

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1848

SPONSOR: Governmental Oversight and Productivity Committee and Senator Clary

SUBJECT: Educational Facilities

DATE: April 13, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hill</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill requires the Department of Education (DOE), rather than the SMART Schools Clearinghouse, to assist districts in building functional, frugal schools. It requires DOE to review and validate each school district's and community college's educational plant survey, rather than doing so only when required by the Constitution. The bill also provides for plan compliance by the appropriate reviewing authority, or licensed design professional, in circumstances when that is not the DOE or a structural engineer.

The bill repeals the Effort Index Grant program and transfers the 1997 appropriation for that program (i.e., \$400 million from the future sale of School Capital Outlay Bonds) to the School Infrastructure Thrift (SIT) Program. The bill authorizes a new enhanced SIT award to reward local effort but does not change the eligibility criteria for current SIT awards. To receive a portion of the funds transferred to the SIT program, districts will have to show cost savings by building functional, frugal schools or authorizing charter schools that serve students in non-district facilities. Districts may also receive an enhanced SIT award equal to 25 percent of the savings realized from frugal construction if the district meets local effort criteria set by the bill.

This bill amends sections 235.056, 235.061, 235.0155, 235.15, 235.175, 235.185, 235.188, 235.211, 235.212, 235.2155, 235.216, 235.217, 235.218, 235.31, and 404.056; and repeals sections 235.186 and 235.4355 of the Florida Statutes. The bill also amends section 46 of chapter 97-284, Laws of Florida.

II. Present Situation:

In November 1997, the Legislature held a special session to address public school capital outlay needs. The resulting legislation, ch. 97-384, L.O.F., created the SMART (Soundly-Made, Accountable, Reasonable and Thrifty) Schools Act. The SMART Schools Act appropriated a potential \$2.7 billion from General Revenue and the proceeds of School Capital Outlay Bonds backed by the pledge of lottery funds. These appropriations primarily funded three major and one

minor program: the Classrooms First Program, the School Infrastructure Thrift (SIT) Program, Effort Index Grants, and the 1998-1999 SMART Schools Small County Assistance Program. Collectively, these programs provide capital outlay funding for school districts to construct new student stations and related core facilities to reduce overcrowding; to renovate, remodel, and repair existing school facilities; and to replace old relocatables. Appropriations for these programs add to local capital outlay sources and state capital outlay sources [i.e., the Public Education Capital Outlay and Debt Service Trust Fund (PECO) and the School District and Community College Capital Outlay and Debt Service Trust Fund (CO&DS)].

The SMART Schools Act required each district to develop and annually update a 5-year district facilities work program, balancing planned capital outlay expenditures and anticipated revenues. The law encouraged districts to build functional, frugal schools in two ways: (1) by limiting the amount that may be spent per student station from PECO funds, and, (2) by rewarding districts for savings realized through frugal construction. The law also encouraged districts to maximize their local effort and authorized monetary awards for districts which build frugally but still cannot meet their student station needs after exhausting available state and local capital outlay resources. The act also established an independent SMART Schools Clearinghouse to recommend frugal design and construction standards, review districts' performance in meeting those standards in their 5-year capital outlay work programs; and to recommend SIT Program awards and Effort Index Grants.

The following paragraphs further describe key aspects of the SMART Schools Act.

Classrooms First Program

The Classrooms First Program provides capital outlay funds to all 67 school districts. The program, which will ultimately generate about \$2 billion, is funded by state-issued School Capital Outlay Bonds backed by lottery dollars. The bond sales that fund this program are scheduled and sized to comply with federal arbitrage requirements and to meet school districts' demand for funds on an as-needed basis. The proceed of these bonds, like bonded PECO dollars, are distributed to districts as they are ready to encumber funds for constructing each stage of a previously approved project. To date, \$565.3 million of the \$2 billion in potential bonds have been sold. Only \$149.1 million of the \$565.3 million has actually been encumbered by districts for ongoing construction.

Each district received a Classrooms First allocation based on a distribution formula weighted for growth in capital outlay full-time student enrollment and the age and size of existing facilities. Some districts were allowed to take their allocation as cash or bond proceeds; others were required to pledge their allocation and receive School Capital Outlay Bond proceeds. A district could take either cash or receive bond proceeds, if the district could meet its 5-year educational plant needs with anticipated revenues. Districts that could not meet their 5-year educational plant needs with anticipated revenues had to pledge their allocations and receive bond proceeds. Districts must use these funds to build "classrooms first" before spending the funds for other facilities. Classroom First funds may not be used to purchase more relocatables.

Classrooms First expenditures are also limited by the nature of the funds received. Bond proceeds may be used for new construction, renovation, or major repair of educational facilities. Cash

distributions may be used to construct, renovate, remodel, repair, or maintain educational facilities.

Each district with 10,000 or more full-time equivalent students must spend 25 percent of its Classrooms First allocation on renovation, major repairs, or remodeling, if more than 9 percent of the district's educational facilities are 50 years old or older. This expenditure requirement was primarily intended to target funds to upgrade older schools in urban areas.

School Infrastructure Thrift (SIT) Program

The SIT Program is an incentive fund created to encourage functional, frugal school construction. A school district can receive a SIT award in one of two ways, through:

- Savings realized through functional, frugal construction.
- Savings realized through the operation of charter schools in non-school-district facilities.

The SIT awards are based upon 50 percent of the savings on the statutorily defined cost-per-student station. School districts may use the SIT award for any authorized capital outlay expenditure. Thus far, SIT awards have been made from the General Revenue appropriations for this program. When SIT awards are made from the proceeds of School Capital Outlay Bonds, the potential uses of SIT awards should be limited to bondable projects, such as those uses permitted for bonded PECO allocations. A statutory change is needed to implement this.

As of March 16, 1999, approximately \$15.8 million in SIT awards had been distributed to school districts for building new schools under the state required cost per student station. Approximately \$18.2 million had been distributed to school districts for savings realized through the operation of charter schools in non-school-district facilities. It is estimated that more than \$44 million will be disbursed this year to school districts for SIT awards for the operation of charter schools. Some school districts have chosen to share part of their SIT awards with their charter schools, thus providing capital funding for some charter schools.

Effort Index Grants

The Effort Index Grant Fund is a \$400 million long-term, effort-driven incentive program. Effort Index Grants were authorized to assist school districts that have built functional, frugal new student stations, met certain levels of required local effort by spending available state and local capital outlay funds, and still cannot meet their need for new student stations to accommodate growth. If a district meets the eligibility requirements described below and still has need for new student stations, the district is eligible to receive Effort Index Grant funds.

In September 1998, 11 districts applied for Effort Index Grants. Upon an initial desk audit by the Clearinghouse of the information submitted by the districts, only four of those districts appeared to meet the statutory eligibility requirements of need and effort to be eligible for an Effort Index Grant. To ensure consistency in definitions and standards applied to all districts, further on-site review may be necessary to determine the actual eligibility of the districts which applied.

Expenditures Must be for Eligible Projects

To be eligible for an Effort Index Grant, a district must spend its available capital outlay resources on eligible projects. Eligible projects are those which provide new student stations and associated core facility space to meet student membership requirements in K-12 programs. Effort Index Grants are not provided to replace relocatable classrooms which meet standards.

Computation of Required Local Effort

Each school district which applies for an Effort Index Grant must demonstrate their local effort by spending an amount equivalent to the following revenue sources for school construction, the district's:

- Public Education Capital Outlay (PECO) and Capital Outlay & Debt Service (CO&DS) funds
- Maximum potential bond proceeds from CO&DS trust fund
- Proceeds from Classrooms First Program
- One-half cent local option school sales surtax proceeds pursuant to s. 212.055(7), F.S., if fully levied for 5-year period

If after a district has spent this equivalent amount on eligible school construction projects and the district still has need for new student stations, the district will receive state funding through the Effort Index Grant Fund.

Computation of Expenditures for Eligibility

The computation of basic capital outlay expenditures for projects must be based on the following:

- Expenditures for projects which provide new student stations and associated core facility space to meet student membership requirements in K-12 programs.
- Expenditures for debt service payments for outstanding capital outlay bonds sold to finance *new* construction, remodeling, renovation, or major repair of educational facilities.
- Expenditures for scheduled payments on outstanding certificates of participation (COPS) used to finance new construction, remodeling, renovation, or major repair of educational facilities.

Expenditures for relocatables which meet standards do not qualify. The computation of basic capital outlay expenditures for projects to be included in the Clearinghouse calculation for Effort Index Grants must only be based on the actual cost per student station or the statutorily defined cost per student station, whichever is less.

Allocation of Effort Index Grants

If the calculated district obligation is equal to or greater than the calculated required local effort on eligible expenditures, the district is eligible for an Effort Index Grant. Annually, by November 1, the Clearinghouse must report to the Governor and Legislature on the amount required to fully fund the Effort Index Grants for the following 5-year period. If legislative appropriations are insufficient to fully fund the qualified effort index grants, the Clearinghouse may give priority consideration to districts that have exceeded and maximized their local effort.

1998-1999 SMART Schools Small County Assistance Program

Chapter 97-384, Laws of Florida, authorized the 1998-1999 SMART Schools Small County Assistance Program to supplement the Special Facilities Construction Account. This program assisted small counties that had urgent needs for schools, major building expansions, repairs, or renovations, but had insufficient resources to finance the needed project. Districts that received assistance from this program could not also receive funding from the Special Facilities Construction Account. The law appropriated \$50 million for the SMART Schools Small County program from the sale of School Capital Outlay Bonds. Funding has been allocated as follows:

SCHOOL	AMOUNT
Liberty County New K-8 School in Bristol	10,273,714
Madison County New K-5 School in Greenville	2,926,326
Wakulla County K-8 Middle School	9,366,984
Gilchrist County Trenton K-12 Expansion	10,550,570
Levy County Yankeetown Addition	4,198,995
Okeechobee County Old High School Remodeling/Renovation	1,781,000
Putnam County New Middle School	6,716,500
Suwannee New Elementary Addition to Branford K-12	3,869,197
TOTAL	\$49,683,286

SMART Schools Clearinghouse

The SMART Schools Clearinghouse (Clearinghouse) is an independent body comprised of five members appointed by the Governor, Speaker of the House and President of the Senate. The Clearinghouse is responsible for making recommendations for SIT Program awards and Effort Index Grants. The Clearinghouse recommends frugal construction standards and reviews school districts’ performance in meeting established design and construction standards in the 5-year work plans. The Clearinghouse is administratively housed in the Department of Management Services, but is not subject to the direction or control of that agency.

III. Effect of Proposed Changes:

The bill requires DOE to review and validate each school district’s and community college’s educational plant survey and, when required by the Constitution, to recommend surveys for approval by the State Board of Education. Article XII, s. 9(d)(8)d., Florida Constitution, requires the State Board of Education to allocate Capital Outlay and Debt Service Funds for survey-recommended projects.

The bill repeals the Effort Index Grant program.¹ Funds appropriated for Effort Index Grants will be used for SIT awards. The bill does not change the eligibility criteria for SIT awards. To receive a portion of these funds, school districts must qualify for a SIT award by building schools with student station costs below the maximums set by s. 235.216, F.S., or by serving students in charter schools that operate in non-district facilities. Districts may also receive an enhanced SIT award equal to 25 percent of the savings realized from frugal construction if the district meets local effort criteria set by this bill.

Section-by-Section Analysis:

Section 1 requires an evaluation of each rented, leased, or leased-purchased school plant by an appropriately licensed design professional, rather than the current requirement that the reviewing authority be a structural engineer.

Section 2 deletes the provision in current law that prototype school plant designs be received free of charge from the DOE.

Section 3 amends s. 235.15, F.S., to require DOE to review and validate each school district's and community college's educational plant surveys and, when required by the Constitution, to recommend surveys for approval by the State Board of Education. Article XII, s. 9(d)(8)d., Florida Constitution, requires the State Board of Education to allocate Capital Outlay and Debt Service Funds for survey-recommended projects.

Section 4 amends s. 235.175, F.S., to delete references to Effort Index Grants and to add as a stated purpose of SIT awards the rewarding of school districts which increase their capital outlay through local funding efforts. Specific reference in current law to an award for a specific percentage of cost avoidance is deleted.

Section 5 amends s. 235.185, F.S., deleting references to the repealed Effort Index Grants.

Section 6 amends s. 235.188, F.S., deleting references to the repealed Effort Index Grants.

Section 7 amends s. 235.211, F.S., to delete reference that educational facility plan review shall be conducted by the DOE. The new language provides for plan compliance by the appropriate reviewing authority.

Section 8 amends s. 235.2155, F.S., to add as a purpose of SIT funds the increase in capital outlay funding through local efforts. Awards derived from a legislative appropriation of general revenue funds may be used for any lawful capital outlay expenditure but awards derived from proceeds of bonded debt may be used only for bondable projects. Specific reference to a percentage award for achieving a savings threshold is deleted because the percentages are addressed in another section of current law, s. 235.216. In its place the Commissioner may present a plaque or cash award as recommended by the SMART Schools Clearinghouse.

¹Section 235.186, F.S.

Section 9 amends s. 235.216, F.S., to permit payment of an enhanced SIT award in the amount of 25 percent of the SIT award earned for cost savings realized by frugal construction. To qualify for an enhanced SIT award, a school district must receive a SIT award for a frugally constructed school and generate capital outlay by specific local efforts. These efforts must be the levy of more than 2 mills of voted and nonvoted taxes for capital purposes, or the receipt of proceeds either from the half-cent local option sales tax or the local government infrastructure sales tax. Each school district must certify that it meets these eligibility criteria in the application for an enhanced SIT award.

Section 10 amends s. 235.217, F.S., to delete reference to the Effort Index Grant and to delete language specifying the initial appointment and convening times of the SMART Schools Clearinghouse.

Section 11 amends s. 235.212, F.S., to exempt community colleges and certain types of rooms in all educational facilities from the existing requirement that operable glazing equivalent to five percent of the floor area be employed as an energy efficiency device.

Section 12 amends s. 235.31, F.S., to provide corrected references to authorized review authorities, other than the DOE, for the purposes of advertising and awarding school contracts and for their compliance with building and fire codes.

Section 13 amends s. 235.218, F.S., deleting references to the repealed Effort Index Grants. This change deletes the Clearinghouse's current authority to deny an Effort Index Grant when a district fails to comply with the Clearinghouse's recommendations for improving performance and productivity of its 5-year capital outlay work program. The Clearinghouse retains its duty to evaluate each district's educational facilities work program and recommend improvements.

Section 14 eliminates funding for the Effort Index Grants program and earmarks all the funds appropriated by s. 46 of ch. 97-384, L.O.F., for SIT awards. That appropriation provided \$450 million from the Educational Enhancement Trust Fund, contingent upon the sale of the lottery-backed School Capital Outlay Bonds, and \$150 million from General Revenue. Districts may also receive an enhanced SIT award equal to 25 percent of the savings realized from frugal construction if the district meets local effort criteria set by the bill.

Section 15 amends s. 235.061, F.S., to direct the Commissioner of Education to adopt standards for relocatable classrooms intended for long-term use by July 1, 2003.

Section 16 amends s. 404.056, F.S., to provide that mandatory radon testing of designated 24-hour care facilities and student-based or child care facilities shall occur only in counties designated as having intermediate or elevated levels, as determined by the Department of Community Affairs. Testing shall be completed within the first year of construction on 20 percent of the habitable floor space and sequentially in 5 percent increments until the buildings have been tested twice by the fifth year of occupancy. Thereafter, testing shall occur only after significant structural change or when fill soil is used for construction of such facilities. The amendments to this section repeal current law which provided repeated measurements at 5-year intervals.

Section 17 repeals s. 235.186, F.S., to eliminate the Effort Index Grant Program.

Section 18 repeals s. 235.4355, F.S., which authorized the 1998-1999 SMART Schools Small County Assistance program. The funds appropriated for that program have been distributed.

Section 19 makes the bill effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private firms engaging in the testing of sites for the presence of radon will experience a decline in their business due to the bill's reduction in the frequency and coverage of such tests. No specific financial impact is discernible at present.

Privately owned child-serving facilities in the affected radon areas will also experience a lessening in their testing expenses.

C. Government Sector Impact:

Affected governmental entities will experience an expense reduction in the scope of radon testing.

The bill repeals the Effort Index Grant program and redirects funding for that program for SIT awards. The Clearinghouse estimates that 30 district school boards meet the local effort criteria for enhanced SIT awards based upon the criteria contained in amended s. 235.216, F.S. The qualifying district school boards are **Alachua, Bay, Broward, Charlotte, Dade, Duval, Escambia, Flagler, Gulf, Hernando, Hillsborough, Indian River, Jackson, Leon, Manatee, Marion, Martin, Monroe, Okaloosa, Osceola, Palm Beach, Pasco, Putnam, Santa Rosa, Sarasota, Seminole, St. Johns, St. Lucie, Volusia, and Wakulla**. This list should be considered dynamic as it depends wholly upon a district's

decision to invoke the listed revenue sources. Actual receipt of the enhanced SIT award is contingent upon the receipt of a SIT award for frugal construction and local effort.

The committee substitute increases the amount that could be distributed as SIT awards, or enhanced SIT awards, by \$400 million from the future sale of School Capital Outlay Bonds. Bonds sales will be scheduled and sized to generate these funds on an as-need basis as is the case with other bond sales. The amount actually distributed in any fiscal year will depend on the extent to which districts meet the proposed local effort criteria and realize cost-savings by building functional, frugal schools and by sponsoring charter schools which serve students in non-district facilities.

Deletion of current law providing for free prototype plan usage may conflict with existing contractual provisions that also permit reuse fees for architects and engineers. The amended version eliminates any legal controversy which could arise since the DOE is not appropriated funds for the payment of reuse fees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The directive to the Commissioner that standards be adopted for relocatable classrooms would appear to indicate that rule promulgation is required as these would constitute statements of general applicability which implement law, a principle criterion of a rule in ch. 120, F.S.

VIII. Amendments:

None.