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1 A bill to be entitled

2 An act relating to school district capital outlay revenue;
3 amending s. 125.01, F.S.; providing that a county in which
4 the school board is receiving certain intangible tax
5 revenues or levying the local option sales surtax is
6 prohibited from levying school impact fees; amending s.
7 199.292, F.S.; providing for transfer of a portion of
8 nonrecurring intangible personal property tax revenues to
9 the School District Capital Outlay Trust Fund; providing
10 for distribution of a portion of such revenues to school
11 districts that collected impact fee revenues in fiscal
12 year 2002-2003 to supplant such impact fees; providing
13 requirements for distribution of the remainder of such
14 revenues to all school districts; amending s. 212.054,
15 F.S.; providing for application of certain notice
16 requirements for levy of the surtax; amending ss. 212.055,
17 1011.71, F.S.; providing that school boards may levy a
18 local option sales surtax in lieu of levying all or a part
19 of the nonvoted district school capital improvement
20 millage; authorizing levy of such surtax by resolution and
21 providing requirements with respect thereto; providing for
22 uses of the surtax proceeds; amending s. 1013.15, F.S.,
23 relating to lease or rental of educational facilities and
24 sites, and s. 1013.64, F.S., relating to requests for
25 funding from the Special Facility Construction Account, to
26 conform; providing a contingent effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsection (8) is added to section 125.01,
 31 Florida Statutes, to read:

32 125.01 Powers and duties.--

33 (8) Any county in which the school board is receiving
 34 intangible personal property tax revenues pursuant to s.
 35 199.292(2) or levying the local option sales surtax pursuant to
 36 ss. 212.055(8) and 1011.71(2) is prohibited from levying any
 37 impact fee for school purposes.

38 Section 2. Section 199.292, Florida Statutes, is amended
 39 to read:

40 199.292 Disposition of intangible personal property
 41 taxes.--All intangible personal property taxes collected
 42 pursuant to this chapter shall be placed in a special fund
 43 designated as the "Intangible Tax Trust Fund." The fund shall be
 44 disbursed as follows:

45 (1) Revenues derived from the annual tax on a leasehold
 46 described in s. 199.023(1)(d) shall be returned to the local
 47 school board for the county in which the property subject to the
 48 leasehold is situated.

49 (2) Sixty-two and three-tenths percent of the revenues
 50 derived from the nonrecurring tax imposed by s. 199.133 shall be
 51 transferred to the School District Capital Outlay Trust Fund.
 52 These funds shall be distributed in the following manner:

53 (a) An amount equal to school impact fee collections in
 54 fiscal year 2002-2003 shall be distributed to the school
 55 districts that collected such fees to supplant their school
 56 impact fees. When any such school district levies a local option
 57 sales surtax pursuant to ss. 212.055(8) and 1011.71(2), it will
 58 not be eligible to receive funds under this paragraph but will
 59 remain eligible to receive funds under paragraph (b).



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60 (b) The balance of these revenues shall be distributed to
 61 all school districts as follows:

62 1. Twenty-five percent of the balance shall be distributed
 63 pro rata to the districts based on each district's percentage of
 64 base capital outlay full-time-equivalent membership, and 65
 65 percent of the balance shall be distributed pro rata to the
 66 districts based on each district's percentage of gross capital
 67 outlay full-time-equivalent membership as specified for the
 68 allocation of funds from the Public Education Capital Outlay and
 69 Debt Service Trust Fund by s. 1013.64(3).

70 2. Ten percent of the balance shall be allocated among the
 71 district school boards according to the allocation formula in s.
 72 1013.64(1)(a).

73 (3)(2) There is ~~hereby~~ appropriated annually out of the
 74 fund the amount necessary for the effective and efficient
 75 administration and enforcement by the department of the
 76 provisions of chapters 192, 193, 194, 195, 196, 197, and 198 and
 77 this chapter.

78 (4)(3) Of the remaining intangible personal property taxes
 79 collected, the balance shall be transferred to the General
 80 Revenue Fund of the state.

81 Section 3. Subsection (7) of section 212.054, Florida
 82 Statutes, is amended to read:

83 212.054 Discretionary sales surtax; limitations,
 84 administration, and collection.--

85 (7)(a) The governing body of any county levying a
 86 discretionary sales surtax or the school board of any county
 87 levying the school capital outlay surtax authorized by s.
 88 212.055(6) or (8) shall notify the department within 10 days
 89 after final adoption by ordinance, resolution, or referendum of



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90 an imposition, termination, or rate change of the surtax, but no
 91 later than November 16 prior to the effective date. The notice
 92 must specify the time period during which the surtax will be in
 93 effect and the rate and must include a copy of the ordinance or
 94 resolution and such other information as the department requires
 95 by rule. Failure to timely provide such notification to the
 96 department shall result in the delay of the effective date for a
 97 period of 1 year.

98 (b) In addition to the notification required by paragraph
 99 (a), the governing body of any county proposing to levy a
 100 discretionary sales surtax or the school board of any county
 101 proposing to levy the school capital outlay surtax authorized by
 102 s. 212.055(6) or (8) shall notify the department by October 1 if
 103 the referendum or consideration of the ordinance or resolution
 104 that would result in imposition, termination, or rate change of
 105 the surtax is scheduled to occur on or after October 1 of that
 106 year. Failure to timely provide such notification to the
 107 department shall result in the delay of the effective date for a
 108 period of 1 year.

109 Section 4. Subsection (8) is added to section 212.055,
 110 Florida Statutes, to read:

111 212.055 Discretionary sales surtaxes; legislative intent;
 112 authorization and use of proceeds.--It is the legislative intent
 113 that any authorization for imposition of a discretionary sales
 114 surtax shall be published in the Florida Statutes as a
 115 subsection of this section, irrespective of the duration of the
 116 levy. Each enactment shall specify the types of counties
 117 authorized to levy; the rate or rates which may be imposed; the
 118 maximum length of time the surtax may be imposed, if any; the
 119 procedure which must be followed to secure voter approval, if



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120 required; the purpose for which the proceeds may be expended;
 121 and such other requirements as the Legislature may provide.
 122 Taxable transactions and administrative procedures shall be as
 123 provided in s. 212.054.

124 (8) SCHOOL CAPITAL OUTLAY MILLAGE EXCHANGE SURTAX.--

125 (a) The school board in any county may levy by resolution
 126 a discretionary sales surtax of 1 percent in lieu of levying 2
 127 mills of ad valorem tax under s. 1011.71(2), or a discretionary
 128 sales surtax of 0.5 percent in lieu of levying 1 mill of ad
 129 valorem tax under s. 1011.71(2). If a school board that is
 130 levying millage under s. 1011.71(2) levies the discretionary
 131 sales surtax under this subsection at the rate of 1 percent, it
 132 must reduce the millage it levies under s. 1011.71(2) by 2
 133 mills. If a school board that is levying millage under s.
 134 1011.71(2) levies the discretionary sales surtax under this
 135 subsection at the rate of 0.5 percent, it must reduce the
 136 millage it levies under s. 1011.71(2) by 1 mill.

137 (b) The resolution levying a discretionary sales surtax
 138 under this subsection shall set forth a plan for the use of
 139 surtax proceeds for school capital outlay projects.

140 (c) The proceeds of a discretionary sales surtax levied
 141 under this subsection shall be used by the school district only
 142 for those purposes specified in s. 1011.71(2) and (5).

143 (d) Surtax proceeds collected by the Department of Revenue
 144 pursuant to this subsection shall be distributed to the school
 145 board imposing the surtax in accordance with law.

146 Section 5. Section 1011.71, Florida Statutes, is amended
 147 to read:

148 1011.71 District school tax.--



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149 (1) If the district school tax is not provided in the
150 General Appropriations Act or the substantive bill implementing
151 the General Appropriations Act, each district school board
152 desiring to participate in the state allocation of funds for
153 current operation as prescribed by s. 1011.62(9) shall levy on
154 the taxable value for school purposes of the district, exclusive
155 of millage voted under the provisions of s. 9(b) or s. 12, Art.
156 VII of the State Constitution, a millage rate not to exceed the
157 amount certified by the commissioner as the minimum millage rate
158 necessary to provide the district required local effort for the
159 current year, pursuant to s. 1011.62(4)(a)1. In addition to the
160 required local effort millage levy, each district school board
161 may levy a nonvoted current operating discretionary millage. The
162 Legislature shall prescribe annually in the appropriations act
163 the maximum amount of millage a district may levy. The millage
164 rate prescribed shall exceed zero mills but shall not exceed the
165 lesser of 1.6 mills or 25 percent of the millage which is
166 required pursuant to s. 1011.62(4), exclusive of millage levied
167 pursuant to subsection (2).

168 (2) In addition to the maximum millage levy as provided in
169 subsection (1), each school board may levy up to ~~not more than~~ 2
170 mills against the taxable value for school purposes or, in lieu
171 of a levy of 2 mills, a school board may levy a 1-cent local
172 option sales surtax in accordance with s. 212.055(8), or in lieu
173 of 1 mill of such levy a school board may levy a 0.5-cent local
174 option sales surtax in accordance with s. 212.055(8). This
175 millage or sales surtax levy shall be used to fund:

176 (a) New construction and remodeling projects, as set forth
177 in s. 1013.64(3)(b) and (6)(b) and included in the district's
178 educational plant survey pursuant to s. 1013.31, without regard



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179 to prioritization, sites and site improvement or expansion to
 180 new sites, existing sites, auxiliary facilities, athletic
 181 facilities, or ancillary facilities.

182 (b) Maintenance, renovation, and repair of existing school
 183 plants or of leased facilities to correct deficiencies pursuant
 184 to s. 1013.15(2).

185 (c) The purchase, lease-purchase, or lease of school
 186 buses; drivers' education vehicles; motor vehicles used for the
 187 maintenance or operation of plants and equipment; security
 188 vehicles; or vehicles used in storing or distributing materials
 189 and equipment.

190 (d) The purchase, lease-purchase, or lease of new and
 191 replacement equipment.

192 (e) Payments for educational facilities and sites due
 193 under a lease-purchase agreement entered into by a district
 194 school board pursuant to s. 1003.02(1)(f) or s. 1013.15(2), not
 195 exceeding, in the aggregate, an amount equal to three-fourths of
 196 the proceeds from the millage or sales surtax levied by a
 197 district school board pursuant to this subsection.

198 (f) Payment of loans approved pursuant to ss. 1011.14 and
 199 1011.15.

200 (g) Payment of costs directly related to complying with
 201 state and federal environmental statutes, rules, and regulations
 202 governing school facilities.

203 (h) Payment of costs of leasing relocatable educational
 204 facilities, of renting or leasing educational facilities and
 205 sites pursuant to s. 1013.15(2), or of renting or leasing
 206 buildings or space within existing buildings pursuant to s.
 207 1013.15(4).

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209 Violations of these expenditure provisions shall result in an
210 equal dollar reduction in the Florida Education Finance Program
211 (FEFP) funds for the violating district in the fiscal year
212 following the audit citation.

213 (3) These ad valorem taxes shall be certified, assessed,
214 and collected as prescribed in s. 1011.04 and shall be expended
215 as provided by law.

216 (4) Nothing in s. 1011.62(4)(a)1. shall in any way be
217 construed to increase the maximum school millage levies as
218 provided for in subsection (1).

219 (5)(a) It is the intent of the Legislature that, by July
220 1, 2003, revenue generated by the millage or local option sales
221 surtax levy authorized by subsection (2) should be used only for
222 the costs of construction, renovation, remodeling, maintenance,
223 and repair of the educational plant; for the purchase, lease, or
224 lease-purchase of equipment, educational plants, and
225 construction materials directly related to the delivery of
226 student instruction; for the rental or lease of existing
227 buildings, or space within existing buildings, originally
228 constructed or used for purposes other than education, for
229 conversion to use as educational facilities; for the opening day
230 collection for the library media center of a new school; for the
231 purchase, lease-purchase, or lease of school buses; and for
232 servicing of payments related to certificates of participation
233 issued for any purpose prior to the effective date of this act.
234 Costs associated with the lease-purchase of equipment,
235 educational plants, and school buses may include the issuance of
236 certificates of participation on or after the effective date of
237 this act and the servicing of payments related to certificates



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238 so issued. For purposes of this section, "maintenance and
239 repair" is defined in s. 1013.01.

240 (b) For purposes not delineated in paragraph (a) for which
241 proceeds received from millage or a local option sales surtax
242 levied under subsection (2) may be legally expended, a district
243 school board may spend no more than the following percentages of
244 the amount the district spent for these purposes in fiscal year
245 1995-1996:

- 246 1. In fiscal year 2000-2001, 40 percent.
- 247 2. In fiscal year 2001-2002, 25 percent.
- 248 3. In fiscal year 2002-2003, 10 percent.

249 (c) Beginning July 1, 2003, revenue generated by the
250 millage or local option sales surtax levy authorized by
251 subsection (2) must be used only for the purposes delineated in
252 paragraph (a).

253 (d) Notwithstanding any other provision of this
254 subsection, if through its adopted educational facilities plan a
255 district has clearly identified the need for an ancillary plant,
256 has provided opportunity for public input as to the relative
257 value of the ancillary plant versus an educational plant, and
258 has obtained public approval, the district may use revenue
259 generated by the millage or local option sales surtax levy
260 authorized by subsection(2) for the acquisition, construction,
261 renovation, remodeling, maintenance, or repair of an ancillary
262 plant.

263
264 A district that violates these expenditure restrictions shall
265 have an equal dollar reduction in funds appropriated to the
266 district under s. 1011.62 in the fiscal year following the audit
267 citation. The expenditure restrictions do not apply to any



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268 school district that certifies to the Commissioner of Education
269 that all of the district's instructional space needs for the
270 next 5 years can be met from capital outlay sources that the
271 district reasonably expects to receive during the next 5 years
272 or from alternative scheduling or construction, leasing,
273 rezoning, or technological methodologies that exhibit sound
274 management.

275 (6) In addition to the maximum millage levied under this
276 section and the General Appropriations Act, a school district
277 may levy, by local referendum or in a general election,
278 additional millage for school operational purposes up to an
279 amount that, when combined with nonvoted millage levied under
280 this section, does not exceed the 10-mill limit established in
281 s. 9(b), Art. VII of the State Constitution. Any such levy shall
282 be for a maximum of 4 years and shall be counted as part of the
283 10-mill limit established in s. 9(b), Art. VII of the State
284 Constitution. Millage elections conducted under the authority
285 granted pursuant to this section are subject to s. 1011.73.
286 Funds generated by such additional millage do not become a part
287 of the calculation of the Florida Education Finance Program
288 total potential funds in 2001-2002 or any subsequent year and
289 must not be incorporated in the calculation of any hold-harmless
290 or other component of the Florida Education Finance Program
291 formula in any year. If an increase in required local effort,
292 when added to existing millage levied under the 10-mill limit,
293 would result in a combined millage in excess of the 10-mill
294 limit, any millage levied pursuant to this subsection shall be
295 considered to be required local effort to the extent that the
296 district millage would otherwise exceed the 10-mill limit.



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297 Section 6. Paragraph (a) of subsection (2) and paragraph
298 (a) of subsection (4) of section 1013.15, Florida Statutes, are
299 amended to read:

300 1013.15 Lease, rental, and lease-purchase of educational
301 facilities and sites.--

302 (2)(a) A district school board may rent or lease
303 educational facilities and sites as defined in s. 1013.01.
304 Educational facilities and sites rented or leased for 1 year or
305 less shall be funded through the operations budget or local
306 option sales surtax or funds derived from millage proceeds
307 pursuant to s. 1011.71(2). A lease contract for 1 year or less,
308 when extended or renewed beyond a year, becomes a multiple-year
309 lease. Operational funds or funds derived from millage or local
310 option sales surtax proceeds pursuant to s. 1011.71(2) may be
311 authorized to be expended for multiple-year leases. All leased
312 facilities and sites must be inspected prior to occupancy by the
313 authority having jurisdiction.

314 1. All newly leased spaces must be inspected and brought
315 into compliance with the Florida Building Code pursuant to
316 chapter 553 and the life safety codes pursuant to chapter 633,
317 prior to occupancy, using the board's operations budget or funds
318 derived from millage or local option sales surtax proceeds
319 pursuant to s. 1011.71(2).

320 2. Plans for renovation or remodeling of leased space
321 shall conform to the Florida Building Code and the Florida Fire
322 Prevention Code for educational occupancies or other
323 occupancies, as appropriate and as required in chapters 553 and
324 633, prior to occupancy.

325 3. All leased facilities must be inspected annually for
326 firesafety deficiencies in accordance with the applicable code



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327 and have corrections made in accordance with s. 1013.12.
 328 Operational funds or funds derived from millage or local option
 329 sales surtax proceeds pursuant to s. 1011.71(2) may be used to
 330 correct deficiencies in leased space.

331 4. When the board declares that a public emergency exists,
 332 it may take up to 30 days to bring the leased facility into
 333 compliance with the requirements of State Board of Education
 334 rules.

335 (4)(a) A board may rent or lease existing buildings, or
 336 space within existing buildings, originally constructed or used
 337 for purposes other than education, for conversion to use as
 338 educational facilities. Such buildings rented or leased for 1
 339 year or less shall be funded through the operations budget or
 340 funds derived from millage or a local option sales surtax
 341 pursuant to s. 1011.71(2). A rental agreement or lease contract
 342 for 1 year or less, when extended or renewed beyond a year,
 343 becomes a multiple-year rental or lease. Operational funds or
 344 funds derived from millage or local option sales surtax proceeds
 345 pursuant to s. 1011.71(2) may be authorized to be expended for
 346 multiple-year rentals or leases. Notwithstanding any other
 347 provisions of this section, if a building was constructed in
 348 conformance with all applicable building and life safety codes,
 349 it shall be deemed to meet the requirements for use and
 350 occupancy as an educational facility subject only to the
 351 provisions of this subsection.

352 Section 7. Paragraph (a) of subsection (2) and paragraph
 353 (c) of subsection (3) of section 1013.64, Florida Statutes, are
 354 amended to read:

355 1013.64 Funds for comprehensive educational plant needs;
 356 construction cost maximums for school district capital



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357 projects.--Allocations from the Public Education Capital Outlay
358 and Debt Service Trust Fund to the various boards for capital
359 outlay projects shall be determined as follows:

360 (2)(a) The department shall establish, as a part of the
361 Public Education Capital Outlay and Debt Service Trust Fund, a
362 separate account, in an amount determined by the Legislature, to
363 be known as the "Special Facility Construction Account." The
364 Special Facility Construction Account shall be used to provide
365 necessary construction funds to school districts which have
366 urgent construction needs but which lack sufficient resources at
367 present, and cannot reasonably anticipate sufficient resources
368 within the period of the next 3 years, for these purposes from
369 currently authorized sources of capital outlay revenue. A school
370 district requesting funding from the Special Facility
371 Construction Account shall submit one specific construction
372 project, not to exceed one complete educational plant, to the
373 Special Facility Construction Committee. No district shall
374 receive funding for more than one approved project in any 3-year
375 period. The first year of the 3-year period shall be the first
376 year a district receives an appropriation. The department shall
377 encourage a construction program that reduces the average size
378 of schools in the district. The request must meet the following
379 criteria to be considered by the committee:

380 1. The project must be deemed a critical need and must be
381 recommended for funding by the Special Facility Construction
382 Committee. Prior to developing plans for the proposed facility,
383 the district school board must request a preapplication review
384 by the Special Facility Construction Committee or a project
385 review subcommittee convened by the committee to include two
386 representatives of the department and two staff from school



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387 districts not eligible to participate in the program. Within 60
388 days after receiving the preapplication review request, the
389 committee or subcommittee must meet in the school district to
390 review the project proposal and existing facilities. To
391 determine whether the proposed project is a critical need, the
392 committee or subcommittee shall consider, at a minimum, the
393 capacity of all existing facilities within the district as
394 determined by the Florida Inventory of School Houses; the
395 district's pattern of student growth; the district's existing
396 and projected capital outlay full-time equivalent student
397 enrollment as determined by the department; the district's
398 existing satisfactory student stations; the use of all existing
399 district property and facilities; grade level configurations;
400 and any other information that may affect the need for the
401 proposed project.

402 2. The construction project must be recommended in the
403 most recent survey or surveys by the district under the rules of
404 the State Board of Education.

405 3. The construction project must appear on the district's
406 approved project priority list under the rules of the State
407 Board of Education.

408 4. The district must have selected and had approved a site
409 for the construction project in compliance with s. 1013.36 and
410 the rules of the State Board of Education.

411 5. The district shall have developed a district school
412 board adopted list of facilities that do not exceed the norm for
413 net square feet occupancy requirements under the State
414 Requirements for Educational Facilities, using all possible
415 programmatic combinations for multiple use of space to obtain



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416 maximum daily use of all spaces within the facility under
417 consideration.

418 6. Upon construction, the total cost per student station,
419 including change orders, must not exceed the cost per student
420 station as provided in subsection(6).

421 7. There shall be an agreement signed by the district
422 school board stating that it will advertise for bids within 30
423 days of receipt of its encumbrance authorization from the
424 department.

425 8. The district shall, at the time of the request and for
426 a continuing period of 3 years, levy a millage or surtax, or
427 combination thereof, under the maximum millage against their
428 nonexempt assessed property value as allowed in s. 1011.71(2)
429 which generates an amount that is at least equal to the amount
430 that would be generated by levy of the maximum millage rate
431 authorized by s. 1011.71(2) or shall raise an equivalent amount
432 of revenue from the school capital outlay surtax authorized
433 under s. 212.055(6). Any district with a new or active project,
434 funded under the provisions of this subsection, shall be
435 required to budget no more than the value of 1.5 mills per year
436 to the project to satisfy the annual participation requirement
437 in the Special Facility Construction Account.

438 9. If a contract has not been signed 90 days after the
439 advertising of bids, the funding for the specific project shall
440 revert to the Special Facility New Construction Account to be
441 reallocated to other projects on the list. However, an
442 additional 90 days may be granted by the commissioner.

443 10. The department shall certify the inability of the
444 district to fund the survey-recommended project over a
445 continuous 3-year period using projected capital outlay revenue



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446 derived from s. 9(d), Art. XII of the State Constitution, as
447 amended, paragraph (3)(a) of this section, and s. 1011.71(2).

448 11. The district shall have on file with the department an
449 adopted resolution acknowledging its 3-year commitment of all
450 unencumbered and future revenue acquired from s. 9(d), Art. XII
451 of the State Constitution, as amended, paragraph (3)(a) of this
452 section, and s. 1011.71(2).

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

456 (3)

457 (c) A district school board may lease relocatable
458 educational facilities for up to 3 years using nonbonded PECO
459 funds and for any time period using local capital outlay millage
460 or local option sales surtax revenues authorized by s.
461 212.055(8).

462 Section 8. This act shall take effect July 1, 2003, if
463 House Bill ___ or similar legislation creating the School
464 District Capital Outlay Trust Fund is adopted in the same
465 legislative session or an extension thereof and becomes law.