

By Senator Villalobos

37-1061-02

1 A bill to be entitled
2 An act relating to educational facilities;
3 amending s. 235.011, F.S.; redefining terms;
4 reenacting and amending s. 235.014, F.S.;
5 revising the functions of the Department of
6 Education; amending s. 235.017; revising
7 provisions governing compliance of facilities
8 with building codes and life safety codes;
9 amending s. 235.02, F.S.; revising provisions
10 governing the use of buildings and grounds;
11 amending s. 235.04, F.S.; authorizing the State
12 Board of Education to adopt rules governing the
13 disposal of property; reenacting and amending
14 s. 235.05, F.S.; providing the power of eminent
15 domain; amending s. 235.056, F.S.; eliminating
16 a reference to the Board of Regents; correcting
17 references to the Florida Building Code and the
18 Florida Fire Prevention Code; authorizing the
19 State Board of Education to adopt rules;
20 reenacting and amending s. 235.057, F.S.;
21 eliminating references to the Board of Regents;
22 revising provisions governing the purchase,
23 conveyance, or encumbrance of property
24 interests; amending s. 235.06, F.S.;
25 authorizing the State Board of Education to
26 adopt rules relating to safety and sanitation;
27 specifying local school board facilities for
28 certain inspections; amending s. 235.061, F.S.;
29 requiring compliance with state requirements
30 for Educational Facilities; reenacting and
31 amending s. 235.15, F.S.; eliminating

1 references to the Board of Regents; requiring
2 State Board of Education approval for
3 educational plant survey exceptions; amending
4 ss. 235.155, 235.18, F.S.; eliminating
5 references to the Board of Regents; revising
6 exceptions allowed to recommendations in
7 educational plant surveys; revising provisions
8 governing annual capital outlay budgets;
9 amending s. 235.19, F.S.; requiring
10 site-location criteria to apply to all
11 educational facilities; authorizing the State
12 Board of Education to adopt rules; amending s.
13 235.192, F.S.; requiring college and university
14 presidents to provide certain information
15 concerning facilities to local fire and law
16 enforcement agencies; amending s. 235.193,
17 F.S.; requiring certain information concerning
18 all educational facilities to be coordinated
19 with local governments; providing an exception;
20 reenacting and amending s. 235.195, F.S.;
21 revising the approval procedure for joint-use
22 facilities; eliminating obsolete provisions;
23 reenacting and amending s. 235.199, F.S.;
24 revising provisions governing funding of
25 vocational education facilities; amending s.
26 235.211, F.S.; authorizing the State Board of
27 Education to adopt rules governing contracting
28 and construction; amending s. 235.215, F.S.;
29 revising provisions governing energy-efficiency
30 contracting; amending s. 235.2155, F.S.;
31 eliminating obsolete provisions; amending s.

1 235.216, F.S.; eliminating obsolete provisions
2 pertaining to charter schools; amending s.
3 235.26, F.S.; revising provisions governing
4 building codes; creating s. 235.261, F.S.;
5 requiring all educational facilities to conform
6 to the Florida Building Code and the Florida
7 Fire Prevention Code; providing for
8 enforcement; creating s. 235.262, F.S.;
9 providing for the use of educational facilities
10 as emergency shelters; amending s. 235.31,
11 F.S.; authorizing the State Board of Education
12 to adopt rules; authorizing all education
13 boards to participate in local-government
14 contracts for certain facilities services;
15 amending s. 235.32, F.S.; authorizing the State
16 Board of Education to adopt rules governing
17 contracts; amending s. 235.3215, F.S.;
18 prescribing the conditions for use of toxic
19 substances in construction with respect to all
20 educational facilities; amending s. 235.34,
21 F.S.; revising authorized expenditures;
22 amending s. 235.40, F.S.; eliminating a
23 reference to the Board of Regents in provisions
24 relating to radio and television facilities;
25 reenacting and amending s. 235.41, F.S.;
26 revising provisions governing capital outlay
27 budget requests; reenacting and amending s.
28 235.42, F.S.; revising provisions governing
29 funding of facilities; amending s. 235.435,
30 F.S.; eliminating references to the Board of
31 Regents; revising membership requirements for

1 the Special Facility Construction Committee;
2 revising the procedure for calculating
3 capital-outlay full-time-equivalent membership;
4 revising the procedure for postsecondary
5 institutions to submit capital-outlay-project
6 priority lists; amending s. 235.4351, F.S.;
7 authorizing the State Board of Education to
8 adopt rules granting waivers from certain
9 requirements; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Subsections (3), (8), (10), (14), and (16)
14 of section 235.011, Florida Statutes, are amended to read:

15 235.011 Definitions.--Notwithstanding the provisions
16 of s. 228.041, the following terms shall be defined as follows
17 for the purpose of this chapter:

18 (3) "Board," unless otherwise specified, means a
19 district school board, a community college board of trustees,
20 a college board of trustees, or a university board of
21 trustees, and the Board of Trustees for the Florida School for
22 the Deaf and the Blind. The term "board" does not include the
23 State Board of Education ~~or the Board of Regents~~.

24 (8) "Educational plant survey" means a systematic
25 study of present educational and ancillary plants and the
26 determination of future needs to provide an appropriate
27 educational program and services for each student, based on
28 projected capital outlay FTE's approved by the Department of
29 Education.

30 (10) "Long-range planning" means devising a systematic
31 method based on educational information and needs, carefully

1 analyzed, to provide the facilities to meet the goals and
2 objectives of the educational agency for a period of 5 years.

3 (14) "New construction" means any construction of a
4 building or unit of a building in which the entire work is new
5 or an entirely new addition connected to an existing building
6 and which adds additional square footage to the space
7 inventory.

8 (16) "Public education capital outlay (PECO) funded
9 projects" means site acquisition, renovation, remodeling,
10 construction projects,and site improvements necessary to
11 accommodate buildings, equipment, other structures, and
12 special educational use areas that are built, installed, or
13 established to serve primarily the educational instructional
14 program of the district school board,~~or~~ community college
15 board, college board, or university board ~~and the Board of~~
16 ~~Regents.~~

17 Section 2. Notwithstanding subsection (7) of section 3
18 of chapter 2000-321, Laws of Florida, section 235.014, Florida
19 Statutes, shall not stand repealed on January 7, 2003, as
20 scheduled by that act, but that section is reenacted and
21 amended to read:

22 235.014 Functions of the department.--The functions of
23 the department as it pertains to educational facilities shall
24 include, but not be limited to, the following; it shall:

25 (1) Establish recommended minimum and maximum square
26 footage standards ~~requirements~~ for different functions and
27 areas and the procedures for determining the gross square
28 footage for each educational facility to be funded in whole or
29 in part by the state, including public broadcasting stations
30 but excluding postsecondary special purpose laboratory space.
31 The gross square footage determination standards may be

1 exceeded when the core facility space of an educational
2 facility is constructed or renovated to accommodate the future
3 addition of classrooms to meet projected increases in student
4 enrollment. The department shall encourage multiple use of
5 facilities and spaces in educational plants.

6 (2) Establish, for the purpose of determining need,
7 equitably uniform utilization standards for all types of like
8 space, regardless of the level of education. These standards
9 shall also establish, for postsecondary education classrooms,
10 a minimum room utilization rate of 40 hours per week and a
11 minimum station utilization rate of 60 percent. These rates
12 shall be subject to increase based on national norms for
13 utilization of postsecondary education classrooms.

14 (3) Require boards, ~~including the Board of Regents,~~ to
15 submit other educational plant inventories data and
16 statistical data or information relevant to construction,
17 capital improvements, and related costs.

18 (4) Require each board, ~~including the Board of~~
19 ~~Regents, all agencies of the state,~~ and other appropriate
20 agencies to submit complete and accurate financial data as to
21 the amounts of funds from all sources that are available and
22 spent for construction and capital improvements. The
23 commissioner shall prescribe the format and the date for the
24 submission of this data and any other educational facilities
25 data. If any district does not submit the required educational
26 facilities fiscal data by the prescribed date, the
27 commissioner shall notify the district school board of this
28 fact and, if appropriate action is not taken to immediately
29 submit the required report, the district school board shall be
30 directed to proceed pursuant to the provisions of s.
31 230.23(11)(b). If any community college, college, or

1 university does not submit the required educational facilities
2 fiscal data by the prescribed date, the same policy prescribed
3 above for school districts shall be implemented.

4 (5) Administer, under the supervision of the
5 commissioner, the Public Education Capital Outlay and Debt
6 Service Trust Fund and the School District and Community
7 College District Capital Outlay and Debt Service Trust Fund.

8 (6) Develop, review, update, and revise and recommend
9 a mandatory portion of the Florida, ~~uniform~~ Building Code for
10 educational facilities construction and capital improvement by
11 boards.

12 (7) Provide training, technical assistance, and
13 building code interpretation for requirements of the mandatory
14 Florida ~~uniform~~ Building Code for the educational facilities
15 construction and capital improvement programs of the boards
16 and, upon request, approve phase III construction documents
17 for remodeling, renovation, or new construction of educational
18 plants or ancillary facilities, ~~except that the Board of~~
19 ~~Regents shall approve specifications and construction~~
20 ~~documents for the State University System.~~ The Department of
21 Management Services may, upon request, provide similar
22 services for the Florida School for the Deaf and the Blind and
23 shall use the Florida Building Code and the Florida Fire
24 Prevention Code ~~a state minimum building code adopted pursuant~~
25 ~~to s. 553.73 and the National Fire Protection Association Life~~
26 ~~Safety Code as adopted pursuant to chapter 633.~~

27 (8) Provide minimum criteria, procedures, and training
28 to boards to conduct educational plant surveys and document
29 the determination of future needs.

30 (9) Make available to boards, including the Board of
31 Regents, technical assistance, awareness training, and

1 research and technical publications relating to lifesafety,
2 casualty, sanitation, environmental, maintenance, and
3 custodial issues; and, as needed, technical assistance for
4 survey, planning, design, construction, operation, and
5 evaluation of educational and ancillary facilities and plants,
6 facilities administrative procedures review, and training for
7 new administrators.

8 (10)(a) Review and validate surveys proposed or
9 amended by the boards and recommend to the Commissioner State
10 ~~Board of Education~~, for approval, surveys that meet the
11 requirements of this chapter.

12 1. The term "validate" as applied to surveys by school
13 districts means to review inventory data as submitted to the
14 department by district school boards; provide for review and
15 inspection, where required, of student stations and aggregate
16 square feet of inventory changed from satisfactory to
17 unsatisfactory or changed from unsatisfactory to satisfactory;
18 compare new school inventory to allocation limits provided by
19 this chapter; review cost projections for conformity with cost
20 limits set by s. 235.435(6); compare total capital outlay
21 full-time equivalent enrollment projections in the survey with
22 the department's projections; review facilities lists to
23 verify that student station and auxiliary facility space
24 allocations do not exceed the limits provided by this chapter
25 and related rules; review and confirm the application of
26 uniform facility utilization factors, where provided by this
27 chapter or related rules; utilize the documentation of
28 programs offered per site, as submitted by the board, to
29 analyze facility needs; confirm that need projections for
30 vocational and adult educational programs comply with needs
31 documented by the Office of Workforce and Economic Development

1 ~~Division of Workforce Development~~; and confirm the assignment
2 of full-time student stations to all space except auxiliary
3 facilities, which, for purposes of exemption from student
4 station assignment, include the following:

- 5 a. Cafeterias.
- 6 b. Multipurpose dining areas.
- 7 c. Media centers.
- 8 d. Auditoriums.
- 9 e. Administration.
- 10 f. Elementary, middle, and high school resource rooms,
11 up to the number of such rooms recommended for the applicable
12 occupant and space design capacity of the educational plant in
13 the State Requirements for Educational Facilities, beyond
14 which student stations must be assigned.
- 15 g. Elementary school skills labs, up to the number of
16 such rooms recommended for the applicable occupant and space
17 design capacity of the educational plant in the State
18 Requirements for Educational Facilities, beyond which student
19 stations must be assigned.
- 20 h. Elementary school art and music rooms.

21 2. The term "validate" as applied to surveys by
22 community colleges, colleges, and universities means to review
23 and document the approval of each new site and official
24 designation, where applicable; review the inventory database
25 as submitted by each board through the division directors to
26 the Commissioner ~~the Division of Community Colleges~~, including
27 nonvocational, vocational, and total capital outlay full-time
28 equivalent enrollment projections per site and per college;
29 provide for the review and inspection, where required, of
30 student stations and aggregate square feet of space changed
31 from satisfactory to unsatisfactory; utilize and review the

1 documentation of programs offered per site submitted by the
2 boards ~~Division of Community Colleges~~ as accurate for analysis
3 of space requirements and needs; confirm that needs projected
4 for vocational and adult educational programs comply with
5 needs documented by the Office of Workforce and Economic
6 Development ~~Division of Workforce Development~~; compare new
7 facility inventory to allocations limits as provided in this
8 chapter; review cost projections for conformity with state
9 averages or limits designated by this chapter; compare student
10 enrollment projections in the survey to the department's
11 projections; review facilities lists to verify that area
12 allocations and space factors for generating space needs do
13 not exceed the limits as provided by this chapter and related
14 rules; confirm the application of facility utilization factors
15 as provided by this chapter and related rules; and review, as
16 submitted, documentation of how survey recommendations will
17 implement the detail of current campus master plans and
18 integrate with local comprehensive plans and development
19 regulations.

20 (b) Recommend priority of projects to be funded for
21 approval by the state board, when required by law.

22 (11) Prepare the commissioner's comprehensive fixed
23 capital outlay legislative budget request and provide annually
24 ~~to the State Board of Community Colleges and the Board of~~
25 ~~Regents~~ an estimate of the funds available ~~to that board~~ for
26 developing ~~their~~ required 3-year priority lists ~~list~~. This
27 amount shall be based upon the average percentage for the 5
28 prior years of funds appropriated by the Legislature for fixed
29 capital outlay to each level of public education: public
30 schools, community colleges, and the State University System.

31

1 (12) Perform any other functions that may be involved
2 in educational facilities construction and capital improvement
3 which shall ensure that the intent of the Legislature is
4 implemented.

5 Section 3. Section 235.017, Florida Statutes, is
6 amended to read:

7 235.017 Boards to ensure that facilities comply with
8 building codes and life safety codes.--

9 (1) Boards shall ensure that all new construction,
10 renovation, remodeling, day labor, and maintenance projects
11 conform to the Florida Building Code, Florida Fire Prevention
12 Code, ~~State Uniform Building Code for Public Educational~~
13 ~~Facilities Construction~~ or, where applicable as authorized in
14 other sections of law, other building codes, and life safety
15 codes.

16 (2) Boards may provide compliance as follows:

17 (a) Boards or consortia may individually or
18 cooperatively provide review services under the insurance risk
19 management oversight through the use of board employees or
20 consortia employees, registered pursuant to chapter 471 or
21 chapter 481 or part XII of chapter 468.

22 (b) Boards may elect to review construction documents
23 using their own employees registered pursuant to chapter 471
24 or chapter 481 or part XII of chapter 468.

25 (c) Boards may submit phase III construction documents
26 for review to the department.

27 (d) Boards or consortia may contract for plan review
28 services directly with engineers and architects registered
29 pursuant to chapter 471 or chapter 481.

30 (3) The Department of Management Services may, upon
31 request, provide facilities services for the Florida School

1 for the Deaf and the Blind, the Division of Blind Services,
2 and Public Broadcasting. As used in this section, the term
3 "facilities services" means project management, code and
4 design plan review, and code compliance inspection for
5 projects as defined in s. 287.017(1)(e).

6 Section 4. Section 235.02, Florida Statutes, is
7 amended to read:

8 235.02 Use of buildings and grounds.--The board,
9 ~~including the Board of Regents,~~ may permit the use of
10 educational facilities and grounds for any legal assembly or
11 for community use centers or may permit the same to be used as
12 voting places in any primary, regular, or special election.
13 The board shall adopt rules or policies and procedures
14 necessary to protect educational facilities and grounds when
15 used for such purposes.

16 Section 5. Subsection (1) of section 235.04, Florida
17 Statutes, is amended to read:

18 235.04 Disposal of property.--

19 (1) REAL PROPERTY.--Subject to rules of the State
20 ~~Board Commissioner~~ of Education, a board may dispose of any
21 land or real property that is, by resolution of the board,
22 determined to be unnecessary for educational purposes as
23 recommended in an educational plant survey. A board shall
24 take diligent measures to dispose of educational property only
25 in the best interests of the public. However, appraisals may
26 be obtained by the board prior to or simultaneously with the
27 receipt of bids.

28 Section 6. Notwithstanding subsection (7) of section 3
29 of chapter 2000-321, Laws of Florida, subsection (3) of
30 section 235.05, Florida Statutes, shall not stand repealed on
31 January 7, 2003, as scheduled by that act, but that subsection

1 is reenacted and amended and subsection (2) of that section is
2 amended to read:

3 235.05 Right of eminent domain.--

4 (2) The board of trustees of a community college may
5 exercise the power ~~right~~ of eminent domain as provided in s.
6 240.319(4)(d).

7 (3) The boards of trustees of colleges and
8 universities ~~Board of Regents~~ may exercise the power ~~right~~ of
9 eminent domain as provided in s. 240.217.

10 Section 7. Subsection (1) and paragraph (a) of
11 subsection (2) of section 235.056, Florida Statutes, are
12 amended to read:

13 235.056 Lease, rental, and lease-purchase of
14 educational facilities and sites.--

15 (1) A board, ~~including the Board of Regents~~, may lease
16 any land, facilities, or educational plants owned by it to any
17 person or entity for such term, for such rent, and upon such
18 terms and conditions as the board determines to be in its best
19 interests; any such lease may provide for the optional or
20 binding purchase of the land, facilities, or educational
21 plants by the lessee upon such terms and conditions as the
22 board determines are in its best interests. A determination
23 that any such land, facility, or educational plant so leased
24 is unnecessary for educational purposes is not a prerequisite
25 to the leasing or lease-purchase of such land, facility, or
26 educational plant. Prior to entering into or executing any
27 such lease, a board shall consider approval of the lease or
28 lease-purchase agreement at a public meeting, at which a copy
29 of the proposed agreement in its final form shall be available
30 for inspection and review by the public, after due notice as
31 required by law.

1 (2)(a) A school board may rent or lease educational
2 facilities and sites as defined in s. 235.011. Educational
3 facilities and sites rented or leased for 1 year or less shall
4 be funded through the operations budget or funds derived from
5 millage proceeds pursuant to s. 236.25(2). A lease contract
6 for 1 year or less, when extended or renewed beyond a year,
7 becomes a multiple-year lease. Operational funds or funds
8 derived from millage proceeds pursuant to s. 236.25(2) may be
9 authorized to be expended for multiple-year leases. All
10 leased facilities and sites must be inspected prior to
11 occupancy by the authority having jurisdiction ~~board's Uniform~~
12 ~~Building Code inspector, who shall report to the department.~~

13 1. Beginning July 1, 1995, all newly leased spaces
14 must be inspected and brought into compliance with the Florida
15 ~~state minimum~~ Building Code pursuant to chapter 553, and the
16 life safety codes pursuant to chapter 633, prior to occupancy,
17 using the board's operations budget or funds derived from
18 millage proceeds pursuant to s. 236.25(2). ~~As an alternative,~~
19 ~~the board may elect to comply with the State Uniform Building~~
20 ~~Code for Public Educational Facilities Construction instead of~~
21 ~~the state minimum building code or the life safety code, or~~
22 ~~both.~~

23 2. Plans for renovation or remodeling of leased space
24 shall conform to the Florida Building Code and the Florida
25 Fire Prevention Code ~~state minimum building and life safety~~
26 ~~codes~~ for educational occupancies, or other occupancies as
27 appropriate, as required in chapters 553 and 633, prior to
28 occupancy. ~~As an alternative, the board may elect to comply~~
29 ~~with the State Uniform Building Code for Public Educational~~
30 ~~Facilities Construction instead of the state minimum building~~
31 ~~code or the life safety code, or both.~~

1 3. All leased facilities must be inspected annually
2 for firesafety deficiencies in accordance with the applicable
3 code and have corrections made in accordance with s. 235.06.
4 Operational funds or funds derived from millage proceeds
5 pursuant to s. 236.25(2) may be used to correct deficiencies
6 in leased space.

7 4. When the board declares that a public emergency
8 exists, it may take up to 30 days to bring the leased facility
9 into compliance with the requirements of the State Board
10 ~~Commissioner~~ of Education rules.

11 (b) A board is authorized to lease-purchase
12 educational facilities and sites as defined in s. 235.011.
13 The lease-purchase of educational facilities and sites shall
14 be as required by s. 235.26, be advertised for and receive
15 competitive proposals and be awarded to the best proposer, and
16 be funded using current or other funds specifically authorized
17 by law to be used for such purpose.

18 1. A district school board, by itself, or through a
19 direct-support organization formed pursuant to s. 237.40 or
20 nonprofit educational organization or a consortium of district
21 school boards, may, in developing a lease-purchase of
22 educational facilities and sites provide for separately
23 advertising for and receiving competitive bids or proposals on
24 the construction of facilities and the selection of financing
25 to provide the lowest cost funding available, so long as the
26 board determines that such process would best serve the public
27 interest and the pledged revenues are limited to those
28 authorized in s. 236.25(2)(e).

29 2. All activities and information, including lists of
30 individual participants, associated with agreements made
31

1 pursuant to this section shall be subject to the provisions of
2 chapter 119 and s. 286.011.

3 (c)1. The term of any lease-purchase agreement,
4 including the initial term and any subsequent renewals, shall
5 not exceed the useful life of the educational facilities and
6 sites for which the agreement is made, or 30 years, whichever
7 is less.

8 2. The initial term or any renewal term of any
9 lease-purchase agreement shall expire on June 30 of each
10 fiscal year, but may be automatically renewed annually,
11 subject to a board making sufficient annual appropriations
12 therefor. Under no circumstances shall the failure of a board
13 to renew a lease-purchase agreement constitute a default or
14 require payment of any penalty, nor in any way limit the right
15 of a board to purchase or utilize educational facilities and
16 sites similar in function to the educational facilities and
17 sites which are the subject of the said lease-purchase
18 agreement. Educational facilities and sites being acquired
19 pursuant to a lease-purchase agreement shall be exempt from ad
20 valorem taxation.

21 3. No lease-purchase agreement entered into pursuant
22 to this subsection shall constitute a debt, liability, or
23 obligation of the state or a board or shall be a pledge of the
24 faith and credit of the state or a board.

25 4. Any lease-purchase agreement entered into pursuant
26 to this subsection shall stipulate an annual rate which may
27 consist of a principal component and an interest component,
28 provided that the maximum interest rate of any interest
29 component payable under any such lease-purchase agreement, or
30 any participation or certificated portion thereof, shall be
31

1 calculated in accordance with and be governed by the
2 provisions of s. 215.84.

3 Section 8. Notwithstanding subsection (7) of section 3
4 of chapter 2000-321, Laws of Florida, section 235.057, Florida
5 Statutes, shall not stand repealed on January 7, 2003, as
6 scheduled by that act, but that section is reenacted and
7 amended to read:

8 235.057 Purchase, conveyance, or encumbrance of
9 property interests above surface of land; joint-occupancy
10 structures.--For the purpose of implementing jointly financed
11 construction project agreements, or for the construction of
12 combined occupancy structures, any board, ~~including the Board~~
13 ~~of Regents~~, may purchase, own, convey, sell, lease, or
14 encumber airspace or any other interests in property above the
15 surface of the land, provided the lease of airspace for
16 nonpublic use is for such reasonable rent, length of term, and
17 conditions as the board in its discretion may determine. All
18 proceeds from such sale or lease shall be used by the board or
19 boards receiving the proceeds solely for fixed capital outlay
20 purposes. These purposes may include the renovation or
21 remodeling of existing facilities owned by the board or the
22 construction of new facilities; however, for ~~the Board of~~
23 ~~Regents~~ or a community college, college, or university board,
24 such new facility must be authorized by the Legislature. It
25 is declared that the use of such rental by the board for
26 public purposes in accordance with its statutory authority is
27 a public use. Airspace or any other interest in property held
28 by the Board of Trustees of the Internal Improvement Trust
29 Fund or the State Board of Education may not be divested or
30 conveyed without approval of the respective board. Any
31 building, including any building or facility component that is

1 common to both nonpublic and educational portions thereof,
2 constructed in airspace that is sold or leased for nonpublic
3 use pursuant to this section is subject to all applicable
4 state, county, and municipal regulations pertaining to land
5 use, zoning, construction of buildings, fire protection,
6 health, and safety to the same extent and in the same manner
7 as such regulations would be applicable to the construction of
8 a building for nonpublic use on the appurtenant land beneath
9 the subject airspace. Any educational facility constructed or
10 leased as a part of a joint-occupancy facility is subject to
11 all rules and requirements of the respective boards or
12 departments having jurisdiction over educational facilities.

13 Section 9. Section 235.06, Florida Statutes, is
14 amended to read:

15 235.06 Safety and sanitation standards and inspection
16 of property.--The State Board ~~Commissioner~~ of Education shall
17 adopt and administer rules prescribing standards for the
18 safety and health of occupants of educational and ancillary
19 plants as a part of the Florida State Uniform Building Code
20 for Public Educational Facilities Construction as provided in
21 s. 235.26, the provisions of chapter 633 to the contrary
22 notwithstanding. These standards must be used by all public
23 agencies when inspecting public educational and ancillary
24 plants. In accordance with such standards, each board shall
25 prescribe policies and procedures establishing a comprehensive
26 program of safety and sanitation for the protection of
27 occupants of public educational and ancillary plants. Such
28 policies must contain procedures for periodic inspections as
29 prescribed herein and for withdrawal of any educational and
30 ancillary plant, or portion thereof, from use until unsafe or
31 unsanitary conditions are corrected or removed.

1 (1) PERIODIC INSPECTION OF PROPERTY BY THE BOARD.--

2 (a) Each board shall provide for periodic inspection
3 of each educational and ancillary plant at least once during
4 each fiscal year to determine compliance with standards of
5 sanitation and casualty safety prescribed in the rules of the
6 State Board of Education ~~commissioner~~.

7 (b) Firesafety inspections of each educational and
8 ancillary plant must be made annually by persons certified by
9 the Division of State Fire Marshal to be eligible to conduct
10 firesafety inspections in public educational and ancillary
11 plants.

12 (c) In each firesafety inspection report, the board
13 shall include a plan of action and a schedule for the
14 correction of each deficiency. If immediate life-threatening
15 deficiencies are noted in any inspection, the board shall
16 either take action to promptly correct the deficiencies or
17 withdraw the educational or ancillary plant from use until
18 such time as the deficiencies are corrected.

19 (2) INSPECTION OF EDUCATIONAL PROPERTY BY OTHER PUBLIC
20 AGENCIES.--

21 (a) A safety or sanitation inspection of any
22 educational or ancillary plant may be made at any time by the
23 Department of Education or any other state or local agency
24 authorized or required to conduct such inspections by either
25 general or special law. Each agency conducting inspections
26 shall use the standards adopted by the Commissioner of
27 Education in lieu of, and to the exclusion of, any other
28 inspection standards prescribed either by statute or
29 administrative rule, the provisions of chapter 633 to the
30 contrary notwithstanding. The agency shall submit a copy of
31 the inspection report to the board.

1 (b) In addition to school board inspections, the
2 applicable local fire control authority shall also annually
3 inspect school board educational facilities within its fire
4 control district, using the standards adopted by the
5 Commissioner of Education. Reports shall be filed with the
6 school board, and a copy shall be on file with the local site
7 administrator.

8 (3) CORRECTIVE ACTION.--Upon failure of the board to
9 take corrective action within a reasonable time, the agency
10 making the inspection may request the commissioner to:

11 (a) Order that appropriate action be taken to correct
12 all deficiencies in accordance with a schedule determined
13 jointly by the inspecting authority and the board; in
14 developing the schedule, consideration must be given to the
15 seriousness of the deficiencies and the ability of the board
16 to obtain the necessary funds; or

17 (b) After 30 calendar days' notice to the board, order
18 all or a portion of the educational or ancillary plant
19 withdrawn from use until the deficiencies are corrected.

20 Section 10. Subsection (1) of section 235.061, Florida
21 Statutes, is amended to read:

22 235.061 Standards for relocatables used as classroom
23 space; inspections.--

24 (1) The Commissioner of Education shall adopt rules
25 establishing standards for relocatables intended for long-term
26 use as classroom space at a public elementary school, middle
27 school, or high school. "Long-term use" means the use of
28 relocatables at the same educational plant for a period of 4
29 years or more. These rules must be implemented by July 1,
30 1998, and each relocatable acquired by a district school board
31 after the effective date of the rules and intended for

1 long-term use must comply with the standards. The rules shall
2 require that, by July 1, 2002, relocatables that fail to meet
3 the standards may not be used as classrooms. The standards
4 shall protect the health, safety, and welfare of occupants by
5 requiring compliance with the state requirements for
6 educational facilities ~~Uniform Building Code for Public~~
7 ~~Educational Facilities~~ or other locally adopted state minimum
8 building codes to ensure the safety and stability of
9 construction and onsite installation; fire and moisture
10 protection; air quality and ventilation; appropriate wind
11 resistance; and compliance with the requirements of the
12 Americans with Disabilities Act of 1990. If appropriate, the
13 standards must also require relocatables to provide access to
14 the same technologies available to similar classrooms within
15 the main school facility and, if appropriate, to be accessible
16 by adequate covered walkways. By July 1, 2000, the
17 commissioner shall adopt standards for all relocatables
18 intended for long-term use as classrooms. A relocatable that
19 is subject to this section and does not meet the standards
20 shall not be reported as providing satisfactory student
21 stations in the Florida Inventory of School Houses.

22 Section 11. Notwithstanding subsection (7) of section
23 3 of chapter 2000-321, Laws of Florida, section 235.15,
24 Florida Statutes, shall not stand repealed on January 7, 2003,
25 as scheduled by that act, but that section is reenacted and
26 amended to read:

27 235.15 Educational plant survey; localized need
28 assessment; PECO project funding.--

29 (1) At least every 5 years, each board, ~~including the~~
30 ~~Board of Regents~~, shall arrange for an educational plant
31 survey, to aid in formulating plans for housing the

1 educational program and student population, faculty,
2 administrators, staff, and auxiliary and ancillary services of
3 the district or campus, including consideration of the local
4 comprehensive plan. The Office of Workforce and Economic
5 ~~Division of Workforce~~ Development shall document the need for
6 additional career and adult education programs and the
7 continuation of existing programs before facility construction
8 or renovation related to career or adult education may be
9 included in the educational plant survey of a school district
10 or community college that delivers career or adult education
11 programs. Information used by the Office or Workforce and
12 Economic Division of Workforce Development to establish
13 facility needs must include, but need not be limited to, labor
14 market data, needs analysis, and information submitted by the
15 school district or community college.

16 (a) Survey preparation and required data.--Each survey
17 shall be conducted by the board or an agency employed by the
18 board. Surveys shall be reviewed and approved by the board,
19 and a file copy shall be submitted to the commissioner. The
20 survey report shall include at least an inventory of existing
21 educational and ancillary plants; recommendations for existing
22 educational and ancillary plants; recommendations for new
23 educational or ancillary plants, including the general
24 location of each in coordination with the land use plan;
25 campus master plan update and detail for community colleges;
26 the utilization of school plants based on an extended school
27 day or year-round operation; and such other information as may
28 be required by the rules of the State Board of Education. This
29 report may be amended, if conditions warrant, at the request
30 of the board or commissioner.

31

1 (b) Required need assessment criteria for district,
2 community college, college, and state university plant
3 surveys.--Each educational plant survey completed ~~after~~
4 ~~December 31, 1997,~~ must use uniform data sources and criteria
5 specified in this paragraph. ~~Each educational plant survey~~
6 ~~completed after June 30, 1995, and before January 1, 1998,~~
7 ~~must be revised, if necessary, to comply with this paragraph.~~
8 Each revised educational plant survey and each new educational
9 plant survey supersedes previous surveys.

10 1. Each school district's educational plant survey
11 must reflect the capacity of existing satisfactory facilities
12 as reported in the Florida Inventory of School Houses.
13 Projections of facility space needs may not exceed the norm
14 space and occupant design criteria established by the State
15 Requirements for Educational Facilities. Existing and
16 projected capital outlay full-time equivalent student
17 enrollment must be consistent with data prepared by the
18 department and must include all enrollment used in the
19 calculation of the distribution formula in s. 235.435(3). All
20 satisfactory relocatable classrooms, including those owned,
21 lease-purchased, or leased by the school district, shall be
22 included in the school district inventory of gross capacity of
23 facilities and must be counted at actual student capacity for
24 purposes of the inventory. For future needs determination,
25 student capacity shall not be assigned to any relocatable
26 classroom that is scheduled for elimination or replacement
27 with a permanent educational facility in the adopted 5-year
28 educational plant survey and in the district facilities work
29 program adopted under s. 235.185. Those relocatables clearly
30 identified and scheduled for replacement in a school board
31 adopted financially feasible 5-year district facilities work

1 program shall be counted at zero capacity at the time the work
2 program is adopted and approved by the school board. However,
3 if the district facilities work program is changed or altered
4 and the relocatables are not replaced as scheduled in the work
5 program, they must then be reentered into the system for
6 counting at actual capacity. Relocatables may not be
7 perpetually added to the work program and continually extended
8 for purposes of circumventing the intent of this section. All
9 remaining relocatable classrooms, including those owned,
10 lease-purchased, or leased by the school district, shall be
11 counted at actual student capacity. The educational plant
12 survey shall identify the number of relocatable student
13 stations scheduled for replacement during the 5-year survey
14 period and the total dollar amount needed for that
15 replacement. All district educational plant surveys revised
16 after July 1, 1998, shall include information on leased space
17 used for conducting the district's instructional program, in
18 accordance with the recommendations of the department's report
19 authorized in s. 235.056. A definition of satisfactory
20 relocatable classrooms shall be established by rule of the
21 department.

22 2. Each survey of a special facility, joint-use
23 facility, or cooperative vocational education facility must be
24 based on capital outlay full-time equivalent student
25 enrollment data prepared by the department for school
26 districts, community colleges, colleges, and ~~by the Division~~
27 ~~of Community Colleges for community colleges, and by the Board~~
28 ~~of Regents for state~~ universities. A survey of space needs of
29 a joint-use facility shall be based upon the respective space
30 needs of the school districts, community colleges, colleges,
31 and universities, as appropriate. Projections of a school

1 district's facility space needs may not exceed the norm space
2 and occupant design criteria established by the State
3 Requirements for Educational Facilities.

4 3. Each community college's survey must reflect the
5 capacity of existing facilities as specified in the inventory
6 maintained by the Division of Community Colleges. Projections
7 of facility space needs must comply with standards for
8 determining space needs as specified by rule of the State
9 Board of Education. The 5-year projection of capital outlay
10 student enrollment must be consistent with the annual report
11 of capital outlay full-time student enrollment prepared by the
12 Division of Community Colleges.

13 4. Each college's and state university's survey must
14 reflect the capacity of existing facilities as specified in
15 the inventory maintained and validated by the Division of
16 Colleges and Universities ~~Board of Regents~~. Projections of
17 facility space needs must be consistent with standards for
18 determining space needs approved by the Division of Colleges
19 and Universities ~~Board of Regents~~. The projected capital
20 outlay full-time equivalent student enrollment must be
21 consistent with the 5-year planned enrollment cycle for the
22 State University System approved by the Division of Colleges
23 and Universities ~~Board of Regents~~.

24 5. The educational plant survey of a school district,
25 community college, college, or state university may include
26 space needs that deviate from approved standards for
27 determining space needs if the deviation is justified by the
28 district or institution and approved by the department ~~or the~~
29 ~~Board of Regents, as appropriate~~, as necessary for the
30 delivery of an approved educational program.

31

1 (c) Review and validation.--The department shall
2 review and validate the surveys of school districts, and
3 community colleges, colleges, and universities, and any
4 amendments thereto for compliance with the requirements of
5 this chapter and, when required by the State Constitution,
6 shall recommend those in compliance for approval by the State
7 Board of Education.

8 (2) Only the superintendent, or the college president,
9 or university president shall certify to the department a
10 project's compliance with the requirements for expenditure of
11 PECO funds prior to release of funds.

12 (a) Upon request for release of PECO funds for
13 planning purposes, certification must be made to the
14 department that the need and location of the facility are in
15 compliance with the board-approved survey recommendations and
16 that the project meets the definition of a PECO project and
17 the limiting criteria for expenditures of PECO funding.

18 (b) Upon request for release of construction funds,
19 certification must be made to the department that the need and
20 location of the facility are in compliance with the
21 board-approved survey recommendations, that the project meets
22 the definition of a PECO project and the limiting criteria for
23 expenditures of PECO funding, and that the construction
24 documents meet the requirements of the Florida State Uniform
25 Building Code for Educational Facilities Construction or other
26 applicable codes as authorized in this chapter.

27 Section 12. Section 235.155, Florida Statutes, is
28 amended to read:

29 235.155 Exception to recommendations in educational
30 plant survey.--An exception to the recommendations in the
31 educational plant survey may be allowed if a board considers,

1 ~~including the Board of Regents, deems~~ that it will be
2 advantageous to the welfare of the educational system or that
3 it will make possible a substantial saving of funds. A board,
4 ~~including the Board of Regents,~~ upon determining that an
5 exception is warranted, must present a full statement, in
6 writing, setting forth all the facts to the State Board of
7 Education for approval ~~Commissioner of Education.~~

8 Section 13. Section 235.18, Florida Statutes, is
9 amended to read:

10 235.18 Annual capital outlay budget.--Each board,
11 ~~including the Board of Regents,~~ shall, each year, adopt a
12 capital outlay budget for the ensuing year in order that the
13 capital outlay needs of the board for the entire year may be
14 well understood by the public. This capital outlay budget
15 shall be a part of the annual budget and shall be based upon
16 and in harmony with the board's capital outlay ~~educational~~
17 ~~plant and ancillary facilities~~ plan. This budget shall
18 designate the proposed capital outlay expenditures by project
19 for the year from all fund sources. The board may not expend
20 any funds on any project not included in the budget, as
21 amended. Each district school board must prepare its tentative
22 district facilities work program as required by s. 235.185
23 before adopting the capital outlay budget.

24 Section 14. Subsections (1), (2), and (3) of section
25 235.19, Florida Statutes, are amended to read:

26 235.19 Site planning and selection.--

27 (1) Before acquiring property for sites, each board
28 shall determine the location of proposed educational centers
29 or campuses for the board. In making this determination, the
30 board shall consider existing and anticipated site needs and
31 the most economical and practicable locations of sites. The

1 board shall coordinate with the long-range or comprehensive
2 plans of local, regional, and state governmental agencies to
3 assure the compatibility of such plans with site planning.
4 Boards are encouraged to locate educational facilities ~~schools~~
5 proximate to urban residential areas to the extent possible,
6 and shall seek to collocate educational facilities ~~schools~~
7 with other public facilities, such as parks, libraries, and
8 community centers, to the extent possible.

9 (2) Each new site selected must be adequate in size to
10 meet the educational needs of the students to be served on
11 that site by the original educational facility or future
12 expansions of the facility through renovation or the addition
13 of relocatables. The State Board ~~Commissioner~~ of Education
14 shall prescribe by rule recommended sizes for new sites
15 according to categories of students to be housed and other
16 appropriate factors determined by the state board
17 ~~commissioner~~. Less-than-recommended site sizes are allowed if
18 the board, by a two-thirds majority, recommends such a site
19 and finds that it can provide an appropriate and equitable
20 educational program on the site.

21 (3) Sites recommended for purchase, or purchased, in
22 accordance with chapter 230 or chapter 240 must meet standards
23 prescribed therein and such supplementary standards as the
24 State Board of Education ~~commissioner~~ prescribes to promote
25 the educational interests of the students. Each site must be
26 well drained and suitable for outdoor educational purposes as
27 appropriate for the educational program. As provided in s.
28 333.03, the site must not be located within any path of flight
29 approach of any airport. Insofar as is practicable, the site
30 must not adjoin a right-of-way of any railroad or through
31 highway and must not be adjacent to any factory or other

1 property from which noise, odors, or other disturbances, or at
2 which conditions, would be likely to interfere with the
3 educational program.

4 Section 15. Subsection (3) is added to section
5 235.192, Florida Statutes, to read:

6 235.192 Coordination of school safety information;
7 construction design documents.--

8 (3) Beginning October 1, 2002, each college or
9 university president must provide to the law enforcement
10 agency and fire department that has jurisdiction over the
11 college or university a copy of the floor plans and other
12 relevant documents for each educational facility as defined in
13 235.011(6). After the initial submission of the floor plans
14 and other relevant documents, the president shall submit, by
15 October 1 of each year, revised floor plans and other relevant
16 documents for each educational facility that was modified
17 during the preceding year.

18 Section 16. Subsections (2), (3), and (5) of section
19 235.193, Florida Statutes, are amended to read:

20 235.193 Coordination of planning with local governing
21 bodies.--

22 (2) A ~~school~~ board and the local governing body must
23 share and coordinate information related to existing and
24 planned ~~public~~ school facilities; proposals for development,
25 redevelopment, or additional development; and infrastructure
26 required to support the ~~public~~ school facilities, concurrent
27 with proposed development. A school board shall use Department
28 of Education enrollment projections when preparing the 5-year
29 district facilities work program pursuant to s. 235.185, and a
30 school board shall affirmatively demonstrate in the
31 educational facilities report consideration of local

1 governments' population projections to ensure that the 5-year
2 work program not only reflects enrollment projections but also
3 considers applicable municipal and county growth and
4 development projections. A school board is precluded from
5 siting a new school in a jurisdiction where the school board
6 has failed to provide the annual educational facilities report
7 for the prior year required pursuant to s. 235.194 unless the
8 failure is corrected.

9 (3) The location of ~~public~~ educational facilities
10 shall be consistent with the comprehensive plan of the
11 appropriate local governing body developed under part II of
12 chapter 163 and the plan's implementing land development
13 regulations, to the extent that the regulations are not in
14 conflict with or the subject regulated is not specifically
15 addressed by this chapter or the state requirements for
16 educational facilities ~~Uniform Building Code~~, unless mutually
17 agreed by the local government and the board.

18 (5) As early in the design phase as feasible, but at
19 least before commencing construction of a new public
20 educational facility, the local governing body that regulates
21 the use of land shall determine, in writing within 90 days
22 after receiving the necessary information and a school board's
23 request for a determination, whether a proposed ~~public~~
24 educational facility is consistent with the local
25 comprehensive plan and local land development regulations, to
26 the extent that the regulations are not in conflict with or
27 the subject regulated is not specifically addressed by this
28 chapter or the State Uniform Building Code, unless mutually
29 agreed. If the determination is affirmative, school
30 construction may proceed and further local government
31 approvals are not required, except as provided in this

1 section. Failure of the local governing body to make a
2 determination in writing within 90 days after a school board's
3 request for a determination of consistency shall be considered
4 an approval of the school board's application.

5 Section 17. Notwithstanding subsection (7) of section
6 3 of chapter 2000-321, Laws of Florida, section 235.195,
7 Florida Statutes, shall not stand repealed on January 7, 2003,
8 as scheduled by that act, but that section is reenacted and
9 amended to read:

10 235.195 Cooperative development and joint use of
11 facilities by two or more boards.--

12 (1) Two or more boards, including district school
13 boards, community college boards of trustees, college boards
14 of trustees, the Board of Trustees for the Florida School for
15 the Deaf and the Blind, and university boards of trustees ~~the~~
16 ~~Board of Regents~~, desiring to cooperatively establish a common
17 educational facility to accommodate students shall:

18 (a) Jointly request a formal assessment by the
19 commissioner, Director of the Division State Board of
20 Community Colleges, or Director of the Division of Colleges
21 and Universities ~~Board of Regents~~, as appropriate, of the
22 academic program need and the need to build new joint-use
23 facilities to house approved programs. Completion of the
24 assessment and approval of the project by the State Board of
25 Education or Board of Regents, ~~the State Board of Community~~
26 ~~Colleges, or~~ the Commissioner of Education, as appropriate,
27 should be done prior to conducting an educational facilities
28 survey.

29 (b) Demonstrate the need for construction of new
30 joint-use facilities involving postsecondary institutions by
31 those institutions presenting evidence of the presence of

1 sufficient actual full-time equivalent enrollments in the
2 locale in leased, rented, or borrowed spaces to justify the
3 requested facility for the programs identified in the formal
4 assessment rather than using projected or anticipated future
5 full-time equivalent enrollments as justification. If the
6 decision is made to construct new facilities to meet this
7 demonstrated need, ~~then~~ building plans should consider
8 full-time equivalent enrollment growth facilitated by this new
9 construction and subsequent new program offerings made
10 possible by the existence of the new facilities.

11 (c) Adopt and submit to the commissioner a joint
12 resolution of the participating boards indicating their
13 commitment to the utilization of the requested facility and
14 designating the locale of the proposed facility. The joint
15 resolution shall contain a statement of determination by the
16 participating boards that alternate options, including the use
17 of leased, rented, or borrowed space, were considered and
18 found less appropriate than construction of the proposed
19 facility. The joint resolution shall contain assurance that
20 the development of the proposed facility has been examined in
21 conjunction with the programs offered by neighboring public
22 educational facilities offering instruction at the same level.
23 The joint resolution also shall contain assurance that each
24 participating board shall provide for continuity of
25 educational progression. All joint resolutions shall be
26 submitted to the commissioner by August 1 for consideration of
27 funding by the subsequent Legislature.

28 (d) Submit requests for funding of joint-use
29 facilities projects involving state universities, colleges,
30 and community colleges for approval by the Director of the
31 Division of Colleges and Universities ~~Board of Regents~~ or the

1 Director of the Division ~~State Board~~ of Community Colleges, as
2 appropriate. The respective division directors ~~boards~~ shall
3 determine the priority for funding these projects in relation
4 to the priority of all other capital outlay projects under
5 their consideration. To be eligible for funding from the
6 Public Education Capital Outlay and Debt Service Trust Fund
7 under the provisions of this section, projects involving both
8 state universities, colleges, and community colleges shall
9 appear on the Division of Colleges and Universities ~~Board of~~
10 ~~Regents~~ and the Division ~~State Board~~ of Community Colleges
11 3-year capital outlay priority list required by s. 235.435.
12 Projects involving a state university, college, community
13 college, and a public school, and in which the larger share of
14 the proposed facility is for the use of the state university,
15 college, or the community college, shall appear on the
16 Division of Colleges and Universities ~~Board of Regents~~ and
17 Division ~~State Board~~ of Community Colleges 3-year capital
18 outlay priority list, as applicable.

19 (e) Include in their joint resolution for the
20 joint-use facilities, comprehensive plans for the operation
21 and management of the facility upon completion. Institutional
22 responsibilities for specific functions shall be identified,
23 including designation of one participating board as sole owner
24 of the facility. Operational funding arrangements shall be
25 clearly defined.

26 (2) An educational plant survey must be conducted
27 within 90 days after submission of the joint resolution and
28 substantiating data describing the benefits to be obtained,
29 the programs to be offered, and the estimated cost of the
30 proposed project. Upon completion of the educational plant
31 survey, the participating boards may include the recommended

1 projects in their plan as provided in s. 235.15. Upon approval
2 of the project by the commissioner, 25 percent of the total
3 cost of the project, or the pro rata share based on space
4 utilization of 25 percent of the cost, must be included in the
5 department's legislative capital outlay budget request as
6 provided in s. 235.41 for educational plants. The
7 participating boards must include in their joint resolution a
8 commitment to finance the remaining funds necessary to
9 complete the planning, construction, and equipping of the
10 facility. Funds from the Public Education Capital Outlay and
11 Debt Service Trust Fund may not be expended on any project
12 unless specifically authorized by the Legislature.

13 (3) Included in all proposals for joint-use facilities
14 must be documentation that the proposed new campus or new
15 joint-use facility has been reviewed by the Council for
16 Education Policy Research and Improvement and the Florida
17 Board of Education, ~~Postsecondary Education Planning~~
18 Commission, recommended to the State Board of Education, and
19 has been formally requested for authorization by the
20 Legislature ~~in accordance with s. 240.147(8)~~.

21 (4) No school board, community college, college, or
22 state university shall receive funding for more than one
23 approved joint-use facility per campus in any 3-year period.

24 Section 18. Notwithstanding subsection (7) of section
25 3 of chapter 2000-321, Laws of Florida, section 235.199,
26 Florida Statutes, shall not stand repealed on January 7, 2003,
27 as scheduled by that act, but that section is reenacted and
28 amended to read:

29 235.199 Cooperative funding of vocational educational
30 facilities.--

31

1 (1) Each district school board operating a designated
2 area technical center may submit, prior to August 1 of each
3 year, a request to the commissioner for funds from the Public
4 Education Capital Outlay and Debt Service Trust Fund to plan,
5 construct, and equip a career educational facility identified
6 as being critical to the economic development and the
7 workforce needs of the school district. Prior to submitting a
8 request, each school district shall:

9 (a) Adopt and submit to the commissioner a resolution
10 indicating its commitment to fund the planning, construction,
11 and equipping of the proposed facility at 40 percent of the
12 requested project amount. The resolution shall also designate
13 the locale of the proposed facility. If funds from a private
14 or noneducational public entity are to be committed to the
15 project, then a joint resolution shall be required.

16 (b) Except as provided in paragraph (5)(b), levy the
17 maximum millage against the nonexempt assessed property value
18 as provided in s. 236.25(2).

19 (c) Certify to the Office of Workforce and Economic
20 ~~Division of Workforce~~ Development that the project has been
21 survey recommended.

22 (d) Certify to the Office of Workforce and Economic
23 ~~Division of Workforce~~ Development that final phase III
24 construction documents comply with applicable building codes
25 and life safety codes.

26 (e) Sign an agreement that the district school board
27 shall advertise for bids within 90 days of receiving an
28 encumbrance authorization from the department.

29 (f) If a construction contract has not been signed 90
30 days after the advertising of bids, certify to the Office of
31 Workforce and Economic ~~Division of Workforce~~ Development and

1 the department the cause for delay. Upon request, an
2 additional 90 days may be granted by the commissioner.

3 (2) The Office of Workforce and Economic ~~Division of~~
4 ~~Workforce~~ Development shall establish the need for additional
5 career education programs and the continuation of existing
6 programs before facility construction or renovation related to
7 career education can be included in the educational plant
8 survey. Information used by the Office of Workforce and
9 Economic ~~Division of Workforce~~ Development to establish
10 facility needs shall include, but not be limited to, labor
11 market needs analysis and information submitted by the school
12 districts.

13 (3) The total cost of the proposed facility shall be
14 determined by the district school board using established
15 state board averages for determining new construction cost.

16 (4)(a) A career education construction committee shall
17 be composed of the following: three representatives from the
18 Department of Education and one representative from the
19 Executive Office of the Governor.

20 (b) The committee shall review and evaluate the
21 requests submitted from the school districts and rank the
22 requests in priority order in accordance with statewide
23 critical needs. This statewide priority list shall be
24 submitted to the commissioner.

25 (c) The commissioner's legislative capital outlay
26 budget request may include up to 2 percent of the new
27 construction allocation to public schools for area
28 vocational-technical capital outlay projects recommended by
29 the career education construction committee.

30 (5)(a) Upon approval of a project, the commissioner
31 shall include up to 60 percent of the total cost of the

1 project in the legislative capital outlay budget request as
2 provided in s. 235.41 for educational plants. The
3 participating district school board shall provide 40 percent
4 of the total cost of the project. When practical, the
5 district school board shall solicit and encourage a private or
6 noneducational public entity to commit to finance a portion of
7 the funds to complete the planning, construction, and
8 equipping of the facility. If a site does not exist, the
9 purchase price or, if donated, the assessed value of a site
10 may be included in meeting the funding requirements of the
11 district school board, a private or noneducational public
12 entity, or the educational agency. The value of existing
13 sites, intended to satisfy any portion of the funding
14 requirement of a private or noneducational public entity,
15 shall be determined by an independent appraiser under contract
16 with the board. The size of the site to adequately provide
17 for the implementation of the proposed educational programs
18 shall be determined by the board. Funds from the Public
19 Education Capital Outlay and Debt Service Trust Fund may not
20 be expended on any project unless specifically authorized by
21 the Legislature.

22 (b) In the event that a school district is not levying
23 the maximum millage against the nonexempt assessed property
24 value pursuant to paragraph (1)(b), state and school district
25 funding pursuant to paragraph (a) shall be reduced by the same
26 proportion as the millage actually being levied bears to the
27 maximum allowable millage.

28 Section 19. Subsection (4) of section 235.211, Florida
29 Statutes, is amended to read:

30 235.211 Educational facilities contracting and
31 construction techniques.--

1 (4) Except as otherwise provided in this section and
2 s. 481.229, the services of a registered architect must be
3 used for the development of plans for the erection,
4 enlargement, or alteration of any educational facility. The
5 services of a registered architect are not required for a
6 minor renovation project for which the construction cost is
7 less than \$50,000 or for the placement or hookup of
8 relocatable educational facilities that conform with standards
9 adopted under s.235.26 ~~s. 235.26(2) and (3)~~. However, boards
10 must provide compliance with building code requirements and
11 ensure that these structures are adequately anchored for wind
12 resistance as required by law. Boards are encouraged to
13 consider the reuse of existing construction documents or
14 design criteria packages where such reuse is feasible and
15 practical. Notwithstanding s. 287.055, a board may purchase
16 the architectural services for the design of educational or
17 ancillary facilities under an existing contract agreement for
18 professional services held by a school board in the State of
19 Florida, provided that the purchase is to the economic
20 advantage of the purchasing board, the services conform to the
21 standards prescribed by rules of the State Board Commissioner
22 of Education, and such reuse is not without notice to, and
23 permission from, the architect of record whose plans or design
24 criteria are being reused. Plans shall be reviewed for
25 compliance with the state requirements for educational
26 facilities. Rules adopted under this section must establish
27 uniform prequalification, selection, bidding, and negotiation
28 procedures applicable to construction management contracts and
29 the design-build process. This section does not supersede any
30 small, woman-owned or minority-owned business enterprise
31 preference program adopted by a board. Except as otherwise

1 provided in this section, the negotiation procedures
2 applicable to construction management contracts and the
3 design-build process must conform to the requirements of s.
4 287.055. A board may not modify any rules regarding
5 construction management contracts or the design-build process.

6 Section 20. Paragraphs (a), (b), and (c) of subsection
7 (2), subsection (3), and paragraphs (b), (c), and (d) of
8 subsection (4) of section 235.215, Florida Statutes, are
9 amended to read:

10 235.215 Energy efficiency contracting.--

11 (2) DEFINITIONS.--For purposes of this section, the
12 term:

13 (a) "Energy conservation measure" means a training
14 program, facility alteration, or equipment to be used in new
15 construction, including an addition to an existing facility,
16 that reduces energy costs, and includes, but is not limited
17 to:

18 1. Insulation of the facility structure and systems
19 within the facility.

20 2. Storm windows and doors, caulking or
21 weatherstripping, multiglazed windows and doors,
22 heat-absorbing, or heat-reflective, glazed and coated window
23 and door systems, additional glazing, reductions in glass
24 area, and other window and door system modifications that
25 reduce energy consumption.

26 3. Automatic energy control systems.

27 4. Heating, ventilating, or air-conditioning system
28 modifications or replacements.

29 5. Replacement or modifications of lighting fixtures
30 to increase the energy efficiency of the lighting system
31

1 which, at a minimum, shall conform to the Florida Building
2 Code ~~applicable state or local building code.~~

3 6. Energy recovery systems.

4 7. Cogeneration systems that produce steam or forms of
5 energy such as heat, as well as electricity, for use primarily
6 within a facility or complex of facilities.

7 8. Energy conservation measures that provide long-term
8 operating cost reductions and significantly reduce Btu
9 consumed.

10 9. Renewable energy systems, such as solar, biomass,
11 and wind.

12 10. Devices which reduce water consumption or sewer
13 charges.

14 (b) "Energy cost savings" means:

15 1. A measured reduction in fuel, energy, or operation
16 and maintenance costs created from the implementation of one
17 or more energy conservation measures when compared with an
18 established baseline for previous fuel, energy, or operation
19 and maintenance costs; or

20 2. For new construction, a projected reduction in
21 fuel, energy, or operation and maintenance costs created from
22 the implementation of one or more energy conservation measures
23 when compared with the projected fuel, energy, or operation
24 and maintenance costs for equipment if the minimum standards
25 of the Florida State Uniform Building Code ~~for Public~~
26 Educational Facilities Construction were implemented and
27 signed and sealed by a registered professional engineer.

28 (c) "Energy performance-based contract" means a
29 contract for the evaluation, recommendation, and
30 implementation of energy conservation measures which includes,
31 at a minimum:

1 1. The design and installation of equipment to
2 implement one or more of such measures, and, if applicable,
3 operation and maintenance of such measures.

4 2. The amount of any actual annual savings. This
5 amount must meet or exceed total annual contract payments made
6 by the school, state community college, college, or state
7 university for such contract.

8 3. Financing charges to be incurred by the school,
9 state community college, college, or state university over the
10 life of the contract.

11 (3) ENERGY PERFORMANCE-BASED CONTRACT PROCEDURES.--

12 (a) A school district, state community college,
13 college, or state university may enter into an energy
14 performance-based contract with an energy performance
15 contractor to significantly reduce energy or operating costs
16 of an educational facility through one or more energy
17 conservation measures.

18 (b) The energy performance contractor shall be
19 selected in compliance with s. 287.055; except that in a case
20 where a school district, state community college, college, or
21 state university determines that fewer than three firms are
22 qualified to perform the required services, the requirement
23 for agency selection of three firms, as provided in s.
24 287.055(4)(b), shall not apply and the bid requirements of s.
25 287.057 shall not apply.

26 (c) Before entering into a contract pursuant to this
27 section, the district school board, state community college,
28 college, or state university shall provide published notice of
29 the meeting in which it proposes to award the contract, the
30 names of the parties to the proposed contract, and the
31 contract's purpose.

1 (d) Prior to the design and installation of the energy
2 conservation measure, the school district, state community
3 college, college, or state university must obtain from the
4 energy performance contractor a report that discloses all
5 costs associated with the energy conservation measure and
6 provides an estimate of the amount of the energy cost savings.
7 The report must be reviewed by either the Department of
8 Education or the Department of Management Services or signed
9 and sealed by a registered professional engineer.

10 (e) A school district, state community college,
11 college, or state university may enter into an energy
12 performance-based contract with an energy performance
13 contractor if, after review of the report required by
14 paragraph (d), it finds that the amount it would spend on the
15 energy conservation measures recommended in the report will
16 not exceed the amount to be saved in energy and operation
17 costs over 20 years from the date of installation, based on
18 life-cycle costing calculations, if the recommendations in the
19 report were followed and if the energy performance contractor
20 provides a written guarantee that the energy or operating cost
21 savings will meet or exceed the costs of the system. The
22 contract may provide for payments over a period of time not to
23 exceed 20 years.

24 (f) A school district, state community college,
25 college, or state university may enter into an installment
26 payment contract for the purchase and installation of energy
27 conservation measures. The contract shall provide for
28 payments of not less than one-twentieth of the price to be
29 paid within 2 years from the date of the complete installation
30 and acceptance by the school board, state community college,
31 college, or state university, and the remaining costs to be

1 paid at least quarterly, not to exceed a 20-year term based on
2 life-cycle costing calculations.

3 (g) Energy performance-based contracts may extend
4 beyond the fiscal year in which they become effective;
5 however, the term of any contract shall expire at the end of
6 each fiscal year and may be automatically renewed annually up
7 to 20 years, subject to a school board, state community
8 college, college, or state university making sufficient annual
9 appropriations based upon continued realized energy cost
10 savings. Such contracts shall stipulate that the agreement
11 does not constitute a debt, liability, or obligation of the
12 state or a school board, state community college, or state
13 university, or a pledge of the faith and credit of the state
14 or a school board, state community college, college, or state
15 university.

16 (4) CONTRACT PROVISIONS.--

17 (b) The contract shall provide that all payments,
18 except obligations on termination of the contract before its
19 expiration, are to be made over time, but not to exceed 20
20 years from the date of complete installation and acceptance by
21 the school board, state community college, college, or state
22 university, and that the annual savings are guaranteed to the
23 extent necessary to make annual payments to satisfy the
24 contract.

25 (c) The contract must require that the energy
26 performance contractor to whom the contract is awarded provide
27 a 100-percent public construction bond to the school district,
28 state community college, college, or state university for its
29 faithful performance, as required by s. 255.05.

30 (d) The contract shall require the energy performance
31 contractor to provide to the school district, state community

1 college, college, or state university an annual reconciliation
2 of the guaranteed energy cost savings. The energy performance
3 contractor shall be liable for any annual savings shortfall
4 which may occur. In the event that such reconciliation reveals
5 an excess in annual energy cost savings, such excess savings
6 shall not be used to cover potential energy cost savings
7 shortages in subsequent contract years.

8 Section 21. Subsection (3) of section 235.2155,
9 Florida Statutes, is amended to read:

10 235.2155 School Infrastructure Thrift Program Act.--

11 (3) The SIT Program is designed as:

12 (a) An incentive program to reward districts for+
13 ~~+~~ savings realized through functional, frugal
14 construction.

15 ~~2. Savings realized through the operation of charter~~
16 ~~schools in non-school-district facilities during the~~
17 ~~1996-1997, 1997-1998, 1998-1999, and 1999-2000 school years.~~

18 (b) A recognition program to provide an annual SMART
19 school of the year recognition award to the district that
20 builds the highest quality functional, frugal school.

21 Section 22. Subsections (2) and (3) of section
22 235.216, Florida Statutes, are amended to read:

23 235.216 SIT Program award eligibility; maximum cost
24 per student station of educational facilities; frugality
25 incentives; recognition awards.--

26 (2) A school district may seek an award from the SIT
27 Program, pursuant to this section and s. 235.2155, based on
28 the district's+

29 ~~(a)~~ new construction of educational facilities if the
30 cost per student station is less than:

31 (a) ~~+~~ \$11,600 for an elementary school,

1 (b)2. \$13,300 for a middle school, or

2 (c)3. \$17,600 for a high school,

3

4 (1997) as adjusted annually by the Consumer Price Index. The
5 award shall be up to 50 percent of such savings, as
6 recommended by the SMART Schools Clearinghouse.

7 ~~(b) Operation of charter schools in~~
8 ~~non-school-district facilities. SIT Program awards pursuant to~~
9 ~~this paragraph shall be as recommended by the SMART Schools~~
10 ~~Clearinghouse. After the initial award, the recommendation~~
11 ~~must be based on savings realized from proportionate district~~
12 ~~increase in such charter school enrollment in excess of~~
13 ~~original enrollment, and the award shall be up to 50 percent~~
14 ~~of such savings.~~

15 ~~(3) Beginning with the 1998-1999 fiscal year,~~A school
16 district may seek a SMART school of the year recognition award
17 for building the highest quality functional, frugal school.
18 The commissioner may present a trophy or plaque and a cash
19 award to the school recommended by the SMART Schools
20 Clearinghouse for a SMART school of the year recognition
21 award.

22 Section 23. Section 235.26, Florida Statutes, is
23 amended to read:

24 235.26 State uniform building code for public
25 educational facilities construction.--

26 (1) UNIFORM BUILDING CODE.--By July 1, 2001, a uniform
27 statewide building code for the planning and construction of
28 public educational and ancillary plants by district school
29 boards and community college and college district boards of
30 trustees shall be adopted by the Florida Building Commission
31 within the Florida Building Code, pursuant to s. 553.73.

1 Included in this code must be flood plain management criteria
2 in compliance with the rules and regulations in 44 C.F.R.
3 parts 59 and 60, and subsequent revisions thereto which are
4 adopted by the Federal Emergency Management Agency. It is also
5 the responsibility of the department to develop, as a part of
6 the uniform building code, standards relating to:

7 (a) Prefabricated facilities or factory-built
8 facilities that are designed to be portable, relocatable,
9 demountable, or reconstructible; are used primarily as
10 classrooms; and do not fall under the provisions of ss.
11 320.822-320.862. Such standards must permit boards to contract
12 with the Department of Community Affairs for factory
13 inspections by certified building code inspectors to certify
14 conformance with applicable law and rules. The standards must
15 comply with the requirements of s. 235.061 for relocatable
16 facilities intended for long-term use as classroom space, and
17 the relocatable facilities shall be designed subject to
18 missile impact criteria of s. 423(24)(d)(1) of the Florida
19 Building Code when located in the windborne debris region.

20 (b) The sanitation of educational and ancillary plants
21 and the health of occupants of educational and ancillary
22 plants.

23 (c) The safety of occupants of educational and
24 ancillary plants as provided in s. 235.06, except that the
25 firesafety criteria shall be established by the State Fire
26 Marshal in cooperation with the Florida Building Commission
27 and the department and such firesafety requirements must be
28 incorporated into the Florida Fire Prevention Code.

29 (d) Accessibility for children, notwithstanding the
30 provisions of s. 553.512.

31

1 (e) The performance of life-cycle cost analyses on
2 alternative architectural and engineering designs to evaluate
3 their energy efficiencies.

4 1. The life-cycle cost analysis must consist of the
5 sum of:

6 a. The reasonably expected fuel costs over the life of
7 the building which are required to maintain illumination,
8 water heating, temperature, humidity, ventilation, and all
9 other energy-consuming equipment in a facility; and

10 b. The reasonable costs of probable maintenance,
11 including labor and materials, and operation of the building.

12 2. For computation of the life-cycle costs, the
13 department shall develop standards that must include, but need
14 not be limited to:

15 a. The orientation and integration of the facility
16 with respect to its physical site.

17 b. The amount and type of glass employed in the
18 facility and the directions of exposure.

19 c. The effect of insulation incorporated into the
20 facility design and the effect on solar utilization of the
21 properties of external surfaces.

22 d. The variable occupancy and operating conditions of
23 the facility and subportions of the facility.

24 e. An energy-consumption analysis of the major
25 equipment of the facility's heating, ventilating, and cooling
26 system; lighting system; and hot water system and all other
27 major energy-consuming equipment and systems as appropriate.

28 3. Life-cycle cost criteria published by the
29 Department of Education for use in evaluating projects.

30 4. Standards for construction materials and systems
31 based on life-cycle costs that consider initial costs,

1 maintenance costs, custodial costs, operating costs, and life
2 expectancy. The standards may include multiple acceptable
3 materials. It is the intent of the Legislature to require
4 district school boards to comply with these standards when
5 expending funds from the Public Education Capital Outlay and
6 Debt Service Trust Fund or the School District and Community
7 College District Capital Outlay and Debt Service Trust Fund
8 and to prohibit district school boards from expending local
9 capital outlay revenues for any project that includes
10 materials or systems that do not comply with these standards,
11 unless the district school board submits evidence that
12 alternative materials or systems meet or exceed standards
13 developed by the department.

14

15 It is not a purpose of the Florida Building Code to inhibit
16 the use of new materials or innovative techniques; nor may it
17 specify or prohibit materials by brand names. The code must be
18 flexible enough to cover all phases of construction so as to
19 afford reasonable protection for the public safety, health,
20 and general welfare. The department may secure the service of
21 other state agencies or such other assistance as it finds
22 desirable in recommending to the Florida Building Commission
23 revisions to the code.

24 ~~(2) CONFORMITY TO FLORIDA BUILDING CODE AND FLORIDA~~
25 ~~FIRE PREVENTION STANDARDS REQUIRED FOR APPROVAL.~~

26 ~~(a) Except as otherwise provided in paragraph (b), all~~
27 ~~public educational and ancillary plants constructed by a~~
28 ~~district school board or a community college district board of~~
29 ~~trustees must conform to the Florida Building Code and the~~
30 ~~Florida Fire Prevention Code, and such plants are exempt from~~
31 ~~all other state building codes; county, municipal, or other~~

1 ~~local amendments to the Florida Building Code and local~~
2 ~~amendments to the Florida Fire Prevention Code; building~~
3 ~~permits, and assessments of fees for building permits, except~~
4 ~~as provided in s. 553.80; ordinances; road closures; and~~
5 ~~impact fees or service availability fees. Any inspection by~~
6 ~~local or state government must be based on the Florida~~
7 ~~Building Code and the Florida Fire Prevention Code. Each board~~
8 ~~shall provide for periodic inspection of the proposed~~
9 ~~educational plant during each phase of construction to~~
10 ~~determine compliance with the state requirements for~~
11 ~~educational facilities.~~

12 ~~(b) A district school board or community college~~
13 ~~district board of trustees may conform with the Florida~~
14 ~~Building Code and the Florida Fire Prevention Code and the~~
15 ~~administration of such codes when constructing ancillary~~
16 ~~plants that are not attached to educational facilities, if~~
17 ~~those plants conform to the space size requirements~~
18 ~~established in the codes.~~

19 ~~(c) A district school board or community college~~
20 ~~district board of trustees may not approve any plans for the~~
21 ~~construction, renovation, remodeling, or demolition of any~~
22 ~~educational or ancillary plants unless these plans conform to~~
23 ~~the requirements of the Florida Building Code and the Florida~~
24 ~~Fire Prevention Code. Each district school board and community~~
25 ~~college district board of trustees may adopt policies for~~
26 ~~delegating to the superintendent or community college~~
27 ~~president authority for submitting documents to the department~~
28 ~~and for awarding contracts subsequent to and consistent with~~
29 ~~board approval of the scope, timeframes, funding source, and~~
30 ~~budget of a survey-recommended project.~~

31

1 ~~(3) ENFORCEMENT BY BOARD. It is the responsibility of~~
2 ~~each district school board and community college district~~
3 ~~board of trustees to ensure that all plans and educational and~~
4 ~~ancillary plants meet the standards of the Florida Building~~
5 ~~Code and the Florida Fire Prevention Code and to provide for~~
6 ~~the enforcement of these codes in the areas of its~~
7 ~~jurisdiction. Each board shall provide for the proper~~
8 ~~supervision and inspection of the work. Each board may employ~~
9 ~~a chief building official or inspector and such other~~
10 ~~inspectors, who have been certified pursuant to chapter 468,~~
11 ~~and such personnel as are necessary to administer and enforce~~
12 ~~the provisions of this code. Boards may also utilize local~~
13 ~~building department inspectors who are certified by the~~
14 ~~department to enforce this code. Plans or facilities that fail~~
15 ~~to meet the standards of the Florida Building Code or the~~
16 ~~Florida Fire Prevention Code may not be approved. When~~
17 ~~planning for and constructing an educational, auxiliary, or~~
18 ~~ancillary facility, a district school board must use~~
19 ~~construction materials and systems that meet standards adopted~~
20 ~~pursuant to subparagraphs (1)(e)3. and 4. If the planned or~~
21 ~~actual construction of a facility deviates from the adopted~~
22 ~~standards, the district school board must, at a public~~
23 ~~hearing, quantify and compare the costs of constructing the~~
24 ~~facility with the proposed deviations and in compliance with~~
25 ~~the adopted standards and the Florida Building Code. The board~~
26 ~~must explain the reason for the proposed deviations and~~
27 ~~compare how the total construction costs and projected~~
28 ~~life-cycle costs of the facility or component system of the~~
29 ~~facility would be affected by implementing the proposed~~
30 ~~deviations rather than using materials and systems that meet~~
31 ~~the adopted standards. The provisions of this subsection do~~

1 ~~apply to educational, auxiliary, and ancillary facility~~
2 ~~projects commenced on or after July 1, 1999.~~

3 ~~(4) ENFORCEMENT BY DEPARTMENT.--As a further means of~~
4 ~~ensuring that all educational and ancillary facilities~~
5 ~~hereafter constructed or materially altered or added to~~
6 ~~conform to the Florida Building Code standards or Florida Fire~~
7 ~~Prevention Code standards, each district school board and~~
8 ~~community college district board of trustees that undertakes~~
9 ~~the construction, renovation, remodeling, purchasing, or~~
10 ~~lease-purchase of any educational plant or ancillary facility,~~
11 ~~the cost of which exceeds \$200,000, may submit plans to the~~
12 ~~department for approval.~~

13 ~~(2)(5) APPROVAL.--~~

14 (a) Before a contract has been let for the
15 construction, the department, the district school board, the
16 community college board, the college board, or the its board's
17 authorized review agent must approve the phase III
18 construction documents. A district school board, the community
19 college board, or the college board may reuse prototype plans
20 on another site, provided the facilities list and phase III
21 construction documents have been updated for the new site and
22 for compliance with the Florida Building Code and the Florida
23 Fire Prevention Code and any laws relating to firesafety,
24 health and sanitation, casualty safety, and requirements for
25 the physically handicapped which are in effect at the time a
26 construction contract is to be awarded.

27 (b) In reviewing plans for approval, the department,
28 the district school board, the community college board, or the
29 college board, or its review agent as authorized in s.
30 235.017, shall take into consideration:

- 31 1. The need for the new facility.

- 1 2. The educational and ancillary plant planning.
- 2 3. The architectural and engineering planning.
- 3 4. The location on the site.
- 4 5. Plans for future expansion.
- 5 6. The type of construction.
- 6 7. Sanitary provisions.
- 7 8. Conformity to Florida Building Code standards.
- 8 9. The structural design and strength of materials
- 9 proposed to be used.
- 10 10. The mechanical design of any heating,
- 11 air-conditioning, plumbing, or ventilating system. Typical
- 12 heating, ventilating, and air-conditioning systems preapproved
- 13 by the department for specific applications may be used in the
- 14 design of educational facilities.
- 15 11. The electrical design of educational plants.
- 16 12. The energy efficiency and conservation of the
- 17 design.
- 18 13. Life-cycle cost considerations.
- 19 14. The design to accommodate physically handicapped
- 20 persons.
- 21 15. The ratio of net to gross square footage.
- 22 16. The proposed construction cost per gross square
- 23 foot.
- 24 17. Conformity with the Florida Fire Prevention Code.
- 25 (c) The district school board, the community college
- 26 board, or the college board may not occupy a facility until
- 27 the project has been inspected to verify compliance with
- 28 statutes, rules, and codes affecting the health and safety of
- 29 the occupants. Verification of compliance with rules,
- 30 statutes, and codes for nonoccupancy projects such as roofing,
- 31 paving, site improvements, or replacement of equipment may be

1 certified by the architect or engineer of record and
2 verification of compliance for other projects may be made by
3 an inspector certified by the department or certified pursuant
4 to chapter 468 who is not the architect or engineer of record.
5 The board shall maintain a record of the project's completion
6 and permanent archive of phase III construction documents,
7 including any addenda and change orders to the project. The
8 boards shall provide project data to the department, as
9 requested, for purposes and reports needed by the Legislature.

10 (3)~~(6)~~ REVIEW PROCEDURE.--The Commissioner of
11 Education shall cooperate with the Florida Building Commission
12 in addressing all questions, disputes, or interpretations
13 involving the provisions of the Florida Building Code which
14 govern the construction of public educational and ancillary
15 facilities, and any objections to decisions made by the
16 inspectors or the department must be submitted in writing.

17 (4)~~(7)~~ BIENNIAL REVIEW AND UPDATE; DISSEMINATION.--The
18 department shall biennially review and recommend to the
19 Florida Building Commission updates and revisions to the
20 provisions of the Florida Building Code which govern the
21 construction of public educational and ancillary facilities.
22 The department shall publish and make available to each board
23 ~~district school board and community college district board of~~
24 ~~trustees~~ at no cost copies of the state requirements for
25 educational facilities and each amendment and revision
26 thereto. The department shall make additional copies available
27 to all interested persons at a price sufficient to recover
28 costs.

29 ~~(8) EDUCATION FACILITIES AS EMERGENCY SHELTERS.--~~

30 ~~(a) The Department of Education shall, in consultation~~
31 ~~with boards and county and state emergency management offices,~~

1 ~~include within the standards to be developed under subsection~~
2 ~~(1) public shelter design criteria that shall be incorporated~~
3 ~~into the Florida Building Code. The new criteria must be~~
4 ~~designed to ensure that appropriate core facility areas in new~~
5 ~~educational facilities can serve as public shelters for~~
6 ~~emergency management purposes. A facility, or an appropriate~~
7 ~~core facility area within a facility, for which a design~~
8 ~~contract is entered into subsequent to the effective date of~~
9 ~~the inclusion of the public shelter criteria in the code must~~
10 ~~be built in compliance with the amended code unless the~~
11 ~~facility or a part thereof is exempted from using the new~~
12 ~~shelter criteria due to its location, size, or other~~
13 ~~characteristics by the applicable board with the concurrence~~
14 ~~of the applicable local emergency management agency or the~~
15 ~~Department of Community Affairs. Any educational facility~~
16 ~~located or proposed to be located in an identified category 1,~~
17 ~~2, or 3 evacuation zone is not subject to the requirements of~~
18 ~~this subsection. If the regional planning council region in~~
19 ~~which the county is located does not have a hurricane~~
20 ~~evacuation shelter deficit, as determined by the Department of~~
21 ~~Community Affairs, school districts within the planning~~
22 ~~council region are not required to incorporate the public~~
23 ~~shelter criteria into their construction of educational~~
24 ~~facilities.~~

25 ~~(b) By January 31, 1996, and by January 31 every~~
26 ~~even-numbered year thereafter, the Department of Community~~
27 ~~Affairs shall prepare and submit a statewide emergency shelter~~
28 ~~plan to the Governor and the Cabinet for approval. The plan~~
29 ~~must identify the general location and square footage of~~
30 ~~existing shelters, by regional planning council region, and~~
31 ~~the general location and square footage of needed shelters, by~~

1 ~~regional planning council region, in the next 5 years. Such~~
2 ~~plan must identify the types of public facilities which should~~
3 ~~be constructed to comply with emergency shelter criteria and~~
4 ~~must recommend an appropriate, adequate, and dedicated source~~
5 ~~of funding for the additional cost of constructing emergency~~
6 ~~shelters within these public facilities. After the approval of~~
7 ~~the plan, a board may not be required to build more emergency~~
8 ~~shelter space than identified as needed in the plan, and~~
9 ~~decisions pertaining to exemptions pursuant to paragraph (a)~~
10 ~~must be guided by the plan.~~

11 (5)(9) LOCAL LEGISLATION PROHIBITED.--After June 30,
12 1985, pursuant to s. 11(a)(21), Art. III of the State
13 Constitution, there shall not be enacted any special act or
14 general law of local application which proposes to amend,
15 alter, or contravene any provisions of the State Building Code
16 adopted under the authority of this section.

17 Section 24. Section 235.261, Florida Statutes, is
18 created to read:

19 235.261 Conformity to codes.--

20 (1) CONFORMITY TO FLORIDA BUILDING CODE AND FLORIDA
21 FIRE PREVENTION STANDARDS REQUIRED FOR APPROVAL.--

22 (a) Except as otherwise provided in paragraph (b), all
23 public educational and ancillary plants constructed by a board
24 must conform to the Florida Building Code and the Florida Fire
25 Prevention Code, and the plants are exempt from all other
26 state building codes; county, municipal, or other local
27 amendments to the Florida Building Code and local amendments
28 to the Florida Fire Prevention Code; building permits, and
29 assessments of fees for building permits, except as provided
30 in s. 553.80; ordinances; road closures; and impact fees or
31 service availability fees. Any inspection by local or state

1 government must be based on the Florida Building Code and the
2 Florida Fire Prevention Code. Each board shall provide for
3 periodic inspection of the proposed educational plant during
4 each phase of construction to determine compliance with the
5 state requirements for educational facilities.

6 (b) A board may comply with the Florida Building Code
7 and the Florida Fire Prevention Code and the administration of
8 the codes when constructing ancillary plants that are not
9 attached to educational facilities, if those plants conform to
10 the space size requirements established in the codes.

11 (c) A board may not approve any plans for the
12 construction, renovation, remodeling, or demolition of any
13 educational or ancillary plants unless these plans conform to
14 the requirements of the Florida Building Code and the Florida
15 Fire Prevention Code. Each board may adopt policies for
16 delegating to the superintendent or community college
17 president authority for submitting documents to the department
18 and for awarding contracts subsequent to and consistent with
19 board approval of the scope, timeframes, funding source, and
20 budget of a survey-recommended project.

21 (2) ENFORCEMENT BY BOARD.--It is the responsibility of
22 each board to ensure that all plans and educational and
23 ancillary plants meet the standards of the Florida Building
24 Code and the Florida Fire Prevention Code and to provide for
25 the enforcement of these codes in the areas of its
26 jurisdiction. Each board shall provide for the proper
27 supervision and inspection of the work. Each board may employ
28 a chief building official or inspector and such other
29 inspectors, who have been certified pursuant to chapter 468,
30 and such personnel as are necessary to administer and enforce
31 the provisions of this code. Boards may also use local

1 building department inspectors who are certified by the
2 department to enforce this code. Plans or facilities that fail
3 to meet the standards of the Florida Building Code or the
4 Florida Fire Prevention Code may not be approved. When
5 planning for and constructing an educational, auxiliary, or
6 ancillary facility, a board must use construction materials
7 and systems that meet standards adopted pursuant to s.
8 235.26(1)(e)3. and 4. If the planned or actual construction of
9 a facility deviates from the adopted standards, the board
10 must, at a public hearing, quantify and compare the costs of
11 constructing the facility with the proposed deviations and in
12 compliance with the adopted standards and the Florida Building
13 Code. The board must explain the reason for the proposed
14 deviations and compare how the total construction costs and
15 projected life-cycle costs of the facility or component system
16 of the facility would be affected by implementing the proposed
17 deviations rather than using materials and systems that meet
18 the adopted standards.

19 (3) ENFORCEMENT BY DEPARTMENT.--As a further means of
20 ensuring that all educational and ancillary facilities
21 constructed or materially altered or added to conform to the
22 Florida Building Code standards or Florida Fire Prevention
23 Code standards, each board that undertakes the construction,
24 renovation, remodeling, purchasing, or lease-purchase of any
25 educational plant or ancillary facility, the cost of which
26 exceeds \$200,000, may submit plans to the department for
27 approval.

28 Section 25. Section 235.262, Florida Statutes, is
29 created to read:

30 235.262 Education facilities as emergency shelters.--
31

1 (1) The Department of Education shall, in consultation
2 with boards and county and state emergency management offices,
3 include within the standards to be developed under this
4 subsection public shelter design criteria to be incorporated
5 into the Florida Building Code. The new criteria must be
6 designed to ensure that appropriate core facility areas in new
7 educational facilities can serve as public shelters for
8 emergency-management purposes. A facility, or an appropriate
9 core facility area within a facility, for which a design
10 contract is entered into after the effective date of the
11 inclusion of the public shelter criteria in the code must be
12 built in compliance with the amended code unless the facility
13 or a part of it is exempted from using the new shelter
14 criteria due to its location, size, or other characteristics
15 by the applicable board with the concurrence of the applicable
16 local emergency management agency or the Department of
17 Community Affairs. Any educational facility located or
18 proposed to be located in an identified category 1, 2, or 3
19 evacuation zone is not subject to the requirements of this
20 subsection. If the regional planning council region in which
21 the county is located does not have a hurricane evacuation
22 shelter deficit, as determined by the Department of Community
23 Affairs, educational facilities within the planning council
24 region are not required to incorporate the public shelter
25 criteria.

26 (2) By January 31 of each even-numbered year, the
27 Department of Community Affairs shall prepare and submit a
28 statewide emergency shelter plan to the Governor and the
29 Cabinet for approval. The plan must identify the general
30 location and square footage of existing shelters, by regional
31 planning council region, and the general location and square

1 footage of needed shelters, by regional planning council
2 region, during the next 5 years. The plan must identify the
3 types of public facilities that should be constructed to
4 comply with emergency-shelter criteria and must recommend an
5 appropriate, adequate, and dedicated source of funding for the
6 additional cost of constructing emergency shelters within
7 these public facilities. After the approval of the plan, a
8 board may not be required to build more emergency-shelter
9 space than identified as needed in the plan, and decisions
10 pertaining to exemptions pursuant to subsection (1) must be
11 guided by the plan.

12 Section 26. Section 235.31, Florida Statutes, is
13 amended to read:

14 235.31 Advertising and awarding contracts;
15 prequalification of contractor.--

16 (1)(a) As soon as practicable after any bond issue has
17 been voted upon and authorized or funds have been made
18 available for the construction, remodeling, renovation,
19 demolition, or otherwise for the improvement, of any
20 educational or ancillary plant, and after plans for the work
21 have been approved, the board, if competitively bidding the
22 project pursuant to s. 235.211, after advertising the same in
23 the manner prescribed by law or rule, shall award the contract
24 for the building or improvements to the lowest responsible
25 bidder. However, if after taking all deductive alternates,
26 the bid of the lowest responsible bidder exceeds the
27 construction budget for the project established at the phase
28 III submittal, the board may declare an emergency. After
29 stating the reasons why an emergency exists, the board may
30 negotiate the construction contract or modify the contract,
31 including the specifications, with the lowest responsible

1 bidder and, if the contract is modified, shall resubmit the
2 documents to the authorized review authority for review to
3 confirm that the project remains in compliance with building
4 and fire codes. The board may reject all bids received and
5 may readvertise, calling for new bids.

6 (b) Each board may declare an emergency pursuant to
7 this subsection. A situation created by fire, storm, or other
8 providential cause resulting in:

- 9 1. Imminent danger to life or safety; or
- 10 2. Overcrowding of students

11
12 constitutes an emergency.

13 (c) As an option, any county, municipality, ~~community~~
14 ~~college, or district school~~ board may set aside up to 10
15 percent of the total amount of funds allocated for the purpose
16 of entering into construction capital project contracts with
17 minority business enterprises, as defined in s. 287.094. Such
18 contracts shall be competitively bid only among minority
19 business enterprises. The set-aside shall be used to redress
20 present effects of past discriminatory practices and shall be
21 subject to periodic reassessment to account for changing needs
22 and circumstances.

23 (2) Boards shall prequalify bidders for construction
24 contracts according to rules prescribed by the State Board
25 ~~Commissioner~~ of Education which require the prequalification
26 of bidders of educational facilities construction. Boards
27 shall require that all construction or capital improvement
28 bids be accompanied by evidence that the bidder holds an
29 appropriate certificate or license or that the prime
30 contractor has a current valid license.

31

1 (3) A public agency that is authorized to purchase
2 services for maintenance, repair, and site improvement of
3 facilities on behalf of various agencies of a county must give
4 any ~~the school~~ board in that county the option of purchasing
5 those services for educational facilities and ancillary plants
6 under those contracts at the unit prices stated in those
7 contracts. However, the person providing those services under
8 such a contract may, without jeopardizing the contract, refuse
9 to provide the services to the ~~school~~ board. A ~~The school~~
10 board may purchase those services under such a contract only
11 if the purchase is to its ~~the~~ economic advantage ~~of the school~~
12 ~~district~~ and the services conform to the standards and
13 specifications prescribed by rules of the State Board
14 ~~Commissioner~~ of Education and, if applicable, to the
15 requirements of s. 287.055. This subsection does not apply to
16 contracts in existence on July 1, 1994.

17 Section 27. Section 235.32, Florida Statutes, is
18 amended to read:

19 235.32 Substance of contract; contractors to give
20 bond; penalties.--Each board shall develop contracts
21 consistent with this chapter and statutes governing public
22 facilities. Such a contract must contain the drawings and
23 specifications of the work to be done and the material to be
24 furnished, the time limit in which the construction is to be
25 completed, the time and method by which payments are to be
26 made upon the contract, and the penalty to be paid by the
27 contractor for any failure to comply with the terms of the
28 contract. The board may require the contractor to pay a
29 penalty for any failure to comply with the terms of the
30 contract and may provide an incentive for early completion.
31 Upon accepting a satisfactory bid, the board shall enter into

1 a contract with the party or parties whose bid has been
2 accepted. The contractor shall furnish the board with a
3 performance and payment bond as set forth in s. 255.05. A
4 board or other public entity may not require a contractor to
5 secure a surety bond under s. 255.05 from a specific agent or
6 bonding company. Notwithstanding any other provision of this
7 section, if 25 percent or more of the costs of any
8 construction project is paid out of a trust fund established
9 pursuant to 31 U.S.C. s. 1243(a)(1), laborers and mechanics
10 employed by contractors or subcontractors on such construction
11 will be paid wages not less than those prevailing on similar
12 construction projects in the locality, as determined by the
13 Secretary of Labor in accordance with the Davis-Bacon Act, as
14 amended. A person, firm, or corporation that constructs any
15 part of any educational plant, or addition thereto, on the
16 basis of any unapproved plans or in violation of any plans
17 approved in accordance with the provisions of this chapter and
18 rules of the State Board ~~Commissioner~~ of Education relating to
19 building standards or specifications is subject to forfeiture
20 of bond and unpaid compensation in an amount sufficient to
21 reimburse the board for any costs that will need to be
22 incurred in making any changes necessary to assure that all
23 requirements are met and is also guilty of a misdemeanor of
24 the second degree, punishable as provided in s. 775.082 or s.
25 775.083, for each separate violation.

26 Section 28. Section 235.3215, Florida Statutes, is
27 amended to read:

28 235.3215 Toxic substances in construction, repair, or
29 maintenance of educational ~~public school~~ facilities.--

30 (1) All toxic substances enumerated in the Florida
31 Substance List established pursuant to s. 442.103 that are to

1 be used in the construction, repair, or maintenance of
2 educational facilities are restricted to usage according to
3 ~~the following provisions:~~

4 (2)~~(a)~~ Before any such substance may be used, the
5 contractor shall notify the district superintendent or
6 institution president in writing at least three working days
7 prior to using the substance. The notification shall contain:

8 (a)~~1.~~ The name of the substance to be used;

9 (b)~~2.~~ Where the substance is to be used; and

10 (c)~~3.~~ When the substance is to be used.

11
12 There shall be attached to the notification a copy of a
13 material safety data sheet as defined in s. 442.102 for each
14 such substance.

15 ~~(b) The district superintendent shall take all~~
16 ~~reasonable actions to ensure that the contractor complies with~~
17 ~~the safety precautions and handling instructions set forth in~~
18 ~~the material safety data sheet for each substance used by the~~
19 ~~contractor so that usage of the substance poses no threat to~~
20 ~~the health and safety of students, school personnel, and the~~
21 ~~general public.~~

22 ~~(2) This section shall not be construed to impair the~~
23 ~~validity of obligations under contracts in existence on June~~
24 ~~30, 1987.~~

25 Section 29. Paragraph (a) of subsection (1) of section
26 235.34, Florida Statutes, is amended to read:

27 235.34 Expenditures authorized.--

28 (1)(a) Subject to exemption from the assessment of
29 fees pursuant to s. 235.26(1), education school boards, boards
30 ~~of trustees, the Board of Regents,~~boards of county
31 commissioners, municipal boards, and other agencies and boards

1 of the state may expend funds, separately or collectively, by
2 contract or agreement, for the placement, paving, or
3 maintaining of any road, byway, or sidewalk if the road,
4 byway, or sidewalk is contiguous to or runs through the
5 property of any educational plant or for the maintenance or
6 improvement of the property of any educational plant or of any
7 facility on such property. Expenditures may also be made for
8 sanitary sewer, water, stormwater, and utility improvements
9 upon, or contiguous to, and for the installation, operation,
10 and maintenance of traffic control and safety devices upon, or
11 contiguous to, any existing or proposed educational plant.

12 Section 30. Subsection (1) of section 235.40, Florida
13 Statutes, is amended to read:

14 235.40 Radio and television facilities.--

15 (1) A board, ~~including the Board of Regents,~~ may
16 acquire, by purchase, permanent easement, or gift, suitable
17 lands and other facilities, either within or without the
18 boundaries of the district, for use in providing educational
19 radio or television transmitting sites and may erect such
20 buildings, antennas, transmission equipment, towers, or other
21 structures as are necessary to accomplish the purposes of this
22 section.

23 Section 31. Notwithstanding subsection (7) of section
24 3 of chapter 2000-321, Laws of Florida, section 235.41,
25 Florida Statutes, shall not stand repealed on January 7, 2003,
26 as scheduled by that act, but that section is reenacted and
27 amended to read:

28 235.41 Legislative capital outlay budget request.--

29 (1) The commissioner shall develop a procedure deemed
30 appropriate in arriving at the amounts required to fund
31 projects as reflected in the integrated, comprehensive budget

1 request required by this section. The official estimates for
2 funds accruing to the Public Education Capital Outlay and Debt
3 Service Trust Fund made by the revenue estimating conference
4 shall be used in determining the budget request pursuant to
5 this section. The commissioner, in consultation with the
6 appropriations committees of the Legislature, shall provide
7 annually to the Division ~~State Board~~ of Community Colleges and
8 the Division of Colleges and Universities ~~Board of Regents~~ an
9 estimate of funds that shall be utilized by the boards in
10 developing their required 3-year priority lists pursuant to s.
11 235.435.

12 (2) The commissioner shall submit to the Governor and
13 to the Legislature an integrated, comprehensive budget request
14 for educational facilities construction and fixed capital
15 outlay needs for all boards, ~~including the Board of Regents,~~
16 pursuant to the provisions of s. 235.435 and applicable
17 provisions of chapter 216. Each board, ~~including the Board of~~
18 ~~Regents,~~ shall submit to the commissioner a 3-year plan and
19 data required in the development of the annual capital outlay
20 budget. No further disbursements shall be made from the Public
21 Education Capital Outlay and Debt Service Trust Fund to a
22 board that fails to timely submit the required data until such
23 board submits the data.

24 (3) The commissioner shall submit an integrated,
25 comprehensive budget request to the Executive Office of the
26 Governor and to the Legislature each fiscal year by the
27 submission date specified in s. 216.023(1). Notwithstanding
28 the provisions of s. 216.043, the integrated, comprehensive
29 budget request shall include:

30 (a) Recommendations for the priority of expenditure of
31 funds in the state system of public education, with reasons

1 for the recommended priorities, and other recommendations
2 which relate to the effectiveness of the educational
3 facilities construction program.

4 (b) All items in s. 235.435.

5 Section 32. Notwithstanding subsection (7) of section
6 3 of chapter 2000-321, Laws of Florida, section 235.42,
7 Florida Statutes, shall not stand repealed on January 7, 2003,
8 as scheduled by that act, but that section is reenacted and
9 amended to read:

10 235.42 Educational and ancillary plant construction
11 funds; Public Education Capital Outlay and Debt Service Trust
12 Fund; allocation of funds.--

13 (1) The commissioner, through the department, shall
14 administer the Public Education Capital Outlay and Debt
15 Service Trust Fund. The commissioner shall allocate or
16 reallocate funds as authorized by the Legislature. Copies of
17 each allocation or reallocation shall be provided to members
18 of the State Board of Education and to the chairs of the House
19 of Representatives and Senate appropriations committees. The
20 commissioner shall provide for timely encumbrances of funds
21 for duly authorized projects. Encumbrances may include
22 proceeds to be received under a resolution approved by the
23 State Board of Education authorizing the issuance of public
24 education capital outlay bonds pursuant to s. 9(a)(2), Art.
25 XII of the State Constitution, s. 215.61, and other applicable
26 law. The commissioner shall provide for the timely
27 disbursement of moneys necessary to meet the encumbrance
28 authorizations of the boards, ~~including the Board of Regents.~~
29 Records shall be maintained by the department to identify
30 legislative appropriations, allocations, encumbrance
31 authorizations, disbursements, transfers, investments, sinking

1 funds, and revenue receipts by source. The Department of
2 Education shall pay the administrative costs of the Public
3 Education Capital Outlay and Debt Service Trust Fund from the
4 funds which comprise the trust fund.

5 (2)(a) The Public Education Capital Outlay and Debt
6 Service Trust Fund shall be comprised of the following
7 sources, which are hereby appropriated to the trust fund:

8 1. Proceeds, premiums, and accrued interest from the
9 sale of public education bonds and that portion of the
10 revenues accruing from the gross receipts tax as provided by
11 s. 9(a)(2), Art. XII of the State Constitution, as amended,
12 interest on investments, and federal interest subsidies.

13 2. General revenue funds appropriated to the fund for
14 educational capital outlay purposes.

15 3. All capital outlay funds previously appropriated
16 and certified forward pursuant to s. 216.301.

17 (b) Any funds required by law to be segregated or
18 maintained in separate accounts shall be segregated or
19 maintained in such manner that the relationship between
20 program and revenue source is retained. Nothing in this
21 subsection shall be construed so as to limit the use by the
22 Public Education Capital Outlay and Debt Service Trust Fund of
23 the resources of funds so segregated or maintained.

24 (3) Upon the request of each board, ~~including the~~
25 ~~Board of Regents,~~ the department shall distribute to the board
26 an amount sufficient to cover capital outlay disbursements
27 anticipated from encumbrance authorizations for the following
28 month. For projects costing in excess of \$50,000, contracts
29 shall be approved and signed before any disbursements are
30 authorized.

31

1 (4) The department may authorize each board to enter
2 into contracts for a period exceeding 1 year, within amounts
3 appropriated and budgeted for fixed capital outlay needs; but
4 any contract so made shall be executory only for the value of
5 the services to be rendered, or agreed to be paid for, in
6 succeeding fiscal years. This subsection shall be
7 incorporated verbatim in all executory contracts of a board.

8 (5) No board shall, during any fiscal year, expend any
9 money, incur any liability, or enter into any contract which,
10 by its terms, involves expenditure of money in excess of the
11 amounts appropriated and budgeted or in excess of the cash
12 that will be available to meet the disbursement requirements.
13 Prior to entering into an executory, or any other, contract, a
14 board shall obtain certification from the department that
15 moneys will be available to meet the disbursement
16 requirements. Any contract, verbal or written, made in
17 violation of this subsection shall be null and void, and no
18 payment shall be made thereon.

19 (6) The State Board of Administration is authorized to
20 invest the trust funds of any state-supported retirement
21 system, and any other state funds available for loans, to the
22 trust fund at a rate of interest that is no less favorable
23 than would have been received had such moneys been invested in
24 accordance with authorized practices.

25 (7) Boards and entities authorized to participate in
26 the trust fund are district school boards, the community
27 college district boards of trustees, the college and
28 university boards of trustees, the Trustees of the Florida
29 School for the Deaf and the Blind, ~~the Board of Regents~~, and
30 other units of the state system of public education, and other
31

1 educational entities defined in s. 228.041 for which funds are
2 authorized by the Legislature.

3 (8) The department shall make a monthly report, by
4 project, of requests for encumbrance authorization from each
5 agency. Each project shall be tracked in the following
6 manner:

7 (a) The date the request is received;

8 (b) The anticipated encumbrance date requested by the
9 agency;

10 (c) The date the project is eligible for encumbrance
11 authorization; and

12 (d) The date the encumbrance authorization is issued.

13 (9) The department shall make a monthly report:

14 (a) Showing the amount of cash disbursed to the agency
15 from each appropriated allocation and the amount of cash
16 disbursed by the agency to vendors or contractors from each
17 appropriated allocation, by month.

18 (b) Showing updated adjustments to the budget fiscal
19 year forecast for appropriations, encumbrances, disbursements,
20 and cash available for encumbrance status.

21 Section 33. Paragraphs (a), (b), (d), and (h) of
22 subsection (1), paragraph (a) of subsection (2), paragraph (a)
23 of subsection (3), subsection (4), paragraph (a) of subsection
24 (5), and subsection (7) of section 235.435, Florida Statutes,
25 are amended to read:

26 235.435 Funds for comprehensive educational plant
27 needs; construction cost maximums for school district capital
28 projects.--Allocations from the Public Education Capital
29 Outlay and Debt Service Trust Fund to the various boards for
30 capital outlay projects shall be determined as follows:

31

1 (1)(a) Funds for remodeling, renovation, maintenance,
2 repairs, and site improvement for existing satisfactory
3 facilities shall be given priority consideration by the
4 Legislature for appropriations allocated to the boards,
5 ~~including the Board of Regents,~~ from the total amount of the
6 Public Education Capital Outlay and Debt Service Trust Fund
7 appropriated. These funds shall be calculated pursuant to the
8 following basic formula: the building value times the
9 building age over the sum of the years' digits assuming a
10 50-year building life. For relocatable facilities, a 20-year
11 life shall be used. "Building value" is calculated by
12 multiplying each building's total assignable square feet times
13 the appropriate net-to-gross conversion rate found in state
14 board rules and that product times the current average new
15 construction cost. "Building age" is calculated by multiplying
16 the prior year's building age times 1 minus the prior year's
17 sum received from this subsection divided by the prior year's
18 building value. To the net result shall be added the number
19 1. Each board shall receive the percentage generated by the
20 preceding formula of the total amount appropriated for the
21 purposes of this section.

22 (b) Each board, ~~including the Board of Regents,~~ shall
23 not use the funds received pursuant to this section to
24 supplant funds in the current fiscal year approved operating
25 budget, and all budgeted funds shall be expended at a rate not
26 less than would have been expended had the funds under this
27 section not been received.

28 (d) Each board, ~~including the Board of Regents,~~ shall
29 maintain fund accounting in a manner which will permit a
30 detailed audit of the funds expended in this program.

31

1 (h) Boards of trustees for colleges and universities
2 ~~The Board of Regents~~ may utilize funds appropriated pursuant
3 to this section for replacement of minor facilities provided
4 that such projects do not exceed \$500,000 in cost or 5,000
5 gross square feet in size. Minor facilities may not be
6 replaced from funds provided pursuant to this section unless
7 the board ~~of Regents~~ determines that the cost of repair or
8 renovation is greater than or equal to the cost of
9 replacement.

10 (2)(a) The department shall establish, as a part of
11 the Public Education Capital Outlay and Debt Service Trust
12 Fund, a separate account, in an amount determined by the
13 Legislature, to be known as the "Special Facility Construction
14 Account." The Special Facility Construction Account shall be
15 used to provide necessary construction funds to school
16 districts which have urgent construction needs but which lack
17 sufficient resources at present, and cannot reasonably
18 anticipate sufficient resources within the period of the next
19 3 years, for these purposes from currently authorized sources
20 of capital outlay revenue. A school district requesting
21 funding from the Special Facility Construction Account shall
22 submit one specific construction project, not to exceed one
23 complete educational plant, to the Special Facility
24 Construction Committee. No district shall receive funding for
25 more than one approved project in any 3-year period. The first
26 year of the 3-year period shall be the first year a district
27 receives an appropriation. The department shall encourage a
28 construction program that reduces the average size of schools
29 in the district. The request must meet the following criteria
30 to be considered by the committee:
31

- 1 1. The project must be deemed a critical need and must
2 be recommended for funding by the Special Facility
3 Construction Committee. Prior to developing plans for the
4 proposed facility, the district school board must request a
5 preapplication review by the Special Facility Construction
6 Committee or a project review subcommittee convened by the
7 committee to include two representatives of the department and
8 two staff from school districts not eligible to participate in
9 the program ~~other than the district submitting the project.~~
10 Within 60 days after receiving the preapplication review
11 request, the committee or subcommittee must meet in the school
12 district to review the project proposal and existing
13 facilities. To determine whether the proposed project is a
14 critical need, the committee or subcommittee shall consider,
15 at a minimum, the capacity of all existing facilities within
16 the district as determined by the Florida Inventory of School
17 Houses; the district's pattern of student growth; the
18 district's existing and projected capital outlay full-time
19 equivalent student enrollment as determined by the department;
20 the district's existing satisfactory student stations; the use
21 of all existing district property and facilities; grade level
22 configurations; and any other information that may affect the
23 need for the proposed project.
- 24 2. The construction project must be recommended in the
25 most recent survey or surveys by the district under the rules
26 of the State Board of Education.
- 27 3. The construction project must appear on the
28 district's approved project priority list under the rules of
29 the State Board of Education.
30
31

1 4. The district must have selected and had approved a
2 site for the construction project in compliance with s. 235.19
3 and the rules of the State Board of Education.

4 5. The district shall have developed a school board
5 adopted list of facilities that do not exceed the norm for net
6 square feet occupancy requirements under the State
7 Requirements for Educational Facilities, using all possible
8 programmatic combinations for multiple use of space to obtain
9 maximum daily use of all spaces within the facility under
10 consideration.

11 6. Upon construction, the total cost per student
12 station, including change orders, must not exceed the cost per
13 student station as provided in subsection (6).

14 7. There shall be an agreement signed by the district
15 school board stating that it will advertise for bids within 30
16 days of receipt of its encumbrance authorization from the
17 department.

18 8. The district shall, at the time of the request and
19 for a continuing period of 3 years, levy the maximum millage
20 against their nonexempt assessed property value as allowed in
21 s. 236.25(2) or shall raise an equivalent amount of revenue
22 from the school capital outlay surtax authorized under s.
23 212.055(6). ~~Effective July 1, 1991,~~ Any district with a new or
24 active project, funded under the provisions of this
25 subsection, shall be required to budget no more than the value
26 of 1.5 mills per year to the project to satisfy the annual
27 participation requirement in the Special Facility Construction
28 Account.

29 9. If a contract has not been signed 90 days after the
30 advertising of bids, the funding for the specific project
31 shall revert to the Special Facility New Construction Account

1 to be reallocated to other projects on the list. However, an
2 additional 90 days may be granted by the commissioner.

3 10. The department shall certify the inability of the
4 district to fund the survey-recommended project over a
5 continuous 3-year period using projected capital outlay
6 revenue derived from s. 9(d), Art. XII of the State
7 Constitution, as amended, paragraph (3)(a) of this section,
8 and s. 236.25(2).

9 11. The district shall have on file with the
10 department an adopted resolution acknowledging its 3-year
11 commitment of all unencumbered and future revenue acquired
12 from s. 9(d), Art. XII of the State Constitution, as amended,
13 paragraph (3)(a) of this section, and s. 236.25(2).

14 12. Final phase III plans must be certified by the
15 board as complete and in compliance with the building and life
16 safety codes prior to August 1.

17 (3)(a) Each district school board shall receive an
18 amount from the Public Education Capital Outlay and Debt
19 Service Trust Fund to be calculated by computing the capital
20 outlay full-time equivalent membership as determined by the
21 department. Such membership must include, but is not limited
22 to:

23 1. K-12 students, except hospital and homebound
24 part-time students; and

25 2. Students who are workforce development education
26 students, and adult disabled students and who are enrolled in
27 school district technical centers. The capital outlay
28 full-time equivalent membership shall be determined for
29 kindergarten through the 12th grade and for
30 vocational-technical centers by averaging the unweighted
31 full-time equivalent student membership for the second and

1 third surveys and comparing the results on a school-by-school
2 basis with the Florida Inventory for School Houses. The
3 capital outlay full-time equivalent membership by grade level
4 organization shall be used in making the following
5 calculations: The capital-outlay full-time-equivalent
6 membership by grade level organization for the 4th prior year
7 must be used to compute the base-year allocation. The
8 capital-outlay full-time-equivalent membership by grade-level
9 organization for the prior year must be used to compute the
10 growth over the highest of the 3 years preceding the prior
11 year. ~~The capital outlay full-time equivalent membership by~~
12 ~~grade level organization for the 1981-1982 fiscal year shall~~
13 ~~be computed as the base year. The capital outlay full-time~~
14 ~~equivalent membership by grade level organization for the~~
15 ~~1984-1985 fiscal year shall be computed with the positive~~
16 ~~increase over the base year constituting growth. From the~~
17 ~~total amount appropriated by the Legislature pursuant to this~~
18 ~~subsection, 40 percent shall be allocated among the base~~
19 ~~capital outlay full-time equivalent membership and 60 percent~~
20 ~~among the growth capital outlay full-time equivalent~~
21 ~~membership. The allocation within each of these groups shall~~
22 ~~be prorated to the districts based upon each district's~~
23 ~~percentage of base and growth capital outlay full-time~~
24 ~~membership. The most recent 4-year capital outlay full-time~~
25 ~~equivalent membership data shall be used in each subsequent~~
26 ~~year's calculation for the allocation of funds pursuant to~~
27 ~~this subsection. If the growth capital outlay full-time~~
28 ~~equivalent membership for a district declines in any year used~~
29 ~~in their calculation after the initial allocation pursuant to~~
30 ~~this subsection, no allocation for growth capital outlay~~
31 ~~full-time equivalent membership shall be made for any~~

1 ~~subsequent year until the number of capital outlay full-time~~
2 ~~equivalent membership has exceeded the number for which an~~
3 ~~allocation has already been made.~~ If a change, correction, or
4 recomputation of data during any year results in a reduction
5 or increase of the calculated amount previously allocated to a
6 district, the allocation to that district shall be adjusted
7 correspondingly. If such recomputation results in an increase
8 or decrease of the calculated amount, such additional or
9 reduced amounts shall be added to or reduced from the
10 district's future appropriations. However, no change,
11 correction, or recomputation of data shall be made subsequent
12 to 2 years following the initial annual allocation.

13 (4)(a) The boards of trustees of the community
14 colleges, colleges, and universities ~~and the Board of Regents~~
15 ~~of the State University System~~ shall receive funds for
16 projects based on a 3-year priority list, to be updated
17 annually, which is submitted to the Legislature in the
18 legislative budget request at least 90 ~~45~~ days prior to the
19 legislative session. The Division State Board of Community
20 Colleges shall submit a 3-year priority list for the entire
21 Florida Community College System as approved by the State
22 Board of Education. The Division of Colleges and Universities
23 ~~Board of Regents~~ shall submit a 3-year priority list for the
24 ~~entire state colleges and universities~~ University System as
25 approved by the State Board of Education. The list lists
26 shall reflect decisions by the board boards concerning program
27 priorities that implement the statewide plan for program
28 growth and quality improvement in education. No remodeling or
29 renovation project shall be included on the 3-year priority
30 list unless the project has been recommended pursuant to s.
31 235.15 or is for the purpose of correcting health and safety

1 deficiencies. No new construction project shall be included
2 on the first year of the 3-year priority list unless the
3 educational specifications have been approved by the
4 commissioner ~~Chancellor~~ for a community college, college, or
5 university project as applicable projects ~~or by the Division~~
6 ~~of Community Colleges for community college projects~~. The
7 funds requested for a new construction project in the first
8 year of the 3-year priority list shall be in conformance with
9 the scope of the project as defined in the educational
10 specifications. Any new construction project requested in the
11 first year of the 3-year priority list which is not funded by
12 the Legislature shall be carried forward to be listed first in
13 developing the updated 3-year priority list for the subsequent
14 year's capital outlay budget. Should the order of the priority
15 of the projects change from year to year, a justification for
16 such change shall be included with the updated priority list.

17 (b) The boards of trustees of the community colleges,
18 colleges, and universities ~~and the Board of Regents of the~~
19 ~~State University System~~ may lease relocatable educational
20 facilities for up to 3 years using nonbonded PECO funds.

21 (c) The boards of trustees of the community colleges,
22 colleges, and universities ~~and the Board of Regents~~ shall
23 receive funds for remodeling, renovation, maintenance and
24 repairs, and site improvement for existing satisfactory
25 facilities pursuant to subsection (1).

26 (5) District school boards shall identify each fund
27 source and the use of each proportionate to the project cost,
28 as identified in the bid document, to assure compliance with
29 this section. The data shall be submitted to the department,
30 which shall track this information as submitted by the boards.

31

1 PECO funds shall not be expended as indicated in the
2 following:

3 (a) District school boards shall provide landscaping
4 by local funding sources or initiatives. District school
5 boards are exempt from local landscape ordinances but may
6 comply with the local requirements if such compliance is less
7 costly than compliance with the landscape requirements of the
8 Florida State Uniform Building Code for Public Educational
9 Facilities.

10 ~~(7)(a) The Department of Education shall establish,~~
11 ~~beginning with the 1992-1993 fiscal year, as a part of the~~
12 ~~Public Education Capital Outlay and Debt Service Trust Fund, a~~
13 ~~separate account to be known as the Increased Utilization~~
14 ~~Account in an amount each year not to exceed 5 percent of the~~
15 ~~total funds appropriated under the provisions of paragraph~~
16 ~~(3)(a). These funds shall be allocated by the commissioner to~~
17 ~~any public school district according to the following formula:~~
18 ~~Any eligible school that increases its FTE facility capacity~~
19 ~~by at least 20 percent as a result of using the modified~~
20 ~~school calendar shall receive up to a maximum of \$100 per~~
21 ~~total FTE generated within the school.~~

22 ~~(b) To be eligible, the district school board must~~
23 ~~submit a resolution prior to August 1 of each fiscal year,~~
24 ~~beginning August 1, 1992, of its intent to participate in the~~
25 ~~Increased Utilization Account and listing each of the schools~~
26 ~~eligible during the prior fiscal year, with the first year~~
27 ~~being 1991-1992. The information listed for each school must~~
28 ~~include the maximum FTE capacity for the year as contained in~~
29 ~~the Florida inventory of school houses in the Office of~~
30 ~~Educational Facilities, and the increase attributable to the~~
31 ~~modified school calendar. To be eligible, each individual~~

1 ~~school FTE must exceed the maximum facility capacity during~~
2 ~~the fiscal year by at least 20 percent.~~

3 ~~(c) Each school district qualifying for funding under~~
4 ~~this subsection may be paid up to \$100 per total FTE per~~
5 ~~eligible school site for a maximum of 5 years for each~~
6 ~~eligible school provided that funds are available. If funds~~
7 ~~are insufficient during any fiscal year, the commissioner~~
8 ~~shall determine the pro rata amount.~~

9 ~~(d) Funds received by a school district from the~~
10 ~~Increased Utilization Account shall be exempt from repayment~~
11 ~~of any project outstanding pursuant to the provisions of~~
12 ~~subsection (2).~~

13 ~~(e) Funds accruing to a district school board from the~~
14 ~~provisions of this subsection shall be expended on needed~~
15 ~~projects as shown by survey or surveys under the rules of the~~
16 ~~state board.~~

17 ~~(f) For the purpose of implementing the provisions of~~
18 ~~this subsection, "modified school calendar" means an extended~~
19 ~~school week or an extended school year. Overcrowding of a~~
20 ~~school or double sessions do not apply.~~

21 Section 34. Section 235.4351, Florida Statutes, is
22 amended to read:

23 235.4351 Waivers from certain requirements.--The State
24 Board of Education shall ~~commissioner may~~ adopt standards, by
25 rule, for the provision of waivers from the requirements of
26 this chapter relating to plant surveys, need projections, and
27 cost ceilings. Special consideration for waiver shall be given
28 to:

29 (1) Projects of school districts for which no state
30 money is spent.

31

1 (2) Projects of school districts that certify that all
2 of the district's educational plant space needs for the next 5
3 years can be met from:

4 (a) Capital outlay sources that the district
5 reasonably expects to receive during the next 5 years; or

6 (b) Alternative scheduling or construction, leasing,
7 rezoning, or technological methodologies exhibiting sound
8 management.

9
10 The commissioner shall report annually to the Legislature and
11 the Governor, by January 1, the prior year's waivers granted
12 under this section.

13 Section 35. This act shall take effect July 1, 2002.

14
15 *****

16 SENATE SUMMARY

17 Revises various sections of ch. 235, F.S., to accommodate
18 changes in education governance structure and reenacts
19 and amends various sections subject to repeal pending
20 legislative review.
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