

STORAGE NAME: h0351.cjcl

DATE: February 24, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CIVIL JUSTICE & CLAIMS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HJR 351

RELATING TO: The System of Public Education

SPONSOR(S): Representative Bullard

STATUTE(S) AFFECTED: The Constitution of the State of Florida, Article IX, Section 1

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) CIVIL JUSTICE & CLAIMS

(2)

(3)

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I. SUMMARY:

If passed by three-fifths of the membership of both houses of the Legislature, and if ratified by the electorate, HJR 351 would amend Article IX, Section 1 of the Florida Constitution. This joint resolution would require the state to fund education at an elevated level. Specifically, it would require the Legislature to make a per-child expenditure equal to "the average amount of funding received per child in the states of this nation which rank within the upper quartile in per-pupil educational expenditures."

HJR 351 would have a substantial fiscal impact. It would restrict the Legislature's power over the education budget and could affect other areas of the budget.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

1. **Requirement for a Uniform System of Free Public Schools** - The Florida Constitution, at Article IX, Section 1, requires the establishment of a "uniform system of free public schools." Florida courts have not settled upon any fixed concept of what this clause requires. In *School Board of Escambia County v. State*, 353 So.2d 834, 837 (Fla. 1977), the Florida Supreme Court stated that the constitution requires a school system where "the constituent parts . . . operate subject to a common plan or serve a common purpose." In *St. John's County v. Northeast Florida Builder's Association, Inc.*, 583 So.2d 635 (Fla. 1991), the Florida Supreme Court noted that the constitution does not require ridged uniformity. The court suggested, "The Florida Constitution only requires that a system be provided that gives every student an equal chance to achieve basic educational goals prescribed by the legislature." *Id.* at 641. In *Florida Department of Education v. Glasser*, 622 So.2d 944 (Fla. 1993), the Florida Supreme Court reiterated that decisions concerning the uniformity of the state's school system should be left to the Legislature. The court remarked: "Florida law now is clear that the uniformity clause will not be construed as tightly restrictive, but merely as establishing a larger framework in which a broad degree of variation is possible." *Id.* at 950. Finally, in *Coalition for Adequacy and Fairness in School Funding, Inc. v. Chiles*, 680 So.2d 400 (Fla. 1996), the Florida Supreme Court once again refused to examine the adequacy of legislative findings. It explained:

[W]e must consider this issue in the context that appropriations are textually and constitutionally committed to the legislature. Any judicial involvement would involve usurping the legislature's power to appropriate funds for education. The judiciary must defer to the wisdom of those who have carefully evaluated and studied the social, economic, and political ramifications of this complex issue--the legislature. *Id.* at 407.

The court concluded, "We hold that the legislature has been vested with enormous discretion by the Florida Constitution to determine what provision to make for an adequate and uniform system of free public schools." *Id.* at 408.

2. **Grant of Budgetary Power to the Legislature** - The Florida Constitution grants the Legislature considerable authority over the state's budget. Article III, Section 1, requires that "The legislative power of the state shall be vested in a legislature of the State of Florida" According to the Florida Supreme Court, "Only the legislature, as the voice of the people, may determine and weigh the multitude of needs and fiscal priorities of the State of Florida." *Chiles v. Children*, 589 So.2d 260, 267 (Fla. 1991). In addition, Article III, Section 19, of the Florida Constitution grants the Legislature power to enact a general law which "shall prescribe the adoption of annual state budgetary and planning processes"
3. **State Revenue Cap** - While the constitution confers extensive budgetary powers upon the Legislature, these powers are not unlimited. Article VII, Section 1(e) of the Florida Constitution imposes a limitation on state revenues with annual adjustments for growth in personal income. It defines state revenues as "taxes, fees, licenses, and charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government."

4. **Balanced Budget Provision** - According to Article V, Section 1(d), the State of Florida must maintain a balanced budget. While this provision does not prohibit the state from borrowing money, it does require that expenses incurred through borrowing be offset by incoming revenues.

B. EFFECT OF PROPOSED CHANGES:

1. **Would Probably Increase Educational Spending** - If enacted, HJR 351 would probably increase educational expenditures. It would bring Florida in line with states that spend top dollars on education. Whether HJR 351 would improve the quality of education in Florida, would depend upon various factors.
2. **Would Reduce the Legislature's Budgetary Authority** - If enacted, HJR 351 would divest the Legislature of some authority to allocate funds. Not only would the bill impact educational expenditures, but it would limit the Legislature's ability to allocate funds across various budget categories.
 - a. **Could Lead to Judicial Review of the Education Budget** - HJR 351 would confer upon the judiciary the power to evaluate whether the Legislature has conformed to constitutionally-mandated spending requirements. Due to separation of powers concerns, the judiciary has thus far been reluctant to intrude into this area.
 - b. **Could Impact other Budget Items** - The state constitution requires a balanced budget and imposes a cap on state revenues. This means that if the Legislature increases funding in some areas, it may be forced to cut spending in others. Because HJR 351 would fix educational spending at a particular level, it could affect the funding of other public services and activities. Funding reductions could cause slowdowns, shortages, or other disruptions. Those who depend heavily upon government services would be most seriously affected. Because HJR 351's funding shift would occur immediately, rather than incrementally, its impact could be exaggerated.
 - c. **Could Lead to Increased Taxes** - Within the constitutional constraints detailed above, the Legislature may be forced to raise taxes to fund HJR 351's mandate.
 - d. **Could Limit the State's Options in Times of Emergency** - Because HJR 351 would impose a spending mandate on state government, it would take away some flexibility. This arrangement could limit the state's options during emergencies or economic crises.
 - e. **Could Limit the State's Ability to Meet Changing Needs** - Because HJR 351 would partially freeze the structure of the Florida's budget, it would limit the Legislature's ability to set fiscal priorities and meet the evolving needs of the citizenry.
 - f. **Would Diminish State Sovereignty** - Because HJR 351 would force Florida to match educational expenditures by other states, it would place spending decisions in the hands of other governments.

3. **Would Constitutionalize a Statement of Values** - HJR 351 would amend the constitution to classify children as the state's "most important asset."

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

- (1) any authority to make rules or adjudicate disputes?

Yes. The bill reduces the Legislature's authority to allocate funds. In terms of overall spending on education, HJR 351 would eliminate legislative discretion.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. Because HJR 351 would require a specific level of educational funding, it could require government units outside the field of education to make do with less.

- (3) any entitlement to a government service or benefit?

Yes. HJR 351 would require the state to fund education at a particular level.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

NA.

- (2) what is the cost of such responsibility at the new level/agency?

NA.

- (3) how is the new agency accountable to the people governed?

NA.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

Probably. Because HJR 551 would significantly increase educational expenditures, it would likely result in either a substantial tax increase or an across-the-board reduction in state services.

- b. Does the bill require or authorize an increase in any fees?

Although the bill does not directly require or authorize an increase in fees, the state may eventually be forced to raise fees to meet the bill's spending mandate.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No. HJR 351 would create an entitlement connected with educational funding.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

School children might benefit from this legislation through increased spending on education. Teachers would likely receive salary increases. Other potential beneficiaries include educational publishers and school construction contractors. However, the costs associated with HB 351 would be spread to every taxpayer.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. It restricts the budgetary discretion of the legislature.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

NA.

- (2) Who makes the decisions?

A spending formula, set forth in the constitution, would control many future decisions concerning educational expenditures.

- (3) Are private alternatives permitted?

No.

- (4) Are families required to participate in a program?

No.

- (5) Are families penalized for not participating in a program?

No.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

No.

(2) service providers?

No.

(3) government employees/agencies?

Yes. HJR 351 would vest control of educational expenditures in a court enforced formula.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Declares that children are the state's most important asset; establishes that children have fundamental right to adequate funding for education; directs the legislature to appropriate funds in accordance with a spending formula.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

HJR 351 would require the state to fund educational expenditures at a particular level. Determining required spending levels, and readjusting other expenditures, could require considerable research and could impose an additional workload upon executive and legislative staffs.

As suggested earlier, because HJR 351 would significantly increase educational expenditures, it could result in reductions in other areas of the budget, or tax increases.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

The total cost of HJR 351 would depend upon the exact formula by which education expenditures are measured and compared.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Because HJR 351 would require either increased taxes or decreased services, it would produce some negative impact on the private sector.

2. Direct Private Sector Benefits:

The skills of a better educated workforce would aid private industry.

3. Effects on Competition, Private Enterprise and Employment Markets:

Because HJR 351 could result in higher taxes, it could harm the competitive position of Florida businesses.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill would not reduce the percentage of a state tax shared with counties or municipalities. Therefore, it would not contravene the requirements of Article VII, Section 18, of the state constitution.

V. COMMENTS:

1. **Key Issues** - This subsection uses a question format to stimulate debate about the joint resolution under review.

a. **Question Presented** - *Should the Legislature relinquish its authority to balance educational funding with other expenditures, by agreeing to abide by a spending formula set forth in the constitution?*

b. **Other Policy Considerations:**

- (1) Is this matter appropriate for inclusion in the state's constitution?
- (2) Does the amount of money spent on education have a direct relationship to the quality of education?
- (3) Does this joint resolution set forth sufficient guidelines to enable the Legislature to adhere to required spending levels?
- (4) Should taxes be raised to fund this mandate? If not, which programs should be trimmed to accommodate increased spending on education?
- (5) Should the spending formula take into account regional differences in the cost of living, teacher salaries, or the cost of facilities construction and maintenance?
- (6) How would the proceeds of HJR 351 be divided? Would the bulk of increased spending supplement teacher salaries? Are teacher salaries inadequate?

2. **Technical Concerns:**

a. **Creates a Moving Target** - HJR 351 does not specify any time for assessing where Florida ranks in per-child educational expenditures. Because other states may increase or decrease educational funding over time, HJR 351 creates a moving target. Comparing Florida's projected spending, to amounts spent by other states over the *previous* year, may not sufficiently ensure that Florida's educational spending meets HJR 351's requirements for the *present* year.

b. **Provides No Mechanism for Comparisons** - HJR 351 provides no guidelines for measuring Florida expenditures against the expenditures of other states. It is not certain what data would be used to make such a comparison.

STORAGE NAME: h0351.cjcl

DATE: February 24, 1997

PAGE 10

- c. **May Aid Unintended Beneficiaries** - HJR 351 does not specify which educational institutions or students would benefit from its spending mandate. Because the joint resolution addresses "funding per-child," it is probably aimed at elementary and secondary students.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON CIVIL JUSTICE & CLAIMS:

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