



To: Florida District School Superintendents
From: Brian T. Moore, FADSS General Counsel
Subject: FADSS Legislative Update – Week of April 24, 2023
Date: Friday, April 28, 2023

Today, the Legislature completes its eighth week of the 2023 Legislative Session with all signs pointing to it completing its business by May 5, 2023. The two chambers quickly reached compromise on most PreK-12 budgeting differences earlier this week, and several more bills completed the process or are poised to do so by early next week.

2023-24 Budget

Although the final budget still has a few issues to be resolved, the House and Senate Pre-K-12 conference committee members quickly agreed to accept the House's new FEFP model, but with some modifications. First, both the Safe Schools and the Mental Health categorical allocations were retained, and additional tweaks were made to clarify the House's original proposal.

Here are the key details for the 2023-24 FEFP, though there could be some changes based on final resolution of the remaining budget issues:

- A \$552.33 increase to the BSA to \$5,139.73, primarily due to the collapsing of several, large categorical allocations, such as the TSIA, Instructional Materials, and Reading Allocation.
- A \$404.67 increase to the total funds per UFTE for an average of \$8,648.11 per UFTE.
- FES retained within district allocations – this is the issue that has caused so much budget uncertainty, as the effects of rapid expansion of the voucher programs beyond projections and proration being applied only to district and charter school students has left district budgets uncertain until January of each year.
- However, there are some attempts to address proration and other recurring issues in the new FEFP. These include:
 - Educational Enrollment Stabilization Program – this was created to try to eliminate the negative effects of proration on districts and charter schools. The

two chambers agreed to reserve \$350 million to address any inaccuracies in the enrollment forecasts.

- Small District Factor – an additional amount per FTE is provided to districts in fiscally constrained counties with less than 20,000 students.
- Comparable Wage Factor – replaces the district cost differential and only applies when it is above 1.0.
- Educational Enrichment Allocation – this replaces the Supplemental Academic Instruction allocation and appears to expand upon the types of programs and services for which the funds can be used.
- Safe Schools and Mental Health Allocations remain intact and increase to \$250 million (+\$40 million) and \$160 million (+\$20 million), respectively.
- Elimination of some categoricals, which are then rolled into the BSA:
 - Funding Compression and Hold Harmless,
 - Instructional Materials Allocation,
 - Reading Allocation,
 - Sparsity Supplement,
 - Teacher Salary Increase Allocation,
 - Teachers Classroom Supply Assistance, and
 - Turnaround Supplemental Services Allocation.

Currently, everything remains on schedule, so we may see some final numbers and the start of the 72-hour cooling off period as soon as this weekend, which will allow for a more complete look at the proposed PreK-12 budget for 2-23-24.

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

Bills that Have Passed Both Chambers (but not yet signed into law)

[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) would now be able to 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 a few weeks ago, and the House took up SB 256 this week, in place of HB 1445, and also approved it. It will now go to the Governor for approval.

[CS/HB 925 \(McClain\)](#) / [CS/SB 1040 \(Burgess\)](#) / [CS/SB 1278 \(Simon\)](#) – District School Board Direct-support Organizations

These bills would allow school districts to contract with a direct-support organization (DSO) for personal services or operations. They also raise the threshold for requiring an annual audit from \$100,000 in expenditures to \$250,000. Finally, the bills would allow the district to contract with a vendor to provide the required audit.

The Senate passed SB 1278 last week, and the House took it up in place of HB 925 this week and passed it as well. SB 1278 will now go to the Governor for approval.

[CS/CS/HB 301 \(Alvarez\)](#) / [CS/SB 212 \(Collins\)](#) – Emergency Response Mapping Data.

These bills create a grant program to allow each district to produce emergency response mapping data for every public school in the district. The House passed HB 301 unanimously last week, and the Senate approved HB 301 unanimously as well. It will now go to the Governor for approval.

[CS/CS/HB 19 \(Tant\)](#) / [CS/SB 636 \(Simon\)](#) – Individual Education Plans (legal rights and responsibilities when student turns 18)

[HJR 31 \(Roach and Sirois\)](#) / [SJR 94 \(Gruters\)](#) – Partisan Election of Members of District School Boards

[HB 265 \(Plasencia and Lopez\)](#) / [SB 1004 \(Torres\)](#) – High School Equivalency Diplomas (no GED courses required if student passes practice test)

[CS/HB 259 \(Brackett\)](#) / [CS/SB 190 \(Grall\)](#) – Interscholastic Extracurricular Activities (play at private school)

High Impact Bills Heard on the House or Senate Floor

[CS/CS/CS/HB 1537 \(Rizo\)](#) / [CS/SB 1430 \(Avila\)](#) – Education (multiple, growing list of subjects)

First, the most important part of this bill was approved on the House floor and in Senate committee this week. New concordant scores for the Class of 2023 were approved, which means that, once this becomes law, this year's seniors will be able to meet the ELA FSA requirement by meeting the same concordant scores in place last year (e.g., 430 SAT, 19 ACT Reading). With respect to Algebra I, the bill does bring the PERT back as an option, but a student must score a 114 to satisfy the requirement instead of the previous requirement of 97. Concordant scores for the Class of 2024 would be the same as in the current rule (no PERT

option and higher ELA requirements) with the addition of the Classic Learning Test (CLT) as a potential concordant score option (presumably, the DOE will need to determine an appropriate cut score).

Next, these bills have become a collection center for numerous other bills or provisions from other bills and cover a wide-range of PreK-12 education topics. Some of the main topics in the final version of HB 1537 include:

- 9/11 Heroes Day (individual bill also passed the Senate this week).
- Allowing charter schools to dismiss low-performing students.
- Changing professional development to professional learning.
- A year-round school pilot program.
- Required instruction in the history of Asian Americans and Pacific Islanders (individual bill passed the House this week too but has not advanced beyond one committee in the Senate).
- Allowing one credit in CTE to satisfy graduation requirement in the arts.
- Rebuttable presumption that a student breaking up a fight acted in a way that was necessary to restore or maintain the safety of others.
- Asking state colleges and universities to develop new courses for acceleration to compete with AP classes.
- Allowing districts to offer the Classic Learning Test to 11th graders in addition to the the SAT or ACT.
- Adding a new grading component for elementary schools – the percentage of 3rd graders scoring level 3 or above.
- Clarification that students can combine volunteer hours and paid work for Bright Futures after legislation last year allowed paid work instead of volunteer services.
- Creating a temporary certification program for people enrolled in a teacher preparation program who have completed at least 60 college credits.
- Allowing a failing charter school to continue to receive capital outlay funds until it earns two consecutive F's, 3 consecutive grades below a C, or 2 consecutive unsatisfactory ratings.

Finally, there is a provision in both the House and Senate versions of the bill that would allow school boards to “review and reappoint any member of the district executive staff” if the district has an appointed superintendent. There is no definition of executive staff, nor is it clear what happens after a board refuses to reappoint a staff member. Similarly, it is not clear if the board can take up a member of the executive staff on its own motion and reappoint that person even if the superintendent wishes to make a change.

The House approved HB 1537 by a vote of 115-0, as most legislators found that the good parts of the bill outweighed the bad parts. In the Senate, SB 1430 was amended to match HB 1537

and was reported favorably by the *Fiscal Policy Committee*. It now awaits placement on the Special Order Calendar.

Concerns: As with most “train” bills, this one is packed with good ideas; minor, innocuous matters; and potentially harmful ideas. Limiting the power of a superintendent with respect to executive staff members is of particular concern. As is often the case, the original step does not always seem egregious or a big deal, but it is often the first step towards something much worse. This provision about executive staff members does not apply to elected superintendents, and presumably the number of employees who qualify as executive staff should be quite limited. However, the potential for expansion and additional limitations of superintendent authority is extremely concerning.

Similarly, it is worrisome to hear the way one of the bill’s sponsors described her understanding of another bill provision that would allow charter schools to dismiss students for academic performance. There is also a concerning provision requiring scarce capital funds to be sent to a failing charter school.

[CS/CS/HB 1259 \(Canady\)](#) / [CS/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 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 per pupil 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. This new obligation to pay charters from the district’s 1.5 millage revenue would be phased in at 20% increments over five years.

The House took up HB 1259 this week, voted down all but one amendment, and approved it with a party-line vote of 82-31. Amendments to require charter schools to complete facility plans, to limit the amount of funds disbursed if the school is leased, to require charters to pay back any capital dollars received in the past if they convert to private, to remove the 2017 debt service cut-off date, and to restrict the funds to only those charters that were approved by the district, all failed. One amendment to restrict lease payments when the facility is owned by a family member instead of just a spouse passed. The House sponsor said multiple times that districts have known that this was coming since 2017 with the passage of HB 7069, so districts should have been prepared.

In the Senate, SB 1328 completed the committee process when it was reported favorably by the *Appropriations Committee* after being amended to align with HB 1259. It now awaits placement on the Special Order Calendar.

Concerns: We have discussed at length how these bills would affect districts and how they do not take into account the care and upkeep of publicly-owned facilities or the huge amount of deferred maintenance districts already have to address with their current, limited funding.

The Legislature has chosen to ignore its own OPPAGA study and instead provide funding to charter schools regardless of need at the expense of publicly-owned facilities, built to strict standards, and often serving multiple public purposes. Capital outlay dollars are spent based on need and carefully-constructed, long-term district facility plans. Distributing these funds on a per student basis may result in the inability to perform necessary maintenance and repairs on district (i.e., public) facilities.

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

These bills seek to build upon the Legislature’s focus on CTE and workforce development over the last few years, including the adoption of the REACH Act in 2021. 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. For more information, you may want to click on the link to read the Senate *Fiscal Policy Committee’s* [summary of the bill](#). However, the bill underwent another significant amendment on the Senate floor this week, so the summary is now a little out-of-date.

SB 240 passed the Senate with a unanimous 40-0 vote and has been sent to the Senate. HB 7051 has not yet been placed on the Special Order Calendar in the House.

High Impact Bills Heard in Committee

[CS/CS/HB 443 \(Valdes\)](#) / [CS/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.

This week, SB 986 underwent another change before being reported favorably by the Senate *Fiscal Policy Committee*. One of the amendments adopted this week would allow a charter school to give unrestricted current or capital assets to another charter school operated by the

same not-for-profit entity in another district through an unforgiveable loan of no more than five years.

HB 443 does not contain this charter school loan provision, nor have any amendments been filed to add it. HB 443 also has a pending amendment that would require a charter school to place a student on a progress monitoring plan for at least a semester before dismissing the student for poor academic performance, which is in response to language in HB 1537, discussed above.

Both HB 443 and SB 986 are on their respective Special Order Calendars today, but the House and Senate will need to work out the differences between them next week if either is going to pass.

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.

Finally, it is incredibly concerning that a charter school can receive capital funds from local taxpayers and then lend those funds or capital assets purchased with them to a charter school in another district.

[CS/CS/HB 1121 \(Bartleman and Tomkow\)](#) / [CS/SB 1156 \(Burton\)](#) – Florida Retirement System

These bills attempt to allow former employees to volunteer during the first year of their retirement. Employers would be able to establish post-employment volunteer programs with some restrictions and record-keeping requirements, and retirees would be able to volunteer for up to 20% of the amount of time the retiree worked per week before retiring.

HB 1121 is on the Special Order Calendar today. SB 1156 completed the committee process this week after it was reported favorably by the Senate Appropriations Committee, and it too is on the Special Order Calendar today.

The Week Ahead

With all signs pointing to the budget being resolved on time, next week should be the final opportunity for the remaining bills to reach the finish line. Middle and high school start times, charter school capital outlay funds, the education train bills, the science of reading, CTE/workforce education, and more subjects are still waiting for final resolution.