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**HOUSE OF REPRESENTATIVES
COMMITTEE ON GENERAL EDUCATION
ANALYSIS**

BILL #: HB 185
RELATING TO: Florida School Improvement Trust Fund matching grants
SPONSOR(S): Representative Fiorentino
TIED BILL(S): HB 183

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

- (1) GENERAL EDUCATION
 - (2) GENERAL EDUCATION APPROPRIATIONS
 - (3) COUNCIL FOR LIFELONG LEARNING
 - (4)
 - (5)
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I. SUMMARY:

This bill creates a program to match state grants to private donations, to be used for the improvement of academic programs in the K-12 public school system. It provides that the state's "match" funding shall be sent directly to those non-profit, direct service foundations that obtain the private donations (i.e., the "district school board direct-support organizations" created pursuant to s. 237.40, F.S.), and to the Florida School for the Deaf and Blind Endowment Fund. The bill, in effect, provides each school district and the Florida School for the Deaf and Blind the opportunity to strengthen private/public partnerships, by offering private donors the incentive of state matching funds to go with their private contributions that support the improvement of academic programs.

If funds are appropriated (via the General Appropriations Act), the bill provides that each school district will receive a challenge grant to encourage and match private contributions to support school improvement and academic programs. This bill also establishes a formula for proportionally matching the state dollars with the private contributions.

The bill is "tied" with -- and contingent upon passage of -- HB 183, which creates the trust fund from which matching funds will be drawn (the Florida School Improvement Academic Trust Fund). In practical terms, its successful operation is also contingent upon money being appropriated by the General Appropriations Act, to supply the matching funds.

The bill would not have a fiscal impact, since it does not *mandate* an appropriation.

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:

There is currently no statutory provision for a matching grant program (i.e., state General Revenue money appropriated to match private donations) for district-based, public K-12 education purposes.

The Florida School Improvement Academic Trust Fund (Circa 1995)

In 1995, the Florida School Improvement Academic Trust Fund was established as s. 236.1229, F.S. That trust fund, and the associated provisions for administering the fund, were scheduled for sunset in 1999, and were allowed to repeal (SB 602 [1999]).

The Department of Education and House Appropriations staff indicate that the reason this fund was repealed was that, for several years, it had not received funding.

HB 183 (2001)

HB 183 (2001) is "tied" to HB 185. HB 183 creates the Florida School Improvement Trust Fund, into which any funds to implement the program established in HB 185 will be placed by the General Appropriations Act, and from which funds will be drawn to match the private donations.

District school board direct support organizations (a.k.a. "district education foundation")

Section 237.40, F.S., provides that a "district school board direct-support organization" means an organization which:

1. Is approved by the district school board;
2. Is a Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State; and
3. Is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of public prekindergarten through 12th grade education and adult vocational and community education programs in this state.

It further provides that a district school board:

- Is authorized to permit the use of property, facilities, and personal services of the district by a direct-support organization, subject to the provisions of this section.

- Shall prescribe by rule conditions with which a district school board direct-support organization must comply in order to use property, facilities, or personal services of the district. Promulgation of such rules shall be coordinated with the Department of Education. The rules shall provide for budget and audit review and oversight by the district school board and the department.
- Shall not permit the use of property, facilities, or personal services of a direct-support organization if such organization does not provide equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin.

The section also provides that the district school board shall approve the board of directors of the district school board direct-support organization. The direct-support organization shall make provisions for an annual post-audit of its financial accounts, to be conducted by the district auditor in accordance with rules to be adopted by the Commissioner of Education.

Of the 68 school districts, only nine do not currently have an authorized district education foundation. Six counties, which are Calhoun, Holmes, Jackson, Liberty, Lafayette, and Nassau, have no district education foundation. Three others, which are Gilchrest, Putnam, and Taylor counties, are in the process of creating foundations. According to DOE, creating a foundation is simply a matter of time (two to three months) and paperwork, and counties that have no foundation should have no difficulty creating them, given the incentive of the availability of matching funds.

C. EFFECT OF PROPOSED CHANGES:

This bill establishes a program which, when paired with HB 183 (creating the associated trust fund), and provided sufficient money is appropriated by the General Appropriations Act, will provide each school district and the Florida School for the Deaf and Blind the opportunity to strengthen private/public partnerships by offering private donors the incentive of state matching funds for contributions that support the improvement of academic programs.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 236.1226, F.S., establishing the administrative provisions for the Florida School Improvement Academic Trust Fund. Specifically, the newly created section:

- States that the Legislature recognizes the importance of private contributions toward school improvement and academic achievement and provides the opportunity to obtain local funding via the matching state funds process.
- Provides for the establishment of a trust fund to offer matching state funds as an incentive to attract private contributions with state funds earmarked directly to the district-based, public K-12 education foundations and for the Florida School for the Deaf and Blind Endowment Fund.
- Gives the Commissioner of Education the authority to specify procedures for the administration of the matching fund program.

Gives the district-based, public K-12 education foundations the discretion to invest in school improvement and academic achievement programs, except that such funding received cannot be

used for facility construction nor interscholastic athletics—although there is a caveat that may allow facility purchases if the Legislature has granted prior approval.

That section also instructs the Florida Department of Education to allocate the Trust Fund money in the following manner. It:

- Gives all district-based, public K-12 education foundations and the Florida School for the Deaf and Blind Endowment Fund equal (proportionate) access to state matching funds until April 1 of each year for which there is a legislative appropriation. After April 1, remaining balances can be requested by any foundation based on procedures established by the Commissioner.
- Sets forth the matching requirement of \$4 from the state to every \$6 of local contributions, with the minimum request for state funds based on a foundation having raised \$4,500.
- Provides for the state distribution of funds upon notification that private contributions have been made and deposited.
- Provides for the state distribution of funds at the end of the fourth quarter of the school district's calendar year.

Finally, the section describes the requirements for creating separate accounts and responsible accounting by the foundations.

Section 2. Provides that the act shall take effect July 1, 2001.

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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill is "linked" with -- and contingent upon passage of -- HB 183, which creates the trust fund from which matching funds will be drawn (the Florida School Improvement Academic Trust Fund). In practical terms, its successful operation is also contingent upon money being appropriated by the General Appropriations Act, to supply the matching funds. However, the bill does not have a fiscal impact, since it does not *mandate* an appropriation.

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 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.

C. OTHER COMMENTS:

Technical problems in the bill are:

- 1) Lines 24 and 25 on page three of the bill establish a requirement that the matching dollars shall be distributed at the end of the fourth quarter each school district calendar year. This appears to be in contradiction of provisions elsewhere in the bill that funds shall be distributed upon notification that sufficient funds have been received and deposited into the district foundation's trust fund. The provisions on lines 24-25 of page three should be removed.
- 2) The heading established at the top of page 4, "DISTRICT-LEVEL AND SCHOOL-LEVEL ADMINISTRATION" seems inappropriate. A better heading, more appropriate to the content of the subsection, would be "GRANT ADMINISTRATION."

Other concerns:

- There is no provision for providing money directly to districts that have not created a "district school board direct-support organization" (foundation). Apparently, as many as seven school districts have no associated foundation. Without some provision which takes this discrepancy

into account, these districts will not be able to receive the matching funds. *However, the districts themselves should be able to address this problem, by simply creating such foundations.*

- The bill prohibits using the funds for school construction. Yet, the title of the fund includes the phrase "school improvement." Since the DOE indicates that its understanding is that the money would be used solely for academic improvement programs, re-titling the fund the "Academic Improvement Trust Fund" or "School Academic Improvement Trust Fund" would place the title of the trust fund more in line with its purpose and its substantive provisions.
- The bill refers to "public school education foundations." However, we are assured by the Consortium of Education Foundations (a primary proponent of the bill) and the DOE that the intent and operation of the program would be to funnel the money through the "district school board direct-support organizations" created in s. 237.40, F.S. Some mention that "public school education foundations" used in the bill is intended to be synonymous with the "district school board direct-support organizations" created in s. 237.40, F.S. might be advisable. One problem in that solution is that apparently a very small number of the foundations designated by some school districts are not entirely in compliance with the authority set forth in s. 237.40, F.S.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:

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