \(Temple\)](#) / [SB 1112 \(Burgess\)](#) – Middle School and High School Start Times

These bills would change the earliest start time for middle and high schools, including charter schools, beginning July 1, 2026. No middle school could start before 8:00 am, and no high school could start before 8:30 am. HB 733 is expected to be approved on third reading by the House sometime today.

The Senate heard its version of the bill for the first time this week, and it was reported favorably by the *Education Pre-K – 12 Committee*.

Concerns: This one-size-fits-all approach to start times does not take into account unique local issues, such as local business needs, efficiency in transportation routes, etc. Some districts currently run only one or two bus routes, but this may require adding a second or third route, which would require buying more buses and hiring more bus drivers to run less efficient routes. Fortunately, the bill has a three-year planning period built into it, which will allow each district to look at its operational needs and capacities, engage the local community, and ultimately share all of those local concerns with the Legislature for potential fixes before July 1, 2026.

[CS/CS/HB 1069 \(McClain\)](#) / [CS/HB 1223 \(Anderson\)](#) / [CS/SB 1320 \(Yarborough\)](#) – Education (books and LGBTQ revisited)

As discussed in recent updates, these bills would expand upon last year’s HB 1467 (books) and HB 1557 (LGBTQ).

Originally, HB 1069 focused almost exclusively on expanding on book and library issues. However, the House *Education and Employment Committee* put forth a proposed committee substitute last week to make it more like SB 1320, expanding on both HB 1467 and HB 1557 from last year. HB 1069 was placed on the Special Order Calendar this week, and multiple amendments failed. It is expected to pass the House sometime today.

In its current form, this bill would:

- Define “sex” to be the classification of a person as either male or female based on their genitalia at birth.
- Establish by law that every K-12 educational institution has a policy recognizing that “sex is an immutable biological trait and that it is false to ascribe to a person a pronoun that does not correspond to such person’s sex.”
- Prohibit the use of preferred pronouns.

- Expand the prohibition on classroom instruction about sexual orientation or gender identity from the current K-3 to PreK-8.
- Require health education classes to teach that “biological males impregnate biological females by fertilizing the female’s egg with the male’s sperm; that the female then gestates the offspring; and that these reproductive roles are binary, stable, and unchangeable.”
- Require schools to remove books that have been challenged until the objection is resolved.
- Discontinue using a book if the school board would prohibit someone from reading from a book at a school board meeting.
- Clarify that the law applies to classroom libraries and charter schools as well.

SB 1320, which incorporates most of the same provisions as the current version of HB 1069, has only been assigned to two committees. However, it is still awaiting its second committee hearing.

[HB 7039 \(Trabulsy\)](#) / [SB 1424 \(Calatayud\)](#) – Student Outcomes

These bills largely focus on reading and reading strategies but also establish a system for identifying deficiencies in math that mirrors the current system for identifying deficiencies in reading. They both embrace the Science of Reading and would prohibit certain reading strategies currently being used in many districts. Both of these bills are long and make extensive changes and should be shared with your Chief Academic Officer, reading specialists, and math specialists, as they may require some districts to radically change their current practices. They may wish to review the House’s [most recent staff analysis](#), as well.

HB 7039 completed the committee process last week, and it was placed on the Special Order Calendar this week. It is expected to pass the House sometime today. Fortunately for those districts that may need to make extensive changes to their reading programs or replace instructional materials, the bill was previously amended to provide \$150 million in funding to assist districts with implementation.

SB 1424 received its first hearing this week and was reported favorably by the Senate *Education Pre-K – 12 Committee*.

[CS/HB 1035 \(Gonzalez Pittman\)](#) – Teacher Training and Conduct

This bill requires the Commissioner of Education to review all teacher training requirements in federal and state law, as well as State Board rule or local district policy. He would then be required to “eliminate any classroom teacher training requirements not required by federal or state law.” The bill also creates a special magistrate process, similar to the one from HB 1557 last year (and also paid for by the district), for teachers to challenge district procedures or practices. In addition, the bill reinforces and perhaps even expands upon a teacher’s authority over discipline within the classroom. Finally, the bill establishes that there is a rebuttable

presumption in any legal proceeding that a teacher's (or principal's or bus driver's) actions, except in the cases of excessive force or cruel and unusual punishment, were necessary to restore or maintain safety or the educational atmosphere.

There is no direct corollary bill in the Senate, but SB 244 may have some overlap with its creation of a Teachers' Bill of Rights.

HB 1035 completed the committee process last week and was placed on the House Special Order Calendar this week. It is expected to pass the House sometime today.

[CS/CS/HB 633 \(Salzman\)](#) / [CS/SB 1236 \(Wright\)](#) – Class Size

These bills, as they have been amended, would eliminate the penalty for non-compliance with class size requirements. If passed, the law would leave only the requirement that districts report to the DOE how they intend to resolve the issue before the next October survey. SB 1236 received its first committee hearing this week and was reported favorably by the *Education Pre-K – 12 Committee* after being amended to match HB 633. HB 633 completed the committee process last week and is expected to pass sometime today.

With the difficulty districts are having finding enough certified teachers and the potential for much greater mobility issues with the expansion of school vouchers, the elimination of class size financial penalties would be a welcome change so that already scarce district resources could be put towards fixing the problem rather than paying a fine that may exacerbate it.

High Impact Bills Heard in Committee

While many bills have completed the committee process already, there are even more still working their way through the system. There were 10 bills on the agenda for the *House Education and Employment Committee* this morning, including some that could have a significant impact on district finances or operations. There are also 8 more already on the Senate Education Pre-K – 12 Committee agenda next Tuesday. In particular, the Senate will hear for the first time its bill ([SB 1328 \(Boyd\)](#)) that would require districts to share their 1.5 capital millage funds with charter schools even if the State provides them with PECO funds. This sharing would not be based on facility needs or the district's five-year survey. It would be distributed based solely on enrollment numbers and be used for things like paying rent on privately-owned facilities.

A few of the high impact bills that received a committee hearing this week include:

[SB 244 \(Calatayud\)](#) – K-12 Teachers

According to the bill's sponsor, this bill is designed to help with the recruitment and retention of teachers during this growing teacher shortage problem. It also addresses some other topics, such as authorizing the Department of Education's Inspector General to "investigate allegations or reports of suspected violations of a student's, parent's, or teacher's rights."

With respect to teachers, the bill would create a dual enrollment program that would help current high school teachers obtain a graduate degree and be eligible to teach dual enrollment courses on their high school campuses. The bill also creates a Teacher Apprenticeship Program to create another alternative pathway to certification. People with at least an associates degree could join an apprenticeship program in which they would commit to spending two years in the classroom of a mentor teacher. During those two years, the apprentice would be hired and paid as a paraprofessional. There are several requirements to serve as the mentor teacher for an apprentice, and the mentor teacher could be eligible for a bonus, if appropriated by the Legislature. Because the mentor and apprentice would be employing team-teaching, the mentor teacher's class would be allowed to exceed class-size restrictions by up to 1.5 times the allowable number.

As with other bills focused on teachers and teacher certification this year, SB 244 makes several changes to the certification pathways and requirements. However, unlike most of the others, it does not currently contain the language that would extend all temporary certificates from 3 to 5 years. However, that change has already been signed into law in HB 1.

Next, the bill creates the "Heroes in the Classroom Bonus Program." This would allow the DOE to provide a sign-on bonus to a retired veteran or first-responder who commits to becoming a full-time teacher. That bonus could be even higher if they commit to teach in a critical shortage area.

Finally, the bill takes numerous statutes within the Education Code and creates a new Chapter 1015, Florida Statutes, entitled the Teachers' Bill of Rights. This is modeled after the Parents' Bill of Rights created two years ago in Chapter 1014. It does add one provision that is not already enumerated elsewhere. The bill would provide that a teacher's actions in the classroom to maintain order and discipline has a rebuttable presumption of being necessary and appropriate if faced with litigation or professional practices sanctions.

SB 244 completed the committee process this week after it was reported favorably by the Senate *Appropriations Committee*. It is now ready to be heard on the Senate floor.

Concerns: As mentioned in previous updates, the language about teacher authority within the classroom, which is copied from section 1003.32, often creates confusion in the difference between establishing and maintaining classroom rules of conduct and the much larger issue of infractions of the student code of conduct, including SESIR offenses. Teachers are not expected to interview all witnesses, refer to DOE guidance on SESIR reporting, and make the final decision about whether the offense had the necessary monetary value to rise to the level of vandalism, for example. Similarly, they may not have all of the background information on a student to know the appropriate consequence for more severe offenses. Hopefully, separating out these provisions in their own chapter will not create a false sense that individual teachers can now make final disciplinary decisions for all violations of the code of conduct.

[SB 1670 \(Broxson\)](#) – Deferred Retirement Option Program

This bill would allow instructional personnel and K-12 administrative personnel to participate in DROP for up to 60 additional months beyond the initial 60-month period. The *Senate Government Oversight and Accountability Committee* reported this bill favorably. This was its first committee hearing, but it has only one scheduled stop left. There is no direct House companion, but, as discussed above, HB 239 was amended this week to address numerous DROP and retirement provisions, including the option for all employees to expand DROP from 60 to 96 months.

Other Bills of Note

Because of the focus on the budget and several bills being passed by either the full House or Senate, this week's update will not include a discussion of many of the other bills still making their way through the committee process, but it is worth noting that the pace has not slowed at all as we near the half-way point.

The Week Ahead

While there are numerous bills expecting final passage in the House this afternoon, 10 bills going before the House Education and Employment Committee this morning, and 8 scheduled before the Senate Education Pre-K – 12 Committee next week, there will be an opportunity for everyone to catch their breath a bit, as neither the House nor Senate is scheduled to meet from April 5-7 in advance of Easter.

Also, we are looking forward to spending some time with your administrative assistants in Tampa next week. So that we can give them all the attention they deserve, it is unlikely that there will be a weekly update next week.