

STORAGE NAME: h0289a.ed

DATE: April 18, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
EDUCATION APPROPRIATIONS
ANALYSIS**

BILL #: HB 289

RELATING TO: Schools/ Construction Projects/ Funds

SPONSOR(S): Representative Kilmer

TIED BILL(S): None

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

- (1) EDUCATION K-12 YEAS 10 NAYS 0
 - (2) FINANCE & TAXATION YEAS 12 NAYS 0
 - (3) EDUCATION APPROPRIATIONS YEAS 11 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

Currently, to be eligible to participate in the Special Facilities Construction Account, qualified school districts must levy the maximum amount of millage against their nonexempt assessed property values (2 mills).

HB 289 provides an alternative option for participation in the Special Facilities Construction Account. The bill authorizes eligible school districts to seek by voter referendum approval of a school capital outlay surtax (½ cent sales tax), to raise an amount of local funds that is equivalent to a school board 2 mill levy, in order to fulfill the district's participation requirement. The provisions for school districts to follow, including a voter referendum on the sales tax, are outlined in s. 212.055(6), F.S.

HB 289 provides that any special facility construction project for which phase III plans were certified by August 1, 1999, as complete and in compliance with the building and life safety codes as required by law, is eligible for funding under the Special Facility Construction Account, as amended by this Act, if otherwise qualified, beginning July 1, 2000.

The effective date of the bill is upon becoming law.

The bill does not change the amount of the fiscal impact to the State or local districts. It provides school districts with a choice of holding a voter referendum for approval to levy ½ cent capital outlay surtax on sales within the district or levying a 2 mill property tax without voter approval.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Special Facility Construction

The Special Facility Construction Account, s. 235.435(2)(a), F.S., is part of the Public Education Capital Outlay and Debt Service Trust Fund (PECO). It is used to provide necessary construction funds to school districts which have urgent construction needs. In order to be eligible, the district must lack sufficient funds at present, and must not reasonably anticipate sufficient resources to be raised, within a period of the next three years, from authorized sources of capital outlay revenue. No district may receive funding for more than one approved project in any three-year period.

The project must be deemed a critical need and must be recommended for funding by the Special Facility Construction Committee (Committee). The district school board must request a preapplication review by this Committee or a project review subcommittee. The project review subcommittee is convened by the Committee and consists of two representatives of the Department of Education and two staff from school districts other than the district submitting the project. Within 60 days after receiving the preapplication review request, the Committee or subcommittee must meet in the school district to review the project proposal and existing facilities. To determine if the project is a critical need, the Committee must consider the following items:

- Capacity of all existing facilities in the district according to the Florida Inventory of School Houses.
- District's pattern of student growth.
- District's existing and projected capital outlay FTE.
- District's existing satisfactory student stations.
- Use of all existing district property and facilities.
- Grade level configurations.
- Other information affecting the need for the project.

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The district is required, at the time of the request and for a continuing period of three years, to levy the maximum millage against their nonexempt assessed property value as allowed in s. 236.25(2), F.S. (2 mills). Effective July 1, 1991, districts with a new or active project are required to budget no more than the value of 1.5 mills per year to satisfy their annual participation requirement in the Special Facility Construction Account.

According to the Department of Education (DOE), the following counties potentially qualify for the Special Facilities Construction Account: Baker, Bradford, Calhoun, Columbia, DeSoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Suwannee, Taylor, Union, Wakulla, and Washington.

Ad Valorem Tax

Section 236.25(2), F.S., authorizes district school boards to levy up to two mills of non-voted, ad valorem tax for capital outlay purposes. The proceeds must be used for:

- New construction and remodeling projects, sites and site improvement or expansion.
- Maintenance, renovation, and repair of existing school plants or leased facilities.
- Purchase, lease-purchase, or lease of school buses and other specified vehicles.
- Purchase, lease-purchase, or lease of new and replacement equipment.
- Lease-purchase payments on educational facilities and sites; however, these payments may not exceed three-quarters of the proceeds of the millage levied.
- Payment of loans and debt service authorized under ss. 237.161 and 237.162, F.S., to purchase school buses, land, and equipment for educational purposes; construct or alter educational facilities; purchase certain insurance; and eliminate major emergency conditions or safety hazards that pose an immediate danger.
- Payment of costs directly related to compliance with state and federal environmental statutes and regulations governing school facilities.
- Leasing relocatable facilities and renting or leasing educational facilities and sites.

School Capital Outlay Surtax (½ cent sales tax)

Section 212.055(6), F.S., authorizes each district school board to levy a discretionary sales surtax at a rate that may not exceed 0.5 percent. The levy is conditioned to take effect only upon approval of a referendum by a majority of the electorate voting in the county. The resolution must include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax.

Additionally, the resolution must set forth a plan for use of the surtax proceeds. Uses may include:

- Fixed capital expenditures associated with the construction, reconstruction, or improvement of school facilities which have a useful life expectancy of 5 or more years and associated land costs.
- The costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district.

The proceeds of the surtax or any interest accrued, may not be used for operational expenses.

Any school board imposing the surtax must implement a freeze on noncapital local school property taxes, at the millage rate imposed in the year prior to the implementation of the surtax, for a period of at least three years from the date of imposition of the surtax. This provision does not apply to existing debt service or required state taxes.

According to the Legislative Committee on Intergovernmental Relations (LCIR), voters have approved a half-penny sales tax in Bay, Escambia, Gulf, Hernando, Jackson, Monroe,

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St. Lucie, and Santa Rosa counties.

C. EFFECT OF PROPOSED CHANGES:

HB 289 provides an alternative option for participation in the Special Facility Construction Account (account). The bill authorizes eligible school districts to levy a school capital outlay surtax (½ cent sales tax), in an amount equivalent to a 2 mill levy, in order to fulfill their participation requirement. The provisions for school districts to follow, including a voter referendum on the sales tax, are outlined in s. 212.055(6), F.S.

Gulf and Jackson counties are the only districts which are potentially eligible to participate in the Special Facilities Construction Account and are currently levying a ½ cent school sales tax.

HB 289 provides that any special facility construction project for which phase III plans were certified by August 1, 1999, as complete and in compliance with the building and life safety codes as required by law is eligible for funding under the Special Facilities Construction Account, as amended by this Act, if otherwise qualified, beginning July 1, 2000.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 235.435, F.S., to authorize eligible school districts to levy a school capital outlay surtax (½ cent sales tax), in an amount equivalent to a 2 mill levy, in order to fulfill their requirement for participating in the Special Facility Construction Account.

Section 2: Provides that any special facility construction project for which phase III plans were certified by August 1, 1999, as complete and in compliance with the building and life safety codes as required by law, is eligible for funding under the Special Facility Construction Account, as amended by this Act, if otherwise qualified, beginning July 1, 2000.

Section 3: Specifies that the effective date of the bill is upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not change the amount of the fiscal impact on local districts. It provides school districts eligible to participate in the Special Facilities Construction Program with a choice of holding a voter referendum for approval to levy ½ cent capital outlay surtax on sales within the district or levying a 2 mill property tax without voter approval.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See above.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The 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:

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

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C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 14, 2000, the Committee on Finance and Taxation adopted a technical amendment to the bill which conformed the bill to the language of the Senate companion.

On April 18, 2000, the Committee on Education Appropriations passed the bill with Amendment No. 001 traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

Prepared by:

Sarah A. Clark

Staff Director:

Patricia W. Levesque

AS REVISED BY THE COMMITTEE ON FINANCE & TAXATION:

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