



To: Florida District School Superintendents
From: Brian T. Moore, FADSS General Counsel
Subject: FADSS Legislative Update – Week of April 10, 2023
Date: Friday, April 14, 2023

Today, the Legislature will complete its sixth week of the 2023 Legislative Session. For the most part, any bill that has not been heard in committee by this time is very unlikely to pass. However, there are still many bills making their way through the committee process, and there is still much to be decided before the end of session.

2023-24 Budget Bills

Besides the regular budget bills that will be decided in conference committees over the next few weeks, there are a couple bills that could have a significant impact on district budgets and negate any increased funding the Legislature may have planned.

[CS/CS/HB 239 \(Busatta Cabrera\)](#) / [CS/SB 7024](#) – Florida Retirement System

Originally, HB 239 focused solely on special risk FRS employees, while SB 7024 was a typical adjustment to FRS rates like we see most years. However, HB 239 underwent a complete overhaul to address retirement issues for all employees and former employees, not just special risk employees. It expands the length of DROP from 60 months to 96 for all employees, increases the interest paid 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.

HB 239 made it through its final committee stop and discussion on the House floor without any questions or debate about the price tag. Meanwhile, SB 7024 passed the Senate and was sent to the House. Last week, the House took up SB 7024 in place of HB 239 but then amended the provisions from HB 239 onto SB 7024 before sending it back to the Senate with a unanimous vote for this \$3.1 billion bill.

Thus, at this point, SB 7024 is back in the Senate, but it contains all of the provisions that had been added to HB 239, which would cost school districts almost \$1 billion. The Senate will need to decide whether to accept those changes, go back to its original proposal, or propose something in-between. At this time, it is not on the Senate's Special Order Calendar for next week.

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 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/HB 1259 \(Canady\)](#) / [CS/SB 1328 \(Boyd\)](#) – Charter School Capital Outlay Funding

These bills would undo most of the changes made in 2018 with respect to charter schools receiving local capital millage dollars and could potentially cost districts to lose a significant portion of their capital millage funds. Both bills have undergone some changes since first introduced.

HB 1259 would strike the language that says charters do not get any of the local 1.5 capital millage if there is sufficient PECO funding for charter schools. Instead, it would say that charters are entitled to a pro-rata share of capital millage dollars based on their FTE count after first subtracting the district's pre-March 1, 2017, debt service obligation and any required set-aside for special facilities allocations. The bill keeps the language in the formula that allows districts to subtract any PECO funds awarded to a charter, and it includes a \$213 million PECO allocation. An amendment to the bill this week would phase in the impact of the bill by 20% per year for five years.

SB 1328 would also require districts to start sharing their 1.5 millage capital outlay funding above and beyond the PECO funding based on FTE counts. The primary difference now between the two bills is that SB 1328 would only apply to districts with more than 100,000 students, but it too would phase this in over 5 years.

HB 1259, as amended, was reported favorably by the House *Education and Employment Committee* this week by a vote of 16-4. It has one more committee hearing remaining. SB 1328 was not scheduled for a hearing this week but has only one committee reference remaining.

As an example of how these bills would work:

- District has 900 students in district schools.
- District has 100 students in an eligible charter school.
- District raises \$2 million from its 1.5 capital millage.

- District has to pay \$1,000,000 in debt service from pre-2017 debt.
- District has no special facilities obligations.
- HB 1259 says divide (\$2 million - \$1 million) by (900 + 100) = \$1,000.
 - Then multiply \$1,000 x 100 students = \$100,000
 - If the charter receives \$50,000 in PECO funds (proposed PECO funding would be roughly \$500 per charter student), district must pay \$50,000 to charter from its 1.5 millage proceeds.
- SB 1328 would work the same way but only for districts with more than 100,000 students. If the district has less than 100,000 students, the charter would only get PECO funds, if sufficiently funded.

FADSS has provided superintendents with some Talking Points to address concerns with these bills:

- Capital needs are not based on a per student formula. They are based on the age, status, and needs of the taxpayer-built structures. See the [OPPAGA study](#) completed this year that concluded that capital funds should be spent based on demonstrated need, not per capita.
- This plan may create very disparate results depending on property values in your district and current debt obligations.
 - One large district estimated that charter students would get roughly \$1,000 each under the formula, and the PECO allocation would only cover half of that.
 - Another large district with lower property values estimated that a charter student would get closer to \$600 in that district, meaning only an additional \$100 per student would come from the 1.5 mills.
 - In a third, very expensive district, the PECO contribution covered closer to only 35-40% of the cost.
 - If the PECO contribution is removed entirely, the loss in capital funds would be substantial for districts with larger charter populations.
- The Legislature requires districts to adopt long-term facility plans, and decisions have been made for years based on this system. Debt service obligations, long term capital plans, and planned construction of new facilities are all based on calculations that provide the district with the entirety of the 1.5 mills. This upends districts' long term capital outlay plans.
 - A/C Units were replaced 20 years ago with the knowledge that they had a 20-year life cycle. If more capital funds are diverted now, some critical infrastructure needs will not be met (more deferred maintenance). A/C units may break and not be repaired or may only be repaired sufficiently to run in a very inefficient manner (raising utility rates).

- A student at a new school does not need an equal share of capital funds compared to a student at a 40-year-old school with a leaking roof and 20-year-old HVAC system.
- Transfer of public funds to private business. According to the 2014 Charter School Survey from the Center for Education Reform (no update to this survey has been done as of the date of this update), 66% percent of survey respondents rent their school building and only 30% own. Most rent from charter management companies who own the building.
- If the charter school fails, does the state get an asset back? Impossible in a lease/rental situation.
- The maintenance and upkeep of district schools is also the maintenance and upkeep of hurricane shelters. Diverting these public dollars to charter schools also diverts them away from hurricane shelters.

Concerns: As discussed in the talking points, capital outlay dollars are spent based on need and carefully constructed, long-term district facility plans. Distributing these funds on a per student basis is illogical and may result in the inability to perform necessary maintenance and repairs on district (i.e., public) facilities. OPPAGA released a report in December that recommended that all capital dollars be spent based on demonstrated need, but these bills reject that recommendation and seek to distribute capital funds based on head counts rather than need.

Bills Already Signed into Law

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

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

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

Bills Heard on the House or Senate Floor

[CS/HB 1035 \(Gonzalez Pittman\)](#) / [SB 244 \(Calatayud\)](#) – K-12 Teachers (Teacher Training and Rights)

HB 1035 previously passed the House and was sent to the Senate. Last week, the Senate took up HB 1035 in place of SB 244 but then amended it to create a combination of both bills. It then passed the Senate by a vote of 35-4 and was returned to the House. Thus, it now awaits reconsideration in the House.

HB 1035 is supposed 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.” It would also create a dual enrollment

program to help current high school teachers obtain a graduate degree and become 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.

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 have a rebuttable presumption of being necessary and appropriate if faced with litigation or professional practices sanctions.

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.

[CS/HB 141 \(Arrington\)](#) / [CS/SB 196 \(Jones\)](#) – Guidance Services on Academic and Career Planning

These bills would expand the notice to parents of incoming high school students to include information about academic and career planning options other than accelerated options like IB or AICE. Originally, the bills also included language that would require a middle-school student's personalized academic and career plan be "developed in consultation with a certified school counselor." The bills did not explain what "developed in consultation with" means.

SB 196 passed the full Senate this week after an amendment was approved to remove the consultation language. Instead, it requires that districts provide students and parents with the

contact information for a certified school counselor who can advise them on the various options, similar to the provisions that were added to SB 240 previously.

HB 141 was reported favorably by the *Education and Employment Committee* this week and now awaits consideration by the full chamber. It still has the language about consultation with a counselor, but the difference will hopefully be resolved on the House floor.

Concerns: In the absence of clarity about what “developed in consultation with” means, it is not clear that there are enough certified school counselors to meet this new requirement.

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 in at least one chamber.

[CS/CS/HB 443 \(Valdes\)](#) / [CS/SB 986 \(Burgess\)](#) – Education (charter school provisions)

These bills would require district sponsors to timely review federal grant applications submitted by charter schools and reimburse charters within 60 days of submission, as long as the request for reimbursement included all necessary information. The bills do not take into account whether the district has actually had the federal grant funds released to it by the state.

The bills also require district sponsors to provide training to charter schools on any systems that the sponsor might require the charter school to use. Further, they require district sponsors to provide a report to charter schools every year detailing what services the sponsor rendered to the charter as part of the administrative fee withheld by the district. This report must also be submitted to the DOE. Finally, these bills require the DOE to adopt a standard monitoring tool for district sponsors to use when reviewing and evaluating charter schools. The bills do not provide any parameters to restrict or guide the DOE in the adoption of this standard monitoring tool.

Concerns: Although the original provisions of these bills were more burdensome for district charter school sponsors, which seem to be tasked with more responsibilities every year in their oversight of charter schools for the same administrative fee, they continue the trend towards putting all burdens associated with charter schools on the district and not on the school which chose to open and operate within the district. A school district often must undergo a lengthy process to get DOE approval for federal grant funds, but these bills would require districts to front grant money to charters, interest free.

In addition, it is next to impossible to track fully all the tasks that a district performs for charter schools for at best 5% of the FTE for up to 250 students. Employees in district curriculum, finance, IT, federal programs, ESE, and other offices all regularly work with charter schools. This often comes in the form of phone calls or emailed questions, not just monthly reviews of financial statements or an annual curriculum review. If every district employee would have to stop work to document a billing log every time they do something related to charter schools, it

will take time away from the important work of the district. Schools and district offices are not law offices tracking billable hours.

[CS/HB 1521 \(Plakon\)](#) / [SB 1674 \(Grall\)](#) – Facility Requirements Based on Sex

These bills focus primarily on restrooms. They would make it a second degree misdemeanor for someone aged 18 or older to enter a restroom designated for the opposite sex (as determined at birth), if they refuse to leave immediately after being asked to do so. With respect to schools, the bills would require educational institutions to adopt into their student codes of conduct disciplinary procedures for people under age 18 who enter into the restroom for the opposite sex (as determined at birth) but refuse to leave immediately when asked to do so.

HB 1521 was reported favorably by the *Commerce Committee* this week and now heads to the House floor. SB 1674 still has one committee hearing to go.

[CS/HB 1445 \(Black\)](#) / [CS/CS/SB 256 \(Ingoglia\)](#) – 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 previously approved SB 256 and sent its bill to the House. HB 1445 received its second and final committee hearing this week. The House *State Affairs Committee* reported the bill favorably along party lines. It is now ready to be heard on the House floor.

[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). The House has already passed its version of the bill. SB 1320 was heard this week in the *Fiscal Policy Committee* where it was reported favorably with a vote along party lines. It will now go to the Senate floor for final consideration.

In their current form, HB 1069 and SB 1320 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, even with parental approval.

- 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 the book at a school board meeting.
- Clarify that the law applies to classroom libraries and charter schools as well.

Concerns: As we saw with last year’s bills on these subjects, HB 1069 and SB 1320 leave much open to interpretation, which then creates uncertainty and disruption at the local level. The sponsors give assurances that putting a picture of your same-sex spouse on your desk is not “classroom instruction,” but their answers are much less clear when asked what the teacher can say if a student asks a question about the person in the picture. Are they really supposed to tell a student that his or her honest question is inappropriate and refuse to answer it? Moreover, some parents and local community members have a much broader definition of classroom instruction and file complaints over such a picture. Similarly, there is little guidance about what makes a book appropriate or inappropriate, and a single parent or local resident complaint can result in a book being pulled from the shelves for weeks until a review can be completed. The DOE has advised schools to err on the side of caution, which has put the spotlight on districts when they do just that and remove something to which no reasonable person should have objected in the first place. There simply are not committees of people sitting around waiting to expedite book reviews, and districts wind up being blasted by newspaper headlines for following DOE direction, while the state disclaims responsibility and says that the law does not require such actions.

[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, namely the three-cueing strategy, 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 change their current practices significantly. They may wish to review the House’s [most recent staff analysis](#), as well.

HB 7039 completed the committee process and passed the House unanimously. Fortunately for those districts that may need to make extensive changes to their reading programs or

replace instructional materials, the bill provides \$150 million in funding to assist districts with implementation.

SB 1424 received its second of three hearings this week and was reported favorably by the *Senate Appropriations Committee on Education*.

[CS/CS/SB 240 \(Hutson\)](#) / [CS/HB 7051](#) – Education (CTE and workforce)

These bills seek to build upon the Legislature’s focus on CTE and workforce development over the last few years. Both bills are quite lengthy and touch on multiple subjects, and they would provide \$102 million in funding to help school boards and colleges to create or expand programs. The Senate *Fiscal Policy Committee* [summarized the bill](#):

The bill supports CTE for middle and high school students. Specifically, the bill:

- Provides \$100 million for district school boards and colleges to fund the creation or expansion of CTE programs that serve secondary students.
- Authorizes secondary CTE programs to be funded according to the cost of the programs.
- Removes limitations on bonus funding for middle school students in CTE programs.
- Provides additional bonus funding within the Florida Education Finance Program for select achievements in CTE.

The bill supports CTE pathways for students. Specifically, the bill:

- Adds continuity through controlled open enrollment for middle school students to continue their CTE programs in high school.
- Enhances career and academic plans by requiring them to be updated and requiring parents to be provided information about CTE opportunities and benefits for students.
- Expands options for students to earn credit through extracurricular participation in career and technical student organizations.

The bill strengthens opportunities for students to engage in work-based learning by:

- Establishing regional education and industry consortia to meet and report to local workforce development boards the most effective ways to grow, retain, and attract talent.
- Requiring each district school board to provide all students enrolled in grades 9 through 12 with at least one work-based learning opportunity.

The bill provides flexibility for district school boards in recruiting CTE teachers.

The bill:

- Provides discretion to district school boards to certify instructors to teach CTE programs.
- Requires school boards to give teachers credit toward continuing education requirements for supporting students in extracurricular CTE activities.

The bill provides flexibility in the administration of workforce development by:

- Restoring decision-making authority to the Department of Economic Opportunity to seek federal waivers as necessary and also to establish minimum requirements for eligible training providers of workforce development programs.
- Restoring to district school boards and state colleges the responsibility for approving workforce education programs that have a statewide curriculum framework developed by the Department of Education.

The bill provides flexibility for the Credentials Review Committee (Committee) in designating credentials of value. The bill:

- Authorizes the Committee to consider both information provided by the Labor Market Statistics Center within the Department of Economic Opportunity related to short-term demand and long-term data of the Labor Market Estimating Conference as factors in the development of the criteria for identifying credentials of value.
- Removes the requirement for the Committee to develop a returned-value performance funding formula for colleges and career centers.

The bill enhances the CAPE Industry Certification Funding List (Funding List), which is used to incent credentials of value for CTE programs. The bill:

- Provides flexibility to CTE programs to choose the courses in which students may earn industry certifications identified in the Funding List.
- Requires the State Board of Education to adopt three funding tiers for postsecondary certifications on the Funding List according to anticipated wages.

The bill also provides flexibility in the administration of certain state financial aid and grant programs.

SB 240 completed the committee process this week after it was reported favorably by the *Fiscal Policy Committee*. HB 7051 was reported favorably by the *Appropriations Committee*, but it still has one committee assignment remaining.

Other Bills of Note

[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 has been approved by the House and sent to the Senate. SB 1112 was scheduled to be heard in committee this week, but it was temporarily postponed until next week. It will be heard by the *Education Pre-K – 12 Committee* on April 18, 2023, and then has one committee hearing remaining after that.

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 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. HB 633 previously passed the House and was referred to the Senate. SB 1236 still has two committee hearings to complete, but it is scheduled to be heard in the Senate *Appropriations Committee on Education* on April 18, 2023.

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.

[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. SB 52 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 has already passed the House. SB 52 has been placed on the Special Order Calendar to be heard on the Senate floor on April 18, 2023.

[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 has already passed the House. In the Senate, SB 636 received its final committee

hearing this week and was reported favorably by the Senate *Rules Committee*. It now heads to the Senate floor. It has been placed on the Special Order Calendar for April 18, 2023.

[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 first pass the GED practice test.

SB 1004 was reported favorably by the Senate *Rules Committee* and now heads to the Senate floor. HB 265 already passed the House and is awaiting consideration in the Senate.

[CS/CS/HB 897 \(Fernandez-Barquin\)](#) / [CS/SB 940 \(Calatayud\)](#) – Multiple-employer Welfare Arrangements

Districts facing ever-increasing health insurance costs for their employees may be interested in these bills, which may make it easier for districts to join together to create a larger group with better bargaining power, like most of the private colleges and universities in the state do through [ICUBA](#). It may be easier to form an association (Association Health Plan) for the purpose of securing health insurance for the employees of multiple employers.

The Week Ahead

Next week will probably be the last week of meetings for several of the committees as the Legislature focuses on getting bills to the finish line before turning most of its attention to final budget negotiations.

Also, the State Board of Education is meeting at the Capitol on April 19, 2023. Senator Montford will be there to represent FADSS and talk about our focus on school safety and formation of the Florida Association of School Safety Specialists (FS3).