

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 499 District school taxation  
**SPONSOR(S):** Rep. Poppell  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 672

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education Innovation (Sub)		Ager	Bohannon
2) Education K-20			
3) Education Appropriations (Sub)			
4) Appropriations			
5)			

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### SUMMARY ANALYSIS

The bill amends s. 206.41(4)(e), F.S., to add transportation-related expenses to the list of allowable uses of state and county motor fuel tax refunds received by school districts. Additionally, the bill removes the priority specified in current law for the use of the state motor fuel tax refund dollars to fund projects required as the result of new school construction. The bill amends s. 206.625, F.S., for purposes of conforming with the amendments to s. 206.41, F.S.

The bill also amends s. 1011.71, F.S., to revise provisions specifying the allowable uses of the proceeds generated pursuant to a statutorily authorized levy of ad valorem property tax (also known as "two-mill money"). The bill authorizes additional uses of these funds including the payment of premiums for property and casualty insurance and for acquisition of books and reference materials of expanded libraries or media centers are new uses. The bill also removes several of the restrictions on the allowable uses of two-mill money that are scheduled to take effect July 1, 2003.

Prior to the 1997 Special Legislative Session on public school fixed capital outlay, some school districts expended significant amounts of their capital outlay two-mill levy proceeds for activities which more appropriately could have been paid for from district operating funds. Legislation enacted during the 1997 Special Session placed restrictions on the use of the two mill levy funds and provided a timeline for districts to switch non-capital expenditures back to the district's operating budget.

Although the bill does not appear to have a direct fiscal impact, it may raise concerns relating to equity in funding to the extent that districts have differing levels of property values and, as such, levies are not equalized in terms of the financial support available for students in the various districts. The bill may also raise concerns to the extent that it provides for the use of the two-mill money for daily operating purposes, rather than facilities purposes, particularly with regard to the implementation of the requirements s. 1, Art. IX of the State Constitution, related to class-size reduction. **Please refer to the "Fiscal Comments" section of the bill analysis.**

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0499a.edk.doc  
**DATE:** April 1, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

#### B. EFFECT OF PROPOSED CHANGES:

##### **Use of State and County Motor Fuel Tax Refunds As Authorized By the Bill**

Under current law, the use of state and county motor fuel tax refunds by school districts is dedicated to construction, reconstruction, and maintenance of roads and streets required as a result of construction of new schools or renovation of existing schools. The bill amends s. 206.41(4)(e), F.S., to add transportation-related expenses to the list of allowable uses of state and county motor fuel tax refunds received by school districts. Additionally, the bill removes the priority specified in current law for the use of the state motor fuel tax refund dollars to fund projects required as the result of new school construction. The bill amends s. 206.625, F.S., for purposes of conforming with the amendments to s. 206.41, F.S.

##### **Background**

###### Use of “Two-Mill “ Money

“Two-mill” money is a statutorily authorized levy of ad valorem property tax that districts may levy without voter approval.<sup>1</sup> School districts have the option, but are not required, to levy all or part of the full two mills of ad valorem property taxes in order to raise local capital outlay revenues. Fifty-seven districts currently levy the full two mills. Four districts levy 1.400 to 1.893 mills. Three districts levy 1.000 mills or less and three districts do not levy this tax at all.

Prior to the 1997 Special Legislative Session on public school fixed capital outlay, some school districts expended significant amounts of their capital outlay two-mill levy proceeds for activities which more appropriately could have been paid for from district operating funds. For example, it was learned during the 1997 Special Session that some school districts were transferring up to 85% of their two-mill construction dollars to their operating budgets. Legislation enacted during the 1997 Special Session placed restrictions on the use of the two mill levy funds and provided a timeline for districts to switch non-capital expenditures back to the district’s operating budget.

###### Approved Expenditures for Two-Mill Money (through July 1, 2003)

1. New construction and remodeling projects included in the district’s educational plant survey, without regard to prioritization, sites and site improvement or expansion to new sites, existing sites, auxiliary facilities, athletic facilities, or ancillary facilities.
2. Maintenance, renovation, and repair of existing school plants or of leased facilities to correct deficiencies.

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<sup>1</sup> See s. 1011.71(2), F.S.

3. The purchase, lease-purchase, or lease of school buses; driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.
4. The purchase, lease-purchase, or lease of new and replacement equipment.
5. Payments for educational facilities and sites due under a lease-purchase agreement entered into by a district school board, not exceeding, in the aggregate, and amount equal to three-fourths of the proceeds from the portion of the two mills of nonvoted capital outlay millage levied by a district school board.
6. Payment of one year obligations in anticipation of revenue or loans to eliminate emergency conditions.
7. Payment of costs directly related to complying with state and federal environmental statutes, rules, and regulations governing school facilities.
8. Payment of costs of leasing relocatable educational facilities, of renting or leasing educational facilities and sites, or of renting or leasing buildings or space within existing buildings.

Audited violations of these expenditure provisions result in an equal dollar reduction in Florida Educational Finance Program (FEFP) funds for the violating district in the fiscal year following the audit citation.

*Approved Expenditures for Two-Mill Money (after July 1, 2003)*

1. The costs of construction, renovation, remodeling, maintenance, and repair of the educational plant.
2. The purchase, lease, or lease-purchase of equipment, educational plants, and construction materials directly related to the delivery of student instruction.
3. The rental or lease of existing buildings, or space within existing buildings, originally constructed or used for purposes other than education, for conversion for use as educational facilities.
4. The opening day collect for the library media center of a new school.
5. The purchase, lease-purchase, or lease of school buses.
6. The servicing of payments related to certificates of participation issued for any purpose prior to November 1997. Costs associated with the lease-purchase of equipment, educational plants, and school buses may include the issuance of certificates of participation on or after November 1997 and the servicing of payments related to certificates so issued.

Notwithstanding any other provision of law, if a district has clearly identified the need for an ancillary plant through its adopted educational facilities plan, has provided opportunity for public input as to the relative value of the ancillary plant versus an educational plant, and has obtained public approval, the district may use revenue generated by the authorized capital outlay millage levy for the acquisition, construction, renovation, remodeling, maintenance, or repair of an ancillary plant.

A district that violates the expenditures restrictions that take effect July 1, 2003 must also suffer an equal dollar reduction in the FEFP funds appropriated to the district in the fiscal year following the audit citation. The expenditure restrictions do not apply to any school district that certifies to the Commissioner of Education that all of the district's instructional space needs for the next five years can be met from capital outlay sources that the district reasonably expects to receive during the next five years or from alternative scheduling or construction, leasing, rezoning, or technological methodologies that exhibit sound management.

**Use of Two-Mill Levy as Authorized By the Bill**

The bill provides school boards with additional flexibility in their use of two-mill money. The bill provides continuing authorization to expend two-mill money for purposes scheduled for repeal under current law as of July 1, 2003, including for the funding of ancillary facilities, school buses, driver education vehicles, motor vehicles used for maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment.

Additionally, the bill removes the more restrictive provisions concerning the use of two-mill money, which are scheduled to go into effect as of July 1, 2003, except for the following:

1. The rental or lease of existing buildings, or space within existing buildings, originally constructed or used for purposes other than education purposes, for conversion of the buildings for use as educational facilities.
2. The servicing of payments related to certificates of participation and of costs of certificates of participation for the lease purchase of equipment, educational plants, and school buses. However, the bill changes the relevant baseline from November 1997 to July 2003.

The bill also adds authority for additional expenditures, including the payment of the costs of property and casualty insurance and payment for collection materials for expanded libraries or media centers.

The bill removes the authority for a school district to build certain ancillary facilities. The bill retains the provision allowing a school district to be exempt from the expenditure restrictions if it can certify to the Commissioner of Education that all of its instructional space needs for the next 5 years can be met from capital outlay sources the district reasonably expects to receive during the next 5 years or from alternative scheduling or construction, leasing, rezoning, or technological methodologies that exhibit sound management.

The bill provides that effective July 1, 2010, any school districts that do not meet class size requirements may only use district school tax revenues to fund:

1. The costs of construction, renovation, remodeling, maintenance, and repair of educational plants.
2. Construction materials directly related to the delivery of student instruction.
3. The rental or lease of existing buildings (or space within existing buildings, originally constructed or used for purposes other than education) for conversion to use as educational facilities.

#### C. SECTION DIRECTORY:

**Section 1.** Amends s. 206.41, F.S., relating to state taxes imposed on motor fuel.

**Section 2.** Amends s. 206.625, F.S., relating to return of tax to municipalities, counties, and school districts.

**Section 3.** Amends s. 1011.71, F.S., relating to school tax.

**Section 4.** Amends s. 1011.73, F.S., relating to district millage elections; corrects a cross reference.

**Section 5.** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

#### 2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local expenditures. The bill does provide additional local flexibility to school boards to exercise the authority to spend the two mill capital improvement millage for additional purposes.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

This bill does not appear to have a direct economic impact on the private sector.

**D. FISCAL COMMENTS:**

This bill does not appear to have a direct fiscal impact. To the extent that discretionary levies allow districts to further support their schools, this bill may have an indirect indeterminate fiscal impact. The bill may raise concerns relating to equity in funding to the extent that districts have differing levels of property values and, as such, levies are not equalized in terms of the financial support available for students in the various districts. The same concerns may also be raised to the extent that the bill provides for the use of the two-mill money for daily operating purposes, rather than facilities purposes.

Similarly, the bill may raise concerns associated with the implementation of the requirements s. 1, Art. IX of the State Constitution, related to class-size reduction. Pursuant to the spending flexibility authorized provided by the bill, an school district could opt to expend capital outlay funds for other purposes. To the extent that this is authorized by the bill, it could provide a disincentive for a school district to use its two-mill money to facilitate class size reduction.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill does not grant additional rule-making authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.