

By Senator Wasserman Schultz

34-224-03

1 A bill to be entitled
2 An act relating to school district capital
3 outlay revenue; amending s. 125.01, F.S.;
4 providing that a county in which the school
5 board is receiving certain intangible tax
6 revenues or levying the local option sales
7 surtax is prohibited from levying school impact
8 fees; amending s. 199.292, F.S.; providing for
9 transfer of a portion of nonrecurring
10 intangible personal property tax revenues to
11 the School District Capital Outlay Trust Fund;
12 providing for distribution of a portion of such
13 revenues to school districts that collected
14 impact fee revenues in fiscal year 2002-2003 to
15 supplant such impact fees; providing
16 requirements for distribution of the remainder
17 of such revenues to all school districts;
18 amending s. 212.054, F.S.; providing for
19 application of certain notice requirements for
20 levy of the surtax; amending ss. 212.055,
21 1011.71, F.S.; providing that school boards may
22 levy a local option sales surtax in lieu of
23 levying all or a part of the nonvoted district
24 school capital improvement millage; authorizing
25 levy of such surtax by resolution and providing
26 requirements with respect thereto; providing
27 for uses of the surtax proceeds; amending s.
28 1013.15, F.S., relating to lease or rental of
29 educational facilities and sites and s.
30 1013.64, F.S., relating to requests for funding
31 from the Special Facility Construction Account,

1 to conform; providing a contingent effective
2 date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Subsection (8) is added to section 125.01,
7 Florida Statutes, to read:

8 125.01 Powers and duties.--

9 (8) Any county in which the school board is receiving
10 intangible personal property tax revenues pursuant to s.
11 199.292(2) or levying the local option sales surtax pursuant
12 to ss. 212.055(8) and 1011.71(2) is prohibited from levying
13 any impact fee for school purposes.

14 Section 2. Section 199.292, Florida Statutes, is
15 amended to read:

16 199.292 Disposition of intangible personal property
17 taxes.--All intangible personal property taxes collected
18 pursuant to this chapter shall be placed in a special fund
19 designated as the "Intangible Tax Trust Fund." The fund shall
20 be disbursed as follows:

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

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

30 (a) An amount equal to school impact fee collections
31 in fiscal year 2002-2003 shall be distributed to the school

1 districts that collected such fees to supplant their school
2 impact fees. When any such school district levies a local
3 option sales surtax pursuant to ss. 212.055(8) and 1011.71(2),
4 it will not be eligible to receive funds under this paragraph
5 but will remain eligible to receive funds under paragraph (b).

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

8 1. Twenty-five percent of the balance shall be
9 distributed pro rata to the districts based on each district's
10 percentage of base capital outlay full-time-equivalent
11 membership, and 65 percent of the balance shall be distributed
12 pro rata to the districts based on each district's percentage
13 of gross capital outlay full-time-equivalent membership as
14 specified for the allocation of funds from the Public
15 Education Capital Outlay and Debt Service Trust Fund by s.
16 1013.64(3).

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

20 (3)(2) There is hereby appropriated annually out of
21 the fund the amount necessary for the effective and efficient
22 administration and enforcement by the department of the
23 provisions of chapters 192, 193, 194, 195, 196, 197, and 198
24 and this chapter.

25 (4)(3) Of the remaining intangible personal property
26 taxes collected, the balance shall be transferred to the
27 General Revenue Fund of the state.

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

30 212.054 Discretionary sales surtax; limitations,
31 administration, and collection.--

1 (7)(a) The governing body of any county levying a
2 discretionary sales surtax or the school board of any county
3 levying the school capital outlay surtax authorized by s.
4 212.055(6) or (8) shall notify the department within 10 days
5 after final adoption by ordinance, resolution, or referendum
6 of an imposition, termination, or rate change of the surtax,
7 but no later than November 16 prior to the effective date.
8 The notice must specify the time period during which the
9 surtax will be in effect and the rate and must include a copy
10 of the ordinance or resolution and such other information as
11 the department requires by rule. Failure to timely provide
12 such notification to the department shall result in the delay
13 of the effective date for a period of 1 year.

14 (b) In addition to the notification required by
15 paragraph (a), the governing body of any county proposing to
16 levy a discretionary sales surtax or the school board of any
17 county proposing to levy the school capital outlay surtax
18 authorized by s. 212.055(6) or (8) shall notify the department
19 by October 1 if the referendum or consideration of the
20 ordinance or resolution that would result in imposition,
21 termination, or rate change of the surtax is scheduled to
22 occur on or after October 1 of that year. Failure to timely
23 provide such notification to the department shall result in
24 the delay of the effective date for a period of 1 year.

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

27 212.055 Discretionary sales surtaxes; legislative
28 intent; authorization and use of proceeds.--It is the
29 legislative intent that any authorization for imposition of a
30 discretionary sales surtax shall be published in the Florida
31 Statutes as a subsection of this section, irrespective of the

1 duration of the levy. Each enactment shall specify the types
2 of counties authorized to levy; the rate or rates which may be
3 imposed; the maximum length of time the surtax may be imposed,
4 if any; the procedure which must be followed to secure voter
5 approval, if required; the purpose for which the proceeds may
6 be expended; and such other requirements as the Legislature
7 may provide. Taxable transactions and administrative
8 procedures shall be as provided in s. 212.054.

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

10 (a) The school board in any county may levy by
11 resolution a discretionary sales surtax of 1 percent in lieu
12 of levying 2 mills of ad valorem tax under s. 1011.71(2), or a
13 discretionary sales surtax of 0.5 percent in lieu of levying 1
14 mill of ad valorem tax under s. 1011.71(2). If a school board
15 that is levying millage under s. 1011.71(2) levies the
16 discretionary sales surtax under this subsection at the rate
17 of 1 percent, it must reduce the millage it levies under s.
18 1011.71(2) by 2 mills. If a school board that is levying
19 millage under s. 1011.71(2) levies the discretionary sales
20 surtax under this subsection at the rate of 0.5 percent, it
21 must reduce the millage it levies under s. 1011.71(2) by 1
22 mill.

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

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

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

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

6 1011.71 District school tax.--

7 (1) If the district school tax is not provided in the
8 General Appropriations Act or the substantive bill
9 implementing the General Appropriations Act, each district
10 school board desiring to participate in the state allocation
11 of funds for current operation as prescribed by s. 1011.62(9)
12 shall levy on the taxable value for school purposes of the
13 district, exclusive of millage voted under the provisions of
14 s. 9(b) or s. 12, Art. VII of the State Constitution, a
15 millage rate not to exceed the amount certified by the
16 commissioner as the minimum millage rate necessary to provide
17 the district required local effort for the current year,
18 pursuant to s. 1011.62(4)(a)1. In addition to the required
19 local effort millage levy, each district school board may levy
20 a nonvoted current operating discretionary millage. The
21 Legislature shall prescribe annually in the appropriations act
22 the maximum amount of millage a district may levy. The millage
23 rate prescribed shall exceed zero mills but shall not exceed
24 the lesser of 1.6 mills or 25 percent of the millage which is
25 required pursuant to s. 1011.62(4), exclusive of millage
26 levied pursuant to subsection (2).

27 (2) In addition to the maximum millage levy as
28 provided in subsection (1), each school board may levy up to
29 ~~not more than~~ 2 mills against the taxable value for school
30 purposes or, in lieu of a levy of 2 mills, a school board may
31 levy a 1-cent local option sales surtax in accordance with s.

1 212.055(8), or in lieu of 1 mill of such levy a school board
2 may levy a 0.5-cent local option sales surtax in accordance
3 with s. 212.055(8). This millage or sales surtax levy shall be
4 used to fund:

5 (a) New construction and remodeling projects, as set
6 forth in s. 1013.64(3)(b) and (6)(b) and included in the
7 district's educational plant survey pursuant to s. 1013.31,
8 without regard to prioritization, sites and site improvement
9 or expansion to new sites, existing sites, auxiliary
10 facilities, athletic facilities, or ancillary facilities.

11 (b) Maintenance, renovation, and repair of existing
12 school plants or of leased facilities to correct deficiencies
13 pursuant to s. 1013.15(2).

14 (c) The purchase, lease-purchase, or lease of school
15 buses; drivers' education vehicles; motor vehicles used for
16 the maintenance or operation of plants and equipment; security
17 vehicles; or vehicles used in storing or distributing
18 materials and equipment.

19 (d) The purchase, lease-purchase, or lease of new and
20 replacement equipment.

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

27 (f) Payment of loans approved pursuant to ss. 1011.14
28 and 1011.15.

29 (g) Payment of costs directly related to complying
30 with state and federal environmental statutes, rules, and
31 regulations governing school facilities.

1 (h) Payment of costs of leasing relocatable
2 educational facilities, of renting or leasing educational
3 facilities and sites pursuant to s. 1013.15(2), or of renting
4 or leasing buildings or space within existing buildings
5 pursuant to s. 1013.15(4).

6
7 Violations of these expenditure provisions shall result in an
8 equal dollar reduction in the Florida Education Finance
9 Program (FEFP) funds for the violating district in the fiscal
10 year following the audit citation.

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

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

17 (5)(a) It is the intent of the Legislature that, by
18 July 1, 2003, revenue generated by the millage or local option
19 sales surtax levy authorized by subsection (2) should be used
20 only for the costs of construction, renovation, remodeling,
21 maintenance, and repair of the educational plant; for the
22 purchase, lease, or lease-purchase of equipment, educational
23 plants, and construction materials directly related to the
24 delivery of student instruction; for the rental or lease of
25 existing buildings, or space within existing buildings,
26 originally constructed or used for purposes other than
27 education, for conversion to use as educational facilities;
28 for the opening day collection for the library media center of
29 a new school; for the purchase, lease-purchase, or lease of
30 school buses; and for servicing of payments related to
31 certificates of participation issued for any purpose prior to

1 the effective date of this act. Costs associated with the
2 lease-purchase of equipment, educational plants, and school
3 buses may include the issuance of certificates of
4 participation on or after the effective date of this act and
5 the servicing of payments related to certificates so issued.
6 For purposes of this section, "maintenance and repair" is
7 defined in s. 1013.01.

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

- 14 1. In fiscal year 2000-2001, 40 percent.
- 15 2. In fiscal year 2001-2002, 25 percent.
- 16 3. In fiscal year 2002-2003, 10 percent.

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

21 (d) Notwithstanding any other provision of this
22 subsection, if through its adopted educational facilities plan
23 a district has clearly identified the need for an ancillary
24 plant, has provided opportunity for public input as to the
25 relative value of the ancillary plant versus an educational
26 plant, and has obtained public approval, the district may use
27 revenue generated by the millage or local option sales surtax
28 levy authorized by subsection (2) for the acquisition,
29 construction, renovation, remodeling, maintenance, or repair
30 of an ancillary plant.

31

1 A district that violates these expenditure restrictions shall
2 have an equal dollar reduction in funds appropriated to the
3 district under s. 1011.62 in the fiscal year following the
4 audit citation. The expenditure restrictions do not apply to
5 any school district that certifies to the Commissioner of
6 Education that all of the district's instructional space needs
7 for the next 5 years can be met from capital outlay sources
8 that the district reasonably expects to receive during the
9 next 5 years or from alternative scheduling or construction,
10 leasing, rezoning, or technological methodologies that exhibit
11 sound management.

12 (6) In addition to the maximum millage levied under
13 this section and the General Appropriations Act, a school
14 district may levy, by local referendum or in a general
15 election, additional millage for school operational purposes
16 up to an amount that, when combined with nonvoted millage
17 levied under this section, does not exceed the 10-mill limit
18 established in s. 9(b), Art. VII of the State Constitution.
19 Any such levy shall be for a maximum of 4 years and shall be
20 counted as part of the 10-mill limit established in s. 9(b),
21 Art. VII of the State Constitution. Millage elections
22 conducted under the authority granted pursuant to this section
23 are subject to s. 1011.73. Funds generated by such additional
24 millage do not become a part of the calculation of the Florida
25 Education Finance Program total potential funds in 2001-2002
26 or any subsequent year and must not be incorporated in the
27 calculation of any hold-harmless or other component of the
28 Florida Education Finance Program formula in any year. If an
29 increase in required local effort, when added to existing
30 millage levied under the 10-mill limit, would result in a
31 combined millage in excess of the 10-mill limit, any millage

1 levied pursuant to this subsection shall be considered to be
2 required local effort to the extent that the district millage
3 would otherwise exceed the 10-mill limit.

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

7 1013.15 Lease, rental, and lease-purchase of
8 educational facilities and sites.--

9 (2)(a) A district school board may rent or lease
10 educational facilities and sites as defined in s. 1013.01.
11 Educational facilities and sites rented or leased for 1 year
12 or less shall be funded through the operations budget or local
13 option sales surtax or funds derived from millage proceeds
14 pursuant to s. 1011.71(2). A lease contract for 1 year or
15 less, when extended or renewed beyond a year, becomes a
16 multiple-year lease. Operational funds or funds derived from
17 millage or local option sales surtax proceeds pursuant to s.
18 1011.71(2) may be authorized to be expended for multiple-year
19 leases. All leased facilities and sites must be inspected
20 prior to occupancy by the authority having jurisdiction.

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

27 2. Plans for renovation or remodeling of leased space
28 shall conform to the Florida Building Code and the Florida
29 Fire Prevention Code for educational occupancies or other
30 occupancies, as appropriate and as required in chapters 553
31 and 633, prior to occupancy.

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. 1013.12.
4 Operational funds or funds derived from millage or local
5 option sales surtax proceeds pursuant to s. 1011.71(2) may be
6 used to correct deficiencies 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 State Board of
10 Education rules.

11 (4)(a) A board may rent or lease existing buildings,
12 or space within existing buildings, originally constructed or
13 used for purposes other than education, for conversion to use
14 as educational facilities. Such buildings rented or leased for
15 1 year or less shall be funded through the operations budget
16 or funds derived from millage or a local option sales surtax
17 pursuant to s. 1011.71(2). A rental agreement or lease
18 contract for 1 year or less, when extended or renewed beyond a
19 year, becomes a multiple-year rental or lease. Operational
20 funds or funds derived from millage or local option sales
21 surtax proceeds pursuant to s. 1011.71(2) may be authorized to
22 be expended for multiple-year rentals or leases.

23 Notwithstanding any other provisions of this section, if a
24 building was constructed in conformance with all applicable
25 building and life safety codes, it shall be deemed to meet the
26 requirements for use and occupancy as an educational facility
27 subject only to the provisions of this subsection.

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

31

1 1013.64 Funds for comprehensive educational plant
2 needs; construction cost maximums for school district capital
3 projects.--Allocations from the Public Education Capital
4 Outlay and Debt Service Trust Fund to the various boards for
5 capital outlay projects shall be determined as follows:

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

27 1. The project must be deemed a critical need and must
28 be recommended for funding by the Special Facility
29 Construction Committee. Prior to developing plans for the
30 proposed facility, the district school board must request a
31 preapplication review by the Special Facility Construction

1 Committee or a project review subcommittee convened by the
2 committee to include two representatives of the department and
3 two staff from school districts not eligible to participate in
4 the program. Within 60 days after receiving the preapplication
5 review request, the committee or subcommittee must meet in the
6 school district to review the project proposal and existing
7 facilities. To determine whether the proposed project is a
8 critical need, the committee or subcommittee shall consider,
9 at a minimum, the capacity of all existing facilities within
10 the district as determined by the Florida Inventory of School
11 Houses; the district's pattern of student growth; the
12 district's existing and projected capital outlay full-time
13 equivalent student enrollment as determined by the department;
14 the district's existing satisfactory student stations; the use
15 of all existing district property and facilities; grade level
16 configurations; and any other information that may affect the
17 need for the proposed project.

18 2. The construction project must be recommended in the
19 most recent survey or surveys by the district under the rules
20 of the State Board of Education.

21 3. The construction project must appear on the
22 district's approved project priority list under the rules of
23 the State Board of Education.

24 4. The district must have selected and had approved a
25 site for the construction project in compliance with s.
26 1013.36 and the rules of the State Board of Education.

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

1 maximum daily use of all spaces within the facility under
2 consideration.

3 6. Upon construction, the total cost per student
4 station, including change orders, must not exceed the cost per
5 student station as provided in subsection (6).

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

10 8. The district shall, at the time of the request and
11 for a continuing period of 3 years, levy a millage or surtax,
12 or combination thereof, under the maximum millage against
13 their nonexempt assessed property value as allowed in s.
14 1011.71(2) which generates an amount that is at least equal to
15 the amount that would be generated by levy of the maximum
16 millage rate authorized by s. 1011.71(2) or shall raise an
17 equivalent amount of revenue from the school capital outlay
18 surtax authorized under s. 212.055(6). Any district with a new
19 or active project, funded under the provisions of this
20 subsection, shall be required to budget no more than the value
21 of 1.5 mills per year to the project to satisfy the annual
22 participation requirement in the Special Facility Construction
23 Account.

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

29 10. The department shall certify the inability of the
30 district to fund the survey-recommended project over a
31 continuous 3-year period using projected capital outlay

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

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

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

12 (3)

13 (c) A district school board may lease relocatable
14 educational facilities for up to 3 years using nonbonded PECO
15 funds and for any time period using local capital outlay
16 millage or local option sales surtax revenues authorized by s.
17 212.055(8).

18 Section 8. This act shall take effect July 1, 2003, if
19 Senate Bill _____ or similar legislation creating the School
20 District Capital Outlay Trust Fund is adopted in the same
21 legislative session or an extension thereof and becomes law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Provides for transfer of a portion of nonrecurring intangible personal property tax revenues to the School District Capital Outlay Trust Fund. Provides for distribution of a portion of such revenues to school districts that collected impact fee revenues in fiscal year 2002-2003 to supplant such impact fees. Provides requirements for distribution of the remainder of such revenues to all school districts. Provides that school boards may levy by resolution a local option sales surtax in lieu of levying all or a part of the nonvoted district school capital improvement millage, for the same uses as are authorized for such millage. Provides that a county in which the school board is receiving such intangible tax revenues or levying the local option sales surtax is prohibited from levying school impact fees.