

STORAGE NAME: h0257z.edk
DATE: June 17, 1999

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION K-12
FINAL ANALYSIS**

BILL #: HB 257
RELATING TO: The Florida School for the Deaf and the Blind
SPONSOR(S): Rep. Wiles
COMPANION BILL(S): SB 994

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

- (1) EDUCATION K-12 YEAS 9 NAYS 0
- (2) EDUCATION APPROPRIATIONS (W/D)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

PASSED BY THE LEGISLATURE - CHAPTER #99-280, Laws of Florida.

On April 6, 1999, HB 257 was read a second and third time in the House and passed [YEAS 117, NAYS 0]. On April 30, 1999, HB 257 was substituted for SB 994 and passed the Senate [YEAS 39, NAYS 0].

The bill was presented to the Governor on May 24, 1999, and on June 8, 1999, was signed into law by the Governor.

II. SUMMARY:

This bill amends several sections of the Florida Statutes pertaining to the Florida School for the Deaf and the Blind (FSDB). It removes a requirement that the Department of Management Services (DMS) necessarily provide training, technical assistance, and building code interpretations with regard to uniform building codes for the facility. It permits the Florida School Improvement and Academic Trust Fund to be used to provide challenge grants and matching endowment grants to the FSDB Endowment Fund. It exempts FSDB from an existing cap regarding application for excess trust funds. The bill amends the statutorily prescribed mission statement for FSDB to better reflect a commitment to provide sensory impaired students with opportunities to maximize individual learning potentials and to become literate, employable, and independent life-long learners. The bill authorizes FSDB to contract with private attorney services without obtaining written approval of the Attorney General.

The effective date of the bill is July 1st of the year in which the bill becomes law.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 235.014, F.S., prescribes a number of requirements for the Florida Department of Education (DOE) with regard to educational facilities, including the following:

Develop, review, update, and revise a mandatory, uniform building code for facilities construction and capital improvement by boards;

Provide training, technical assistance, and building code interpretation for requirements of the mandatory uniform building code for the facilities construction and capital improvement programs of educational boards and, upon request, approve phase III construction documents for remodeling, renovation, or new construction of educational plants or ancillary facilities, except that the Board of Regents must approve specifications and construction documents for the State University System. DMS must provide similar services for FSDB and must use a state minimum building code adopted pursuant to s. 553.73 and the National Fire Protection Association Life Safety Code as adopted pursuant to chapter 633;

Provide minimum criteria, procedures, and training to boards to conduct educational plant surveys and document the determination of future needs;

Make available to boards, including the Board of Regents, technical assistance, awareness training, and research and technical publications relating to life safety, casualty, sanitation, environmental, maintenance, and custodial issues; and, as needed, technical assistance for survey, planning, design, construction, operation, and evaluation of educational and ancillary facilities and plants, facilities administrative procedures review, and training for new administrators; and

Perform any other functions that may be involved in educational facilities construction and capital improvement which shall ensure that the intent of the Legislature is implemented.

Section 235.017, F.S., requires that education boards ensure that facilities comply with building codes and life safety codes. Specifically, they must ensure that all new construction, renovation, remodeling, day labor, and maintenance projects conform to the State Uniform Building Code for Public Educational Facilities Construction or, where applicable as authorized in other sections of law, other building codes, and life safety codes.

Boards may provide compliance as follows:

Boards or consortia may individually or cooperatively provide review services under the insurance risk management oversight through the use of board employees or consortia employees, registered pursuant to chapter 471 or chapter 481;

Boards may elect to review construction documents using their own employees registered pursuant to chapter 471 or chapter 481;

Boards may submit phase III construction documents for review to the department;

Boards or consortia may contract for plan review services directly with engineers and architects registered pursuant to chapter 471 or chapter 481; and

Boards may submit phase III documents for review and approval to DMS for those projects for which the board has entered into a contract with such department pursuant to s. 255.31(3).

DMS must provide facilities services for the Florida School for the Deaf and the Blind. As used in this section, the term "facilities services" means project management, code and design plan review, and code compliance inspection for projects as defined in s. 287.017(1)(e), F.S.

Section 236.1229, F.S., establishes the Florida School Improvement and Academic Achievement Trust Fund grants. The grants were established by the Legislature in recognition of the fact that private contributions can play an important role in enabling school districts to achieve a margin of

excellence within existing state and local funding. The intent of the grants is to provide each school district with the opportunity to receive private donations and provide private donors with an incentive in the form of matching grants for contributions for the improvement of schools and academic programs within the district school system. Funding for the grants is accomplished via the Florida School Improvement and Academic Achievement Trust Fund. This fund is to be used to provide challenge grants and matching endowment grants to public school district education foundations that meet the requirements of this section and are recognized as such by the Florida Education Foundation. All funds appropriated or retained in the trust fund must be invested pursuant to s. 18.125, F.S. Any undisbursed balance remaining in the trust fund and interest accruing to that portion of the trust fund not matched and distributed to the public school district education foundations must remain in the trust fund.

Trust fund allocation is accomplished in the following manner:

For every year in which there is a legislative appropriation to the trust fund, an equal amount of the annual appropriation, to be determined by dividing the total legislative appropriation by the number of local education foundations, must be reserved for each public school district education foundation to provide each foundation with an opportunity to receive and match a challenge grant. Trust funds that remain unmatched by contribution on March 1 of any year shall also be available for matching by any public school district education foundation or by the Department of Education Florida Education Foundation. No public school district education foundation may receive more than its percentage of the total full-time equivalent enrollment or 15 percent, whichever is greater, of the funds appropriated to the trust fund for that fiscal year.

Challenge grants must be proportionately allocated from the trust fund on the basis of matching each \$4 of state funds with \$6 of private funds. To be eligible for matching, a minimum of \$4,500 must be raised from private sources.

Donations, state matching funds, or proceeds from endowments must be used at the discretion of the public school district education foundation for improving schools and academic achievement within the school district and must not be expended for the construction of facilities or for the support of interscholastic athletics. No public school district education foundation may accept or purchase facilities for which the state will be asked for operating funds unless the Legislature has granted prior approval for such acquisition.

Section 242.3305, F.S., establishes responsibilities and the mission of FSDB. The school is established as a state-supported residential school for hearing-impaired and visually impaired students in preschool through 12th grade. It is a part of the state system of public education and is funded through the DOE Division of Public Schools and Community Education. The school must provide educational programs and support services appropriate to meet the education and related evaluation and counseling needs of hearing-impaired and visually impaired students in the state who meet enrollment criteria. Education services may be provided on an outreach basis for sensory-impaired children ages 0 through 5 years and their parents. Graduates of FSDB are eligible for the Florida resident access grant program as provided in s. 240.605, F.S.

The mission of the FSDB, as a center of excellence, is to provide free appropriate public education for eligible hearing-impaired and visually impaired students of Florida, offer educational opportunities which promote the development of healthy minds and bodies, and provide adult lives of independence and self-sufficiency, meaningful personal, family, and community lives, and useful, productive occupational lives.

The Auditor General must audit the Florida School for the Deaf and the Blind as provided in chapter 11 of the Florida Statutes.

Section 242.331 establishes the Board of Trustees for FSDB. It must consist of seven members, of which one appointee must be a blind person, and one must be a deaf person. Each member must have been a resident of the state for a period of at least 10 years. Their terms of office are 4 years. Appointees are selected by the Governor with confirmation by the Senate. The Governor may remove any member for cause and must fill all vacancies which occur. The board of trustees must elect a chair annually.

The board of trustees has authority to adopt rules to implement provisions of law relating to operation of FSDB. Such rules must be submitted to the State Board of Education (BOE) for approval or disapproval. If any rule is not disapproved by BOE within 60 days of its receipt by BOE, the rule must be immediately filed with the Department of State. The board of trustees must act at all times in conjunction with the BOE rules.

The FSDB board of trustees is a body corporate and has a corporate seal. Title to any gift, donation, or bequest received by the board of trustees is vested in the board of trustees. Title to all other property and other assets of the school vest in BOE, but the board of trustees has complete jurisdiction over the management of the school and is invested with full power and authority to appoint and dismiss a president, faculty, teachers, and other employees and to fix their compensation; to procure professional services, such as medical, mental health, architectural, engineering, and legal services; to determine eligibility of students and procedure for admission; to provide for the students of the school necessary bedding, clothing, food, and medical attendance and such other things as may be proper for the health and comfort of the students without cost to their parents or guardians, except that the board may set tuition and other fees for nonresidents; to provide for the proper keeping of accounts and records and for budgeting of funds; to enter into contracts; to sue and be sued; to secure public liability insurance; and to do and perform every other matter or thing requisite to the proper management, maintenance, support, and control of the school at the highest efficiency economically possible, the board of trustees taking into consideration the purposes of the establishment.

The FSDB board is authorized to receive gifts, donations, and bequests of money or property, real or personal, tangible or intangible, from any person, firm, corporation, or other legal entity. However, the board of trustees may not obligate the state to any expenditure or policy that is not specifically authorized by law. The board must prepare and submit legislative budget requests, including fixed capital outlay requests. It must administer and maintain personnel programs for all employees of the board and FSDB, all of whom are classified as state employees.

The board must adopt a master plan which specifies the mission and objectives of the FSDB. The plan must include procedures for systematically measuring the school's progress toward meeting its objectives, analyzing changes in the student population, and modifying school programs and services to respond to such changes. The plan must be for a period of 5 years and must be reviewed for needed modifications every 2 years. Plans and subsequent modifications must be submitted to the Speaker of the House of Representatives and the President of the Senate.

The board must seek the advice of the Bureau of Education for Exceptional Students within the DOE Division of Public Schools and Community Education.

Section 242.333, F.S., authorizes the FSDB Board of Trustees to provide legal services for officers and employees of the board of trustees who are charged with civil or criminal actions arising out of and in the course of the performance of assigned duties and responsibilities. The board of trustees may provide for reimbursement of reasonable expenses for legal services for officers and employees of said board of trustees who are charged with civil or criminal actions arising out of and in the course of the performance of assigned duties and responsibilities upon successful defense by the employee or officer. However, in any case in which the officer or employee pleads guilty or nolo contendere or is found guilty of any such action, the officer or employee must reimburse the board for any legal services which the board of trustees may have supplied. The board may also reimburse an officer or employee thereof for any judgment which may be entered against him or her in a civil action arising out of and in the course of the performance of his or her assigned duties and responsibilities. Each expenditure by the board for legal defense of an officer or employee, or for reimbursement pursuant to the section, must be made at a public meeting with notice pursuant to s. 120.525(1), F.S. The providing of such legal services or reimbursement under the conditions described above is declared to be a school purpose for which school funds may be expended.

Section 287.059, F.S., specifies that no state agency, including boards, may contract for private attorney services without the prior written approval of the Attorney General, except that such written approval is not required for private attorney services:

Procured by the Executive Office of the Governor or any department under the exclusive jurisdiction of a single Cabinet officer;

Provided by legal services organizations to indigent clients;

Necessary to represent the state in litigation involving the Florida Casualty Insurance Risk Management Trust Fund pursuant to part II of chapter 284;

Procured by the Board of Regents and the universities of the State University System; or

Procured by community and junior colleges and multi-county special districts.

B. EFFECT OF PROPOSED CHANGES:

The bill removes a requirement that DMS necessarily provide training, technical assistance, and building code interpretations with regard to uniform building codes for the FSDB facilities. It permits the Florida School Improvement and Academic Trust Fund to be used to provide challenge grants and matching endowment grants to the FSDB Endowment Fund. It exempts FSDB from an existing cap regarding application for excess trust funds. The bill amends the statutorily prescribed mission statement for FSDB to better reflect a commitment to provide sensory impaired students with opportunities to maximize individual learning potentials and to become literate, employable, and independent life-long learners. The bill authorizes FSDB to contract with private attorney services without obtaining written approval of the Attorney General.

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?

No.

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

No.

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

No.

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

An agency/program is not 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?

No.

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

No.

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.

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

No.

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?

No.

5. Family Empowerment:

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

The bill does not purport 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?

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:

The bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

C. STATUTE(S) AFFECTED:

Amends ss. 235.014, 235.017, 236.1229, 242.3305, and 287.059, F.S.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 235.014, F.S., to remove a requirement that DMS necessarily provide training, technical assistance, and building code interpretations with regard to uniform building codes for the FSDB facility. FSDB would be in a position to use its own staff or others to perform this function as the Board of Regents is currently allowed to do for the State University System.

Section 2: Amends s. 235.017, F.S., to remove a requirement that DMS necessarily provide facilities services, defined as project management, code and design plan review, and code compliance inspection, to FSDB. The school would be allowed to ensure compliance with building and life safety codes using its own staff or others.

According to FSDB, they have staff members with the expertise and certification to manage phase III construction. They estimate that they would save \$140,000 -

\$250,000 in construction and renovation costs if they can use their own staff rather than reimbursing DMS. FSDB wishes to keep the option of using DMS services on very large projects. DMS has no apparent objection to the proposal.

- Section 3: Amends s. 236.1229, F.S., to authorize the Florida School Improvement and Academic Trust Fund to be used to provide challenge grants and matching endowment grants to the FSDB Endowment Fund and to provide that the school is exempt from an existing cap regarding application for excess trust funds.
- Section 4: Amends s. 242.3305, F.S., to revise the mission statement of FSDB to better reflect a commitment to provide sensory impaired students with opportunities to maximize their individual learning potentials and to become literate, employable, and independent life-long learners.
- Section 5: Amends s. 287.059, F.S., to authorize FSDB to contract for private attorney services without written approval of the Attorney General. This provision already exists for the Board of Regents in relation to the State University System and for community and junior colleges, multi-county special districts and local school districts. FSDB asserts that because the Attorney General's office does not represent school districts, community colleges, or universities, they do not have the opportunity to develop experience and expertise with regard to regular or special education law and issues.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Florida School Improvement and Academic Trust Fund has been funded one time for \$500,000. Adding FSDB to the list of eligible recipients will result in less funding availability for school districts. However, considering the limited funding history of the program, the overall fiscal impact relative to school districts is expected to be slight.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

No change.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

As stated above. Impact on school districts is expected to be negligible.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

As stated above.

V. 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 take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VIII. SIGNATURES:

COMMITTEE ON EDUCATION (K-12):

Prepared by:

Terri J. Chasteen

Staff Director:

Patricia W. Levesque

STORAGE NAME: h0257z.edk

DATE: June 17, 1999

PAGE 10

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON EDUCATION K-12:

Prepared by:

Staff Director:

Patricia W. Levesque

Patricia W. Levesque