

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Appropriations Committee

BILL: CS/SB 1676

INTRODUCER: Senate Committee on Education Pre-K-12 Appropriations and Senator Wise

SUBJECT: Education Funding

DATE: April 1, 2009                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Armstrong	Hamon	EA	Fav/CS
2.			GO	
3.			WPSC	
4.				
5.				
6.				

<b>Please see Section VIII. for Additional Information:</b>	
A. COMMITTEE SUBSTITUTE.....	<input checked="" type="checkbox"/> Statement of Substantial Changes
B. AMENDMENTS.....	<input type="checkbox"/> Technical amendments were recommended
	<input type="checkbox"/> Amendments were recommended
	<input type="checkbox"/> Significant amendments were recommended

**I. Summary:**

This bill conforms applicable statutes to the appropriations provided in the Senate proposed budget which makes appropriations for Prekindergarten through grade 12 education for the 2009-2010 fiscal year.

This bill amends statutes relating to the funding of the Florida Education Finance Program (FEFP) and statutes that authorize and/or limit the expenditure of such funds, including class size, instructional materials; required days of service for instructional personnel; teaching experience and pay; employment contracts; professional service contracts; length of contracts for principals and other school site administrators; regional consortium service organizations; charter schools; virtual instruction programs; the Florida Virtual School; the Florida Information Resource Network; the voluntary prekindergarten education program; the school breakfast program; instructional materials; wireless communication; out-of-state travel; school district depositories; study hall; bonus programs; salaries of district school board members and elected and appointed district school superintendents; indirect cost; district discretionary capital improvement millage; and special facilities projects.

This bill and the Senate proposed budget authorize district school boards flexibility for .25 mills of the currently authorized district discretionary millage. In 2009-2010, boards may levy the .25 mills for operations or for capital at the board's discretion. The .25 mills is currently authorized and not additional millage; this bill provides district school boards the flexibility to decide how they wish to use the funds.

The bill also establishes a pilot to determine the feasibility of a centralized system for managing the Teachers Lead program and incorporates the FEFP calculations by reference.

This bill substantially amends sections 1001.20, 1001.271, 1001.28, 1001.395 1001.42, 1001.451, 1001.47 1001.50, 1002.33, 1002.37. 1002.45, 1002.71, 1003.03, 1006.06, 1006.28, 1006.36, 1006.40, 1008.29, 1008.41, 1010.06, 1010.11, 1011.09, 1011.18, 1011.60, 1011.61, 1011.62, 1011.675, 1011.68, 1011.685, 1011.71, 1012.33, 1013.64, and creates section 1012.71 of the Florida Statutes.

## **II. Present Situation:**

### **Class Size**

Section 1, Article IX of the Florida Constitution requires that beginning with the 2003-2004 fiscal year the Legislature shall provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the maximum number of students per classroom does not exceed 18, 22, and 25 respectively for students in prekindergarten through grade 3, grades 4 through 8, and grades 9 through 12.

Section 1003.03, Florida Statutes, requires compliance by reducing the average by two each year beginning at the district level, then at the school level and beginning with the 2009-2010 fiscal year at the individual classroom level. For the 2008-2009 fiscal year requirement is to achieve the average at the school level. Each school district is accountable for complying with this requirement. The penalty for noncompliance at the time of the third FEFP calculation is to calculate an amount from the class size reduction operating categorical fund which is proportionate to the amount of class size reduction not accomplished and transfer that amount to the districts capital outlay account. The commissioner of education is authorized to recommend, subject to approval of the Legislative Budget Commission, an alternative amount of funds to be transferred if he finds the district has been unable to meet class size reduction requirements despite appropriate effort to do so. For the 2008-2009 fiscal year, the commissioner had the authority to recommend a 50 percent reduction in the amount of the transfer. For 2008-2009, only 39 public schools in 17 districts were out of compliance. After appeals, the transfer amount had been reduced to \$569,981, which was then waived by the Legislative Budget Commission because of the difficult economic situation. For 2009-10 and thereafter, the classroom level compliance calculation will prove to be extremely challenging and potentially costly for district operations; current data shows that 26.44% of PK to 3, 24.92% of Grades 4 to 8, and 32.52% of Grades 9 to 12 classrooms are out of compliance. Per recent Department of Administrative Hearing order, charter schools are exempt from class size reduction compliance.

### **School District Millage - Required Local Effort**

Section 1011.62 (4), Florida Statutes, indicates that the Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year and that not later than July 19, the Commissioner of Education is to compute and certify a millage rate which, when applied to 95 percent of the estimated state total taxable value for school purposes, will generate the prescribed aggregate required local effort for that year for all districts. In addition, the required local effort from a school district's required local effort millage will produce no more than 90 percent of the district's total Florida Education Finance Program calculation as determined in the July calculation. Required Local Effort is fully equalized in the FEFP: state funds offset the level of local revenue produced from the prescribed required local millage up to the level of calculated funding per student so that each district earns its entitlement with a combination of state and required local effort funds. For 2008-2009, the required local effort millage is 5.136 mills.

### **School District Millage - Discretionary**

Section 1011.71, Florida Statutes, provides that, in addition to the required local effort millage levy, each district school board may levy a nonvoted current operating discretionary millage. The Legislature is to prescribe annually in the appropriations act the maximum amount of such millage a district may levy.

In addition to the discretionary millage levy for operations, each school board may levy not more than 1.75 mills against the taxable value for school purposes for district schools, at the discretion of the school board, to fund fixed capital outlay as follows:

1. New construction and remodeling projects included in the district's educational plant survey, sites and site improvement or expansion to new sites, existing sites, auxiliary facilities, athletic facilities, or ancillary facilities.
2. Maintenance, renovation, and repair of existing school plants or of leased facilities to correct deficiencies.
3. The purchase, lease-purchase, or lease of school buses.
4. Effective July 1, 2008, the purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, having a useful life of at least 5 years, and used to support district-wide administration or state-mandated reporting requirements.
5. Payments for educational facilities and sites due under a lease-purchase agreement entered into by a district school board, not exceeding, in the aggregate, an amount equal to three-fourths of the proceeds from the millage levied by a district school board.
6. Payment of certain loans.
7. Payment of costs directly related to complying with state and federal environmental statutes, rules, and regulations governing school facilities.
8. Payment of costs of leasing relocatable educational facilities, of renting or leasing educational facilities and sites, or of renting or leasing buildings or space within existing buildings.
9. Payment of the cost of school buses when a school district contracts with a private entity to provide student transportation services if the district meets certain requirements.
10. Payment of the cost of the opening day collection for the library media center of a new school.

If the revenue from the millage authorized is insufficient to make payments due under a lease-purchase agreement entered into prior to June 30, 2008, by a district school board for educational facilities and sites, an amount up to 0.25 mills of the taxable value for school purposes within the school district shall be legally available for such payments.

In addition, effective July 1, 2008 through 2009-2010, a school district may expend up to \$100 per unweighted full-time equivalent student from the revenue generated by the 2008-2009 capital millage levy to fund, in addition to the authorized expenditures, expenses for the following:

1. The purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.
2. Payment of the cost of premiums for property and casualty insurance necessary to insure school district educational and ancillary plants. Operating revenues that are made available through the payment of property and casualty insurance premiums from revenues generated from capital improvement millage may be expended only for nonrecurring operational expenditures of the school district.

Violations of the capital millage expenditure provisions will result in an equal dollar reduction in the Florida Education Finance Program (FEFP) funds for the violating district in the fiscal year following the audit citation.

In addition to the maximum required and non-voted discretionary millage levied, a school district may levy, by local referendum or in a general election, additional millage for school operational purposes up to an amount that, when combined with the non-voted millage levied does not exceed the 10-mill limit established in s. 9(b), Art. VII of the State Constitution. Such levy is to be for a maximum of 4 years and is to be counted as part of the 10-mill limit established in s. 9(b), Art. VII of the State Constitution. Funds generated by such additional millage do not become a part of the calculation of the Florida Education Finance Program.

For 2008-2009, the following represents the maximum non-voted millage authorized under Section 1011.71, Florida Statutes:

*For Current Operations*

- 5.136 Required Local Effort –equalized in the foundation formula of the FEFP
- 0.498 Discretionary – equalized to the state average amount per student
- 0.250 Discretionary – capped and equalized at \$100 per student

All districts levy the maximum authorized.

*For Capital Outlay*

- 1.75 Discretionary

In 2008-2009, 46 districts levy the maximum; 54 levy 1.50 mills or greater.

**Bonus Funding for Student Performance for Certain Courses and Diplomas –**

Section 1011.62(1), Florida Statutes, provides bonus full-time equivalents (FTE) for funding for student performance in the following academic programs:

- .16 FTE per student for passed International Baccalaureate examinations.
- .16 FTE per student for passed Advanced International Certificate of Education examinations. (Half for middle school equivalent programs)
- .16 FTE per student for passed College Board Advanced Placement examinations.
- .3 FTE for International Baccalaureate diplomas.
- .3 FTE for Advanced International Certificate of Education diplomas.
- .3 FTE for Industry- Certification courses and high school diploma (\$15 million cap)

In addition, the Florida Virtual School receives a .114 FTE supplement for each FTE reported.

The bonus for each examination passed is a 100% bonus relative to the funds provided for each student for the course. The bonus for each student for the diploma is roughly equivalent to the funding provided for two courses for a student. The Florida Virtual School bonus is an 11.4% funding supplement to base FEFP funding for all FTE earned.

Teachers of these programs earn from the FTE bonus payments, a \$50 bonus for each student who passes each exam and/or a \$500 bonus for one student in a D or F school who passes an exam with bonus funds per teacher capped at \$2,000.

The FTE bonuses in the FEFP provide more funding than is needed by a district to operate the program and provide the required teacher bonuses.

### **Instructional Materials**

Section 1006.36, Florida Statutes provides the term of adoption of any instructional materials to be a 6-year period beginning on April 1 following the adoption, except that the commissioner may approve terms of adoption of less than 6 years for materials in content areas which require more frequent revision. Any contract for instructional materials may be extended as prescribed under certain conditions.

The department is required to publish annually an official schedule of subject areas for adoption for each of the succeeding 2 years, and a tentative schedule for years 3, 4, 5, and 6. The commissioner may add one or more subject areas to the official schedule, in which event the commissioner shall develop criteria for such additional subject area or areas as warranted. The adoption schedule should be balanced among the subject areas so that the required expenditure for new instructional materials is approximately the same each year.

Section 1006.40 authorizes and defines the use of the instructional materials allocation, instructional materials, library books, reference books and the repair of books. On or before July 1 each year, the commissioner is required to certify to each district school superintendent the estimated allocation of state funds for instructional materials for the fiscal year. Each district school board must purchase current instructional materials to provide each student with a textbook or other instructional material as a major tool of instruction in core courses for the subject areas of mathematics, language arts, science, social studies, reading, and literature for

kindergarten through grade 12. These purchases are to be made within the first 2 years of the effective date of the adoption cycle. Unless specifically provided for in the General Appropriations Act, the cost of instructional materials purchases required by this paragraph shall not exceed the amount of the district's allocation for instructional materials, for the previous 2 years. For 2008-2009, \$253,945,129 is appropriated for district instructional materials.

## **Salaries**

### *District School Boards*

Section 1001.395, Florida Statutes provides a formula for calculating the salaries of district school board members. The salary of each member is based on the population of the county the district school board member serves. Additional adjustments to base salaries of district school board members are determined annually with a formula prescribed in s. 145.19, Florida Statutes.

For Fiscal Year 2009, calculated school board member salaries range from a low of \$23,116 in Liberty County to a high of \$40,932 in Dade, Broward, Hillsborough, Orange, and Palm Beach counties.

Chapter 2009-1, Laws of Florida, authorizes school board members to voluntarily reduce their salaries.

Many states authorize little or no compensation for school board members.

### *Elected District School Superintendents*

Section 1001.47, Florida Statutes, provides direction for the determination of elected district school superintendent salaries. The salary of each elected superintendent is calculated formulaically based on the population of the county in which the superintendent serves. Generally, additional adjustments to base salaries of superintendents are determined annually with the formula prescribed in s. 145.19, Florida Statutes. A district school board, by majority vote, may approve a salary in excess of the amount calculated. An additional \$2,000 per year special qualification salary is to be paid by district school boards for each elected district school superintendent who has met certification requirements established by the Department of Education. In addition, upon successful completion of the leadership development and performance compensation program, the department shall pay an annual performance salary incentive to an elected superintendent of not less than \$3,000 nor more than \$7,500 based upon the superintendent's performance evaluation.

For Fiscal Year 2009, the calculated elected superintendent salaries range from a low of \$89,485 in Liberty County to a high of \$173,240.

### *School Superintendents – Appointed by School Board*

Section 1001.50, Florida Statutes provides direction for school district superintendents employed under Art. IX of the State Constitution. Superintendents appointed by the school board are the executive officer of the district school board and are not subject to the provisions of law, either

general or special, relating to tenure of employment or contracts of other school personnel. The appointed district school superintendent's duties relating to the district school system are as provided by law and rules of the State Board of Education. The district school board is to enter into a contract of employment with the district school superintendent and is to adopt rules relating to the superintendent's appointment.

The district school board is to pay to the district school superintendent a reasonable annual salary. The board is required to take into account the following factors when determining reasonable compensation: district population; the rate and character of population growth; the size and composition of the student body; the geographic extent of the district; the number and character of the schools; and the educational qualifications and professional experience of the candidate. The appointed district school superintendent may participate in the courses of continuing professional education provided in the special qualification certification program and the leadership development and performance compensation program. The district school board may use successful completion of these programs as a factor in determining the amount of compensation to be paid.

### **Pay for Performance**

#### *Differentiated Pay*

Districts school boards are required by law to adopt a salary schedule with differentiated pay for instructional personnel and school-based administrators. (Section 1012.22, F.S.) A specific appropriation from the state is not provided for differentiated pay.

#### *Merit Award Program for Instructional Personnel and School-Based Administrators (MAP)*

The legislature provides merit pay supplements of at least 5 percent and up to 10 percent of the average teacher salary of the school district. The supplements are based on the performance of students assigned to the teacher's classroom and/or the administrator's school. (Section 1012.225, F.S.) For 2008-2009, 7 districts, the Florida Virtual School, and a number of charter schools received MAP funds for 2007-2008 performance for a total of \$32,072,461 in the FEFP.

#### *Excellent Teaching Program*

Subject to appropriation, the legislature provides an annual bonus equal to 10 percent of the prior year's statewide average teacher salary for classroom teachers who meet National Board for Professional Teaching Standards (NBPTS) and an additional 10 percent for agreeing to provide the equivalent of 12 workdays of mentoring and related services during student contact time during the 196 days of required service for the school year to public school teachers who do not hold NBPTS certification. (Section 1012.72, F.S.) For 2008-09, \$57,653,390 is appropriated for the 10 percent certification bonus. These funds are provided in a grant program appropriation and not included in the FEFP.

### **Length of the School Year**

Section 1011.60, Florida Statutes, defines the length of the school year for the following groups:

Students – at least 180 actual teaching days or the equivalent on an hourly basis as specified by rules of the State Board of Education each year.

Teachers – 10 months to include not less than 196 days of service, excluding Sundays and holidays.

Principals - 12 calendar months of service.

### **Professional Service Contract**

Section 1012.33, Florida Statutes indicates that each member of the school district instructional staff who completes certain requirements is to be issued a professional service contract. The requirements for the contract are to:

1. hold a professional certificate,
2. have completed 3 years of probationary service in the district during a period not exceeding 5 successive years, except for leave duly authorized and granted,
3. have been recommended by the district superintendent for such contract and reappointed by the district school board based in successful performance of duties and demonstration of professional competence.

A professional service contract is to be renewed each year unless the district school superintendent charges the employee with unsatisfactory performance and notifies the employee of performance deficiencies. An employee notified of unsatisfactory performance is provided a series of options and opportunities to meet requirements that will enable the employee to retain his or her professional services contract.

### **Contracts for Principals**

Section 1012.33, Florida Statutes, provides that each principal is to be properly certified and to receive a contract. The contract may be for an initial period not to exceed 3 years, subject to annual review and renewal. After the first 3 years, the contract may be renewed for a period not to exceed 3 years and shall contain a provision for dismissal during the period of the contract only for just cause, in addition to other provisions that are prescribed by the district school board.

### **Florida Virtual School**

Section 1002.37, Florida Statutes, establishes the school for the development and delivery of online learning education. The school is funded in the Florida Education Finance Program for public schools and is subject to the following requirements:

1. A "full-time equivalent student" for the Florida Virtual School is one student who has successfully completed six credits that shall count toward the minimum number of credits required for high school graduation. A student who completes less than six credits is to be a fraction of a full-time equivalent student. Half-credit completions are to be included in



- determining a full-time equivalent student. Credit completed by a student in excess of the minimum required for that student for high school graduation is not eligible for funding.
2. Full-time equivalent student credit completed through the Florida Virtual School, including credits completed during the summer, is to be reported to the Department of Education in the manner prescribed by the department and shall be funded through the Florida Education Finance Program.
  3. School districts may not limit student access to courses offered through the Florida Virtual School.
  4. Full-time equivalent student credit completion for courses offered through the Florida Virtual School is to be reported only by the Florida Virtual School. Likewise, school districts are to report full-time equivalent student membership only for courses for which the district provides the instruction.

In addition, section 1011.62, Florida Statutes, provides additional requirements:

1. The school may report FTE for the summer school period.
2. FTE may be reported in Basic and English for Speakers of Other Languages programs.
3. The school is provided an FTE supplement of .114.

In addition to public school students, the school serves and reports FTE for private and home school students. The school is to give priority to students who need expanded access to courses that are unavailable in their traditional setting and to students seeking accelerated access for early high school graduation.

### **Florida Information Resource Network**

The Florida Information Resource Network (FIRN) is an electronic data transmission network used primarily by the state education system. In addition to serving the administrative services functions FIRN gives teachers and students access to the Internet to support teaching and learning. Public libraries throughout the state are part of this network.

The Office of Technology and Information Services within the Department of Education has the duty to coordinate the use of information resources including but not limited to distance learning, library services, the state's satellite transponders and the Florida Information Resource Network.

FIRN provides internet access for school districts, public postsecondary institutions, and libraries. Services provided are circuits or bandwidth infrastructure, encryption, content filtering, and technical support. FIRN serves 67 school districts, 21 community colleges, 5 universities, the Institute of Food and Agricultural Services, 15 public libraries, and 3 private schools.

In 2003, FIRN was outsourced to an umbrella provider that has worked with a number of telecommunications companies for internet services. Beginning in 1998, FIRN funding represented a combination of state funding and federal discounts received through the E-rate program for eligible services purchased by K-12 schools and libraries. The current discount is 71%, meaning that the state funding requirement, which is included in a line item appropriation, is 29%. Postsecondary institutions are not eligible to participate in the E-rate program. The

2008-2009 appropriation is \$6,937,882 state funds and \$10,871,176 trust fund authority for the federal discount.

Recent statutory changes have provided The Department of Management Services (DMS) with additional authority for the coordination and management of internet services for state agencies through "My Florida Net". DMS issued an RFP for 2009-2010 FIRN services for school districts and has awarded the contract to AT&T. As a result, DMS will be able to provide a significant reduction in FIRN cost to school districts with the projected cost being roughly \$4.4 million including the E-rate discount of \$1.9 million.

### **Regional Education Consortia**

Section 1001.451, Florida Statutes, provides that each school district and each non-district member of a regional consortium service organization is eligible to receive an incentive grant of \$50,000 to be used for the delivery of services in their region. The 2008-2009 appropriation for this program is \$1,660,750.

### **Voluntary Prekindergarten Education Program Attendance**

Chapter 2009-1, Laws of Florida revised section 1002.71, Florida Statutes, relating to Voluntary Prekindergarten Education Program funding, by establishing for the 2009 summer program and the 2009-2010 fiscal year program that a student who meets the minimum attendance requirement of 80 percent of the total number of hours for the program would generate one FTE, or full funding. The previous attendance policy could have allowed a student with 50% attendance to be claimed for full funding.

### **The Florida Teachers Lead Program**

Section 1012.71, Florida Statutes, authorizes the Florida Teachers Lead Program to provide an appropriation in the FEFP for a direct payment to school teachers, including charter school and prekindergarten teachers, media specialists, and guidance counselors for classroom supplies. The 2008-2009 appropriation for this program is \$36,756,829, which is roughly \$200 per teacher.

### **Study Hall Funding**

The Department of Education reports that for the 2008-2009 FEFP, 32,861 weighted FTE were reported for students in study hall. These weighted FTE earn for the districts roughly \$124 million. Many of these FTE have been reported as a placeholder for students in certain courses that do not have an appropriate course number for reporting purposes and some are data anomalies. The Grades 9 to 12 basic program study hall weighted FTE may be the most accurately reported and the most reflective of the actual instructional situation for certain students. Grades 9 to 12 reported weighted FTE were 1,623.37 or roughly \$6.3 million.

### **College-level Communication and Mathematics Skills Examination (CLAST)**

The CLAST exam is provided to postsecondary students to determine whether they have mastered the academic competencies prerequisite to upper-division undergraduate instruction. Currently a fee to take the exam is charged only to private postsecondary students. Fee revenues are not sufficient to fund administration and development costs so general revenue funds must be appropriated to subsidize the exam costs.

### **III. Effect of Proposed Changes:**

The bill makes the following revisions:

#### **Class Size**

- Average class size for the 2009-2010 fiscal year shall be calculated at the school level, the same as for 2008-2009.
- District accountability compliance requirement is not changed and remains the same as the 2008-2009 requirement.
- Provides that beginning in 2010-2011 and thereafter the maximum class size shall be at the classroom level.
- Revises the calculation for district accountability beginning in 2010-2011 and thereafter. The revised accountability requirement provides that class size reduction operating categorical funds are not to be provided for students who are over the maximum allowed number.
- In addition to the 2009-2010 calculation for class size accountability, the Department of Education shall also prepare a simulated calculation based on the 2010-2011 accountability requirements and provide the results to the school districts and to the Legislature. This will assist the districts in planning for implementation at the classroom level in 2010-2011.
- Updates the provision that districts that have met the maximum class size requirement, may use excess funds for any lawful operating expenditure; however, priority shall be given to increasing classroom teacher salaries.
- Requires charter schools to comply with the constitutional class size requirements.

#### **School District Millage – Discretionary**

- Reduces the maximum allowed district discretionary capital outlay millage by .25 mills, from 1.75 to 1.50 mills. This provision, in conjunction with a .25 mill increase of discretionary millage for operations provided in the budget, from .498 mills to .748 mills, represents a transfer of discretionary millage authority from capital to operations.
- In addition, the budget provides an increase to the state funds for the Discretionary Millage Compression Supplement to ensure that no district will receive less than the state average funds per student produced by the 0.748 mill levy.
- However, this bill provides school boards with the flexibility to choose not to levy some or all of the budgeted additional discretionary .25 mills for operations if the district needs to make payments for previously issued lease-purchase agreements or has some other critical fixed capital outlay need.

- The bill allows the district to levy up to .25 mills for fixed capital in lieu of the increased discretionary levy for operations.
- For such an event, the bill provides that the millage compression supplement will be calculated on the standard millage levied for operations not eligible for transfer.
- The effect of this policy is that school boards will be provided the flexibility to levy .25 mills of currently authorized district discretionary capital outlay millage for operations or for capital outlay at the board's discretion. This .25 mills is currently authorized millage, not additional millage.
- This policy provides districts with the discretion to use the revenue from .25 mills for district operations, such as teacher salaries and other student instruction cost in lieu of being restricted to using these funds only for fixed capital outlay expenditures.
- For 2009-2010, waives the three-fourth limit on payments due under lease-purchase agreements entered into before June 30, 2009. Increases the authority for the amount to make payments on lease purchase agreements entered into before June 30, 2008 if the revenue from the authorized millage is insufficient to make the payments.
- Removes the June 30, 2010 expiration for expenditure authorization for up to \$100 FTE from the revenue generated by discretionary capital outlay millage for property and casualty insurance and certain motor vehicles.
- Authorizes the Commissioner of Education to waive the equal-dollar reduction required because of misuse of capital outlay funds to purchase of software if he determines that a school district acted in good for audits of the 2007-2008 fiscal year.
- Provides that certain school districts that have currently funded special facilities projects may reduce the districts' required millage to a rate that would preserve the districts' discretionary .5 mills allowed at the time the projects were funded. It also conforms the cross reference to s. 1011.71 (2) related to district discretionary capital improvement millage.

### **School District Millage - Required Local Effort**

The bill provides that no school district's revenue from required local effort millage produce more than 90 percent of the district's total Florida Education Finance Program allocation as calculated and adopted by the Legislature.

### **Bonus Funding for Student Performance for Certain Courses and Diplomas**

- The bonus FTE value for International Baccalaureate, Advanced International Certificate of Education, and College Board Advanced Placement examinations is reduced from 0.16 to 0.08. The reduced bonus FTE value provides 50 percent bonus funding in addition to the standard level of funding provided for these courses.
- This change in the bonus FTE values applies to the bonuses earned in 2008-2009 to be funded from the 2009-2010 FEFP appropriation.
- The bonus FTE value for International Baccalaureate, Advanced International Certificate of Education, and Industry-Certification diplomas is reduced from 0.3 to 0.16 for each eligible diploma. Bonus payments to teachers for International Baccalaureate, Advanced International Certificate of Education, and College Board Advanced Placement eligible courses are reduced by 20 percent as follows:

- From \$50 to \$40 for each eligible student
- From \$500 to \$400 for at least one student in a school with a “D” or “F” grade
- From \$2,000 to \$1,600 maximum award per teacher
- Eliminates the 0.114 bonus FTE for the Florida Virtual School

### **Instructional Materials**

- Clarifies that in addition to bound textbooks, instructional materials may include other items having intellectual content that by design serve as a major tool for assisting in instruction and may be bound or unbound, digital content, software tools, hands-on materials when appropriate for instruction.
- Changes the term of adoption for instructional materials from a 6 year period to an 8 year period in order to improve the alignment of the adoption of instructional materials based on an eight year cycle of revising and adopting standards for instruction.
- Waives the requirement that school districts must purchase newly adopted instructional materials for instruction in core courses within 2 years after the effective date of the adoption cycle, for the cycle occurring in the 2009-2010 academic year, if the district certifies to the Commissioner of Education that the district has sufficient instructional materials to implement the newly adopted standards for mathematics.
- Provides flexibility for districts to use instructional materials funds for other academic classroom instruction costs if all instructional materials have been purchased for the year, but not before March 1, 2010.

### **Salaries**

- Requires the 2009-2010 salary of district school board members to be the amount calculated pursuant to current statutes or the salary of members of the Legislature whichever is lower, notwithstanding other statutes.
- Authorizes elected district school superintendents to voluntarily reduce their salary rate, notwithstanding other statutes and requires for the 2009-2010 fiscal year their salaries be reduced by 5 percent, notwithstanding other statutes.
- Clarifies that payment of earned leave and benefits that were accrued by an employee before a contract is terminated are not included in the one year salary limitation for severance payment; prohibits district school boards from entering into contracts with appointed district school superintendents that require the district to pay from state funds a salary that is more than \$225,000 annually; defines “remuneration,” and defines compensation which may be used in calculating benefits under chapter 121; district school boards and appointed district school superintendents are encouraged to review the superintendent’s 2009-2010 salary and to mutually agree to a reduction of at least five percent.
- Provides that the school district is not required to recognize and accept teaching service for determination of salary for a potential hire from outside Florida. A potential employee from Florida may choose to voluntarily waive this requirement.

### **Pay for Performance**

The bill creates a Discretionary Bonus Allocation for outstanding performance. For the 2009-2010 and 2010-2011 fiscal years, funds provided in this allocation may be used by school districts to provide bonuses to recognize and reward outstanding performance by teachers and school-based administrators. Districts may use these funds at their discretion, for the Merit Award Program for Instructional Personnel and School-Based Administrators, as provided in section 1012.225, Florida Statutes, the Excellent Teaching Program, as provided in section 1012.72, Florida Statutes, or any other purpose that the district deems appropriate.

### **Length of the School Year**

The bill modifies the required number of required days and months for the following:

- The school term is to be 180 actual teaching days or the equivalent on an hourly basis instead of ‘at least’ 180 days.
- The total annual number of required days of service for personnel shall be the number adopted by district school boards instead of the statutory 196 days.

### **Professional Service Contract and Contract for Principals**

- Contracts for school principals and other school site administrators shall not require more than 10 months of service unless specifically approved by the district school board instead of the statutory requirement of 12 months.
- Contracts for all instructional personnel may be for a period of up to 10 months. These changes provide school districts greater flexibility to effectively and efficiently manage time and resources.
- For the 2009-2010 and 2010-2011 fiscal years, discourages school boards from entering into new professional service contracts with nonrecurring Federal Stabilization funds.

### **Virtual Education and the Florida Virtual School**

- Provides that a “full-time equivalent student” for the Florida Virtual School is one who has successfully completed credits in core curricula courses.
- Provides that the maximum value for a full-time equivalent student in kindergarten through grade 12, including credits earned through the Florida Virtual School during the summer, combined with credits and FTE earned through a school district, may not exceed one full-time equivalent membership per student per year as provided in 1011.60 (4).
- Repeals subsection (7) of section 1002.45, Florida Statutes, which limits virtual instruction for students in grades 9 through 12 to Department of Juvenile Justice Programs, dropout prevention programs, and career and vocational programs. Striking this limitation removes a barrier to making virtual instruction available to students in grades 9 through 12.
- Deletes an incorrect reference to English for speakers of other languages as an eligible FEFP program for the Florida Virtual School
- Inserts the correct reference to vocational education as an eligible FEFP program for school district virtual instruction programs.

- Also, the statutory reference to section 1011.62 (1) regarding credit completions for FEFP funding through the Florida Virtual School is revised to basic programs for grades 6 through 12 instead of from prekindergarten through grade 12.

### **Florida Information Resource Network**

- Updates duties of the Department of Education related to assisting school districts in the securing of Internet access and telecommunications services including funding under the Schools and Libraries Program of the Federal Universal Services Fund.
- Provides that the Commissioner of Education, upon requisition from school districts, community colleges, universities, and other eligible users of the Florida Information Resource Network, shall purchase the non-discounted portion of Internet access services and related services. Payment is to be made from each user's funds as designated in the requisition.
- Provides that the Florida Information Resources Network, to the extent feasible, "may" rather than shall be used for the workforce education management information system.
- Makes technical changes for coordinating resources to facilitate distance learning.

### **Regional Education Consortia**

The bill deletes the July 1, 2009 expiration date, and continues the requirement that if funds are insufficient to pay the full \$50,000 amount to each eligible member of the Regional Consortium Service Organizations, that the available funds shall be prorated among all eligible members.

### **Voluntary Prekindergarten Education Program Attendance**

The bill clarifies and improves the attendance policy for funding a student in a Voluntary Prekindergarten Education program. The bill provides that at a maximum, 20 percent of the total payment made on behalf of a student to a private prekindergarten provider or a public school may be made for hours a student is absent. In addition, no payment is to be made for absences that occurred before a student's first day of attendance or after the student's last day of attendance.

### **Study Hall**

The bill provides that students enrolled in study hall may not be included in the calculation of full-time equivalent student membership in the FEFP for funding.

### **Florida Teachers Lead Program**

For the 2009-2010 fiscal year, the bill authorizes a pilot of a centralized electronic system to coordinate and manage the Florida Teachers Lead Program. Teachers could purchase supplies on-line or from local vendors.

### **College-level Communications and Mathematics Skills Examination (CLAST)**

The bill provides that fees established for the CLAST shall apply to “public” postsecondary students in addition to those currently required for students in private institutions.

### **Other Adjustments**

- Corrects the statute by adding “and state allocations” to be combined with federal reimbursements when school districts set breakfast meals rates each year.
- Prohibits the payment of indirect cost to a university, community college, school district, or any other entity from funds appropriated by the Legislature to the Division of Public Schools within the Department of Education.
- Per recommendation of the Auditor General, “payments” are added to the authorized types of electronic transactions by school districts.
- Per recommendation of the Auditor General, the bill provides for documentation of electronic payments authorized in Section 1010.11, Florida Statutes.
- Prohibits school districts, during the 2009-2010 fiscal year from using public funds to pay for out-of-state travel or for cellular phones, cellular phone services, or any other mobile wireless communication device or service, including text messaging unless such expenditure is specifically authorized by the district school board.
- Makes a technical adjustment to repeal subsection (7) of section 1011.68, Florida Statutes, that authorizes school districts to transfer excess funds in their student transportation allocation to the FEFP. This provision is duplicative of section 1011.62 (6), Florida Statutes.
- Makes a technical adjustment to repeal the July 1, 2009 reversion clause for subsection (6) of section 1011.62, Florida Statutes, which provides school districts with the flexibility to use categorical funds to maintain essential classroom instruction. This provision is also amended in section 26 of this bill.

### **Florida Education Finance Program Calculation Workpapers**

The bill incorporates the calculations of the Florida Education Finance Program for the 2009-2010 fiscal year public schools budget by reference, in order to display the calculations used by the Legislature, consistent with the requirements of the Florida Statutes, in making appropriations for the Florida Education Finance Program.

### **Effective Date**

The bill provides the effective date of the bill is July 1, 2009.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.



**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill conforms the statutes to the K-12 public schools budget. The bill provides school districts additional fiscal flexibility by giving priority to funding for the core mission of teaching and learning and less emphasis on funding noncore functions. In addition, the bill makes a series of adjustments and reductions to special allocations in the funding formula to maximize funding in the base allocation for all districts. The bill also provides fiscal efficiencies and limits unnecessary spending.

The bill, in conjunction with the Senate proposed budget, provides for a .25 mill transfer of district discretionary millage from capital to operations. This transfer provides districts flexibility for the 2009-2010 fiscal year to use the revenue generated by .25 mills in the district operating budget and defer for a year expending these funds on fixed capital outlay. This shift makes approximately \$380 million available for district operations to fund the salaries of teachers and other personnel essential for student instruction. However, this provision provides school districts with the discretion to transfer up to .25 mills back to capital outlay.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education Pre-K – 12 Appropriations on April 1, 2009:**

The bill makes the following revisions:

- **Class Size Reduction –**
  - Compliance maintained at school level for 2009-10, but also requires calculation at class level for informational purposes.
  - Class size compliance penalty requirements modified for 2010-11 to remove class size funding for students over the maximum caps.
  - Clarifies that charter schools required to comply with class size reduction limits.
- **Capital Improvement Millage –**
  - Authorizes .25 mills to be used as operating discretionary millage or as capital improvement millage.
  - Removes expiration date of June 30, 2010 for the authority to use capital improvement millage for property and casualty premiums and certain motor vehicles.
  - Waives the 75% certificate of participation (COPs) limit for COPs issued before June 30, 2009.
  - Audit Finding Waivers – authorize the Commissioner to waive fiscal penalties based on certain audit findings of school district expenditures for 2007-08 school year.
  - Allows districts with current “Special Facilities Project Appropriations” an additional year to pay the districts required share by reducing the annual required 1.5 mill of property tax by an amount that is equal to the amount of 2-mills capital improvement millage the Legislature transfers to operations.
- **FEFP Categorical Flexibility – removes June 30, 2009 expiration date**
  - Transportation – flexibility for classroom expenditures.
  - Instructional Materials – flexibility for classroom expenditures after March 1, 2010.
  - Class Size Reduction – may be used for operating expenditures if the district has met class size requirements.
  - Supplemental Academic Instruction – flexibility for classroom expenditures.
  - Reading Allocation – flexibility for classroom expenditures.
  - Safe Schools – flexibility for classroom expenditures.
- **Instructional Materials –**
  - Delays instructional materials 2009-10 adoption cycle (Math) if the district has sufficient instructional materials to implement the newly adopted standards for mathematics.
  - Revises term of the adoption cycle to 8 years (currently 6 years).
  - Clarifies that instructional materials can include “electronic” materials.
- **Merged Teacher Bonus Program Categorical (Merit Award Plan and Excellent Teaching).** Allow full flexibility for districts for 2009-10 and 2010-11 fiscal years.
- **Authorizes school districts to pay expenses by electronic fund transfer, per Auditor General recommendations.**

- Clarifies language regarding the 180 day requirement (but maintain the hours requirement) to allow more flexibility in scheduling. Allow district flexibility on employment contract days above the instructional time.
- Authorizes a Teacher Lead Matching Pilot Program.
- Stimulus funds – Prohibits adding new staff to continuing contracts if funded by nonrecurring funds.
- AP, IB, AICE Bonus Weights – Bonus weights adjusted to 0.08 (50% bonus weight). Reduces amounts of teacher bonuses to \$40 per student and \$1,600 maximum. IB and AICE diploma bonus lowered to 0.16.
- Industry Certified Bonus Weight – Reduced diploma bonus weight to 0.16 and lowered the maximum statewide to \$8 million.
- Florida Virtual School –
  - Eliminates supplemental bonus weighted FTE for Florida Virtual School.
  - Course delivery limited to core courses.
- School Board Member Salary – Lower salary limit to match legislator salaries.
- School Superintendent Salary –
  - Reduces elected superintendent salaries by 5% for 2009-2010.
  - Requires school board review of appointed superintendent salary to reach an agreement to reduce 2009-2010 superintendent salary by at least 5%.
  - Authorizes elected school district superintendents to voluntarily reduce their salaries.
- Principal and school site administrator contracts are limited to 10 months unless specifically approved by the school board.
- Limit school district salaries limited to a maximum of \$225,000 from state funds.
- Limits student FTE reporting to 1.0 FTE per year, including virtual students. (Does not include Department of Juvenile Justice education.)
- Virtual Instruction Program – Corrects funding statutory reference for career programs.
- Prohibits district school districts from paying for cell phones and other wireless communication devices unless specifically authorized by the school board.
- Prohibits district school districts from paying for out-of-state travel unless specifically authorized by the school board.
- Certain categorical funding items changed to be base funding categorical items (Transportation, Instructional Materials, and Teacher Lead).
- Makes study hall hours not reportable for funding.
- Does not allow state funds appropriated to the Division of Public Schools in the Department of Education to be used for payment of an indirect cost charge to a university, community college, school district, or other entity.
- Adjusts CLAST fees to require all students to pay for test administration.
- Repeals the requirement of school districts to recognize out-of-state teaching experience in employment contracts. Allows in-state teacher applicants to waive the teaching experience requirement.
- Clarifies that the calculation of the 90% limitation on local funding in the total FEFP shall be as calculated and adopted for the FEFP in the General Appropriation Act.
- Clarifies the Voluntary Prekindergarten Education Program absence standard.
- Makes permanent the authorization to prorate the Regional Education Consortium appropriation if the General Appropriation Act provides less than \$50,000 per member district.

- Makes a technical clarification of the school breakfast state allocation language.
- Revises the method of payment for the Florida Information Resource Network.
- Clarifies the one year salary limitation for severance to permit payment of employee earned benefits.
- Removes obsolete transportation categorical language.
- Adopts the legislative calculation of the FEFP by reference.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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