

STORAGE NAME: h3599.ei
DATE: February 6, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION INNOVATION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3599
RELATING TO: Renting or leasing space for conversion to educational facilities
SPONSOR(S): Committee on Education Innovation and Representative Melvin
COMPANION BILL(S): N/A
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) EDUCATION INNOVATION YEAS 6 NAYS 0
(2)
(3)
(4)
(5)

I. SUMMARY:

HB 3599 relaxes the statutory criteria that an existing building, which was originally used for some purpose other than education, must meet to be rented or leased by the district school board for use as an educational facility. Thus, existing unused buildings can more easily be converted to educational facilities by district school boards. It allows a building which was constructed to meet state minimum building and life safety codes to be considered as meeting the requirements for use and occupancy as an educational facility provided that the school board holds a public meeting and adopts a resolution certifying that the following circumstances apply:

- growth of school-age population in district has created a need for a new educational facility in a neighborhood where there is little or no vacant land;
- vacant space in existing buildings meets current building and life safety codes;
- use of existing building is a cost-saving means when compared with new construction, including land acquisition and preparation, and demolition of existing structures (if applicable);
- examination or supervision of examination by licensed structural engineer of building for suitability, safety, and conformance with state minimum building and life safety codes, including, as a minimum, review of existing documents, building site reconnaissance, and analysis of the building;
- certificate of evaluation from the structural engineer verifying that based on available documents, building site visits, current knowledge, and professional engineering judgment, the building meets the building and life safety code requirements, provides safe egress of occupants from the building, provides adequate fire safety, and does not pose a threat to occupants' lives;
- conversion plans were prepared by a licensed architect or structural engineer and work was performed by a licensed contractor;
- building conversion was observed by a licensed architect or structural engineer;
- building has been reviewed, inspected and granted a certificate of occupancy by the local building department;
- all ceilings, light fixtures, ducts, and registers were constructed or reconstructed to meet state minimum codes.

An exemption of the excise tax on documents for leases and rentals of existing buildings for the purpose of using for educational facilities is allowed.

The cost of renting or leasing buildings or space within existing buildings is to be paid from the district 2 mill levy. This will remain an allowable expenditure of the 2 mill levy revenue during and after the 6 year phase down.

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II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 230.23(9)(b)5., F.S., allows leases or lease-purchase arrangements with private individuals or corporations for the rental of necessary grounds and educational facilities for school purposes or of educational facilities to be erected for school purposes. Usually lease purchase agreements are for 1 year and are renewed annually. If the agreement is for a period greater than 12 months, an approving referendum must be held. All the contracts and building plans must be approved by the department. Educational facilities are defined as the buildings and equipment which are built, installed, or established to serve educational purposes and which may lawfully be used.

Section 235.056(2), F.S., authorizes district school boards to enter into rentals, leases, or lease-purchases for educational facilities and sites. "Educational facilities" means, pursuant to s. 235.011(5), F.S., the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards.

Leases or Rentals

The board will pay for the leases or rentals with either operations budget funds or funds from the 2 mill revenue (authorized in 236.25(2), F.S.) if the agreements are for 1 year or less. If the lease agreement is extended for more than 1 year, it becomes a multiple-year lease, and payment may be authorized from the same type of revenue. Code requirements for all leased facilities and sites are as follows:

- (1) Must be inspected by the Uniform Building Code (UBC) inspector before the facility is occupied. The UBC inspector reports to the Department of Education (DOE). All spaces leased after July 1, 1995, must be inspected and comply with either (1) the state minimum building code pursuant to chapter 553 and the life safety codes pursuant to chapter 633, or (2) the State Uniform Building Code for Public Educational Facilities Construction, which are found in the State Requirements for Educational Facilities (SREF). The same funding sources may be used for inspection and compliance with the minimum building and life safety codes.
- (2) Plans for renovation or remodeling of leased space must conform to state minimum and life safety codes or the UBC in the SREF.
- (3) Must be inspected annually for firesafety deficiencies and have corrections made by the board within a reasonable time. If corrections are not made, the inspecting agency may request the commissioner to order that appropriate corrective action be taken in accordance with a schedule determined jointly by the inspecting authority and the board, or, after 30 calendar days' notice to the board, order all or a portion of the plant withdrawn from use until correction of deficiencies. The same funding sources may be used to correct the deficiencies.

Chapter 97-384, LOF, which was passed during the 1997 Special Session, requires the department to present a report on each district's use of leased space. The report, which is due by July 1, 1998, is to include the number of FTE students instructed in leased space, the number of permanent and relocatable leased spaces, the number of prekindergarten stations in permanent facilities, the condition of leased facilities, the finance methods used, and recommendations for change.

Lease-Purchase

A lease-purchase agreement requires compliance with the UBC, pursuant to s. 235.26, F.S., must be advertised and go through the competitive proposal process with the award going to the best proposer, and must be funded using current or other funds specifically authorized by law for lease-purchase agreements of educational facilities and sites. The board, by itself, or through a direct-support organization (DSO) or nonprofit educational organization or consortium of district school boards, may provide for separately advertising and receiving competitive bids to provide the lowest cost, if the board determines it best serves the public interest and pledged revenues are limited to 75 percent of those from the 2 mill levy, pursuant to s. 236.25(2)(e), F.S..

All activities, information and participants associated with lease-purchase agreements are subject to the statutory public records and public business laws. The lease-purchase cannot exceed the useful life of the facility and site or 30 years, whichever is less. Lease-purchase agreements expire on June 30 of each

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fiscal year, but may be automatically renewed annually, subject to annual appropriations by the board. However, if the board fails to renew the agreement, it is not a default and does not constitute a penalty. The lease-purchase facilities and sites are exempt from ad valorem taxation.

No lease-purchase agreement constitutes a debt, liability, or obligation of the state or a board or shall be a pledge of the faith and credit of the state or a board. The annual rate shall consist of principal and interest with the interest rate calculated as established for government bonds in s. 215.84, F.S.

Excise Tax on Documents Exemption

A board entering into a rental, lease or lease-purchase agreement for educational facilities and sites (pursuant to 235.056(2), F.S.) is exempt from the excise tax on documents which arise as a result of the agreement.

Two Mill Levy

Each district school board may levy up to 2 mills of non-voted, ad valorem tax for the capital outlay purposes defined by s. 236.25(2), F.S. The Legislature has amended the statute many times since 1980 to give school districts more flexibility by authorizing other uses of the local revenue produced through this discretionary capital outlay millage. The General Appropriations Act Implementing Bills for fiscal year 1993-1994 and fiscal year 1994-1995 allowed districts to use unobligated proceeds of the discretionary capital outlay millage levy for one-time, nonrecurring expenditures for classroom instructional materials, including consumable and non-consumable supplies, materials, textbooks, and equipment. During the 1997 regular and special sessions, the Legislature revised the allowed usage of this additional 2 mills. The districts that had been using the revenue for uses other than capital expenditures were given a 6 year phase-down period to modify the use of the revenue. Non-capital expenses are reduced from the amount spent in FY 1995-1996 by 15 percent each year for the next 6 years, beginning with FY 1997-1998. After July 1, 2003, all expenditures are to be for capital only. The allowed capital expenditures are:

- Survey recommended construction, renovation, remodeling, maintenance, and repair of the educational plant - As defined in 235.01, F.S., "maintenance and repair" means the upkeep of educational and ancillary plants including, but not limited to, roof or roofing replacement short of complete replacement of membrane or structure; repainting of interior or exterior surfaces; resurfacing of floors; repair or replacement of glass; repair of hardware, furniture, equipment, electrical fixtures, and plumbing fixtures; and repair or resurfacing of parking lots, roads, and walkways. The term does not include custodial or groundskeeping functions, or renovation except for the replacement of equipment with new equipment of equal systems meeting current code requirements, provided that the replacement item neither places increased demand upon utilities services or structural supports nor adversely affects the function of safety to life systems.
- Purchase, lease, or lease-purchase of equipment, educational plants, and construction materials directly related to instruction
- Opening day collection for the library media center of a new school
- Purchase, lease-purchase, or lease of school buses
- Servicing of payments related to certificates of participation (COPS) issued for any purpose prior to November 24, 1997 (effective date of House Bill 17A or Chapter 97-384, LOF)

Additionally, if a district identifies the need for an ancillary plant in the adopted facilities work program, provides an opportunity for public input as to the relative value of an ancillary plant versus an educational plant, and obtains public approval, the district may then use the 2 mill revenue for the construction, renovation, remodeling, maintenance or repair of an ancillary plant.

If a district uses the 2 mill revenue for unauthorized purposes, it is penalized accordingly in the following year by an equal dollar reduction in the appropriated operating funds from the Florida Education Finance Program (FEFP). The restrictions on how the 2 mills is spent will not apply to a district that certifies to the Commissioner of Education that the district's instructional space needs can be met for the next 5 years from capital outlay sources that the district reasonably expects to receive, or from alternative scheduling or construction, leasing, rezoning, or technological methodologies that exhibit sound management.

B. EFFECT OF PROPOSED CHANGES:

This bill relaxes the statutory criteria that an existing building, which was originally used for some purpose other than education, must meet to be rented or leased by the district school board for use as an educational facility. Thus, existing unused buildings can more easily be converted to educational facilities by district school boards. It allows a building which was constructed to meet all state minimum building and life safety codes to be considered as meeting the requirements for use and occupancy as an educational facility provided that the school board holds a public meeting and adopt a resolution certifying that the following circumstances apply:

- growth of school-age population in district has created a need for a new educational facility in a neighborhood where there is little or no vacant land;
- vacant space in existing buildings meets current building and life safety codes;
- use of existing building is a cost-saving means when compared with new construction, including land acquisition and preparation, and demolition of existing structures (if applicable);
- examination or supervision of examination by licensed structural engineer of building for suitability, safety, and conformance with state minimum building and life safety codes, including, as a minimum, review of existing documents, building site reconnaissance, and analysis of the building;
- certificate of evaluation from the structural engineer verifying that based on available documents, building site visits, current knowledge, and professional engineering judgment, the building meets the building and life safety code requirements, provides safe egress of occupants from the building, provides adequate fire safety, and does not pose a threat to occupants' lives;
- conversion plans were prepared by a licensed architect or structural engineer and work was performed by a licensed contractor;
- building conversion was observed by a licensed architect or structural engineer;
- building has been reviewed, inspected and granted a certificate of occupancy by the local building department;
- all ceilings, light fixtures, ducts, and registers were constructed or reconstructed to meet state minimum codes.

An exemption of the excise tax on documents for leases and rentals of existing buildings for the purpose of using for educational facilities is allowed.

The cost of renting or leasing buildings or space within existing buildings is to be paid from the district 2 mill levy. This will remain an allowable expenditure of the 2 mill levy revenue during and after the 6 year phase down.

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?

N/A

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

N/A

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

N/A

- 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?

N/A

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

N/A

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

N/A

2. Lower Taxes:

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

The district school board will be paying for the lease or rental of educational facilities converted from existing buildings which were originally used for other purposes. The revenue for the lease or rental cost will be from the local taxpayers through the 2 mill ad valorem levy.

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

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

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

- 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?

The parents and guardians have input through the local school board and a public meeting which must be held before the board can enter into a rental or lease agreement under the provisions of this bill.

- (2) service providers?

N/A

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(3) government employees/agencies?

The local school board, with public input and inspection information from a licensed structural engineer and the local building department, will make the decision on whether to lease or rent existing buildings or space for educational facilities.

D. STATUTE(S) AFFECTED:

Amends Sections 235.056, 201.24, and 236.25, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1 amends s. 235.056, F.S., as amended by Chapter 97-384, LOF, to allow a district school board to rent or lease existing buildings, which were originally used for some purpose other than education, for conversion to educational facilities. Requires funding for rentals or leases of 1 year or less be through the operations budget or funds from the 2 mill levy; allows operational funds or 2 mill funds to be used for rentals or leases over 1 year. Requires that building which was constructed to meet all state minimum building and life safety codes will be considered as meeting the requirements for use and occupancy as an educational facility.

Requires school board to hold a public meeting and adopt a resolution before occupying rented or leased space in an existing building. Requires that adopted resolution certify that following circumstances apply:

- growth of school-age population in district has created a need for a new educational facility in a neighborhood where there is little or no vacant land;
- vacant space in existing buildings meets current building and life safety codes;
- use of existing building is a cost-saving means when compared with new construction, including land acquisition and preparation, and demolition of existing structures (if applicable);
- examination or supervision of examination by licensed structural engineer of building for suitability, safety, and conformance with state minimum building and life safety codes, including, as a minimum, review of existing documents, building site reconnaissance, and analysis of the building;
- certificate of evaluation from the structural engineer verifying that based on available documents, building site visits, current knowledge, and professional engineering judgment, the building meets the building and life safety code requirements, provides safe egress of occupants from the building, provides adequate fire safety, and does not pose a threat to occupants' lives;
- conversion plans were prepared by a licensed architect or structural engineer and work was performed by a licensed contractor;
- building conversion was observed by a licensed architect or structural engineer;
- building has been reviewed, inspected and granted a certificate of occupancy by the local building department;
- all ceilings, light fixtures, ducts, and registers were constructed or reconstructed to meet state minimum codes.

Section 2 amends s. 201.24, F.S., allowing exemption of excise tax on documents for leases and rentals of existing buildings for the purpose of using for educational facilities.

Section 3 amends s. 236.25, F.S., authorizing the cost of renting or leasing buildings or space within existing buildings to be paid from the district 2 mill levy. Authorizes as an allowed usage of the 2 mill levy, the cost of renting or leasing existing buildings, which were originally built for other purposes, for conversion to educational facilities.

Section 4 provides for an effective date of July 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Owners of unoccupied buildings or space within buildings have an opportunity to rent or lease the space for conversion to educational facilities without the more strenuous building code criteria usually required for educational facilities.

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

N/A

D. FISCAL COMMENTS:

N/A

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 expend funds.

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

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

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

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