

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 71 w/CS Funding for School Districts

SPONSOR(S): Rep. Sansom

TIED BILLS: **IDEN./SIM. BILLS:** SB 1418

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education Innovation (Sub)	6 Y, 0 N	Ager	Bohannon
2) Education K-20	20 Y, 1 N w/CS	Ager	Bohannon
3) Finance & Tax			
4) Education Appropriations (Sub)			
5) Appropriations			

SUMMARY ANALYSIS

The bill authorizes school districts that receive capital outlay revenue from a local option sales surtax of at least 0.5 percent to expend up to two mills of its nonvoted capital improvement millage as nonrecurring funds in its operating budget to fund only up to the state average of per-student funding. The bill requires the school board to authorize the transfer of such funds to the operating budget in a regularly scheduled board meeting.

The bill authorizes a school district to transfer its two-mill funds to the operating budget for ten years after the date the sales surtax expires. Such expenditures are limited to those that will not constitute a recurring obligation following the 10-year period after the date that the sales surtax expires.

The bill requires the district school boards to agree that, for five years following such expenditures, the district will fulfill its obligation needs as delineated in the district 5-year work plan and as required for purposes of compliance with the class size reduction schedule.

For years 2004 – 2008, the bill requires the Department of Education to annually determine if a district school board expending flexible funds is in compliance with the class size reduction schedule specified by the Legislature. If a school district is not in compliance, it loses the ability to use flexible funds. The bill limits the use of the two-mill flexibility to districts located in counties with populations of less than 500,000.

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. In some instances, 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.

Although the bill does not appear to have a fiscal impact, it may raise concerns relating to equity in funding to the extent that an eligible school district uses the transfer authority for operating purposes. The bill may also 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 transfer authority provided by the bill, an eligible school district could opt to exercise the transfer authority and to expend capital outlay funds for nonrecurring operating expenditures. 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.

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

STORAGE NAME: h0071c.edk.doc

DATE: April 9, 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"/> |

B. EFFECT OF PROPOSED CHANGES:

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.¹ 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.
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.

¹ See s. 1011.71(2), F.S.

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

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 make this levy.

School Capital Outlay Surtax

Section s. 212.055(6), F.S., provides for the School capital Outlay Surtax. This tax is more commonly referred to as the "half-cent sales tax." The tax may be levied by a district school board after a favorable vote of the electorate through a local referendum. The tax may not exceed .5%. According to the Department of Education, thirteen districts are currently authorized to receive sales surtax proceeds.

Use of Two-Mill Money Pursuant to the Bill

The bill authorizes districts that levy a local sales surtax of at least 0.5 percent to transfer two-mill property tax revenue to the district's operating budget and expend the funds for non-recurring purposes to fund only up to the state average of per-student funding. The transfer is in addition to the currently authorized uses of the two-mill funds listed in s. 1011.71(2), F.S.

The bill authorizes the district to exercise this flexibility conditioned upon the district making the transfer in a regular district school board meeting and on certifying to the Department of Education that the district will not request additional capital outlay funds for five years following the last year it expends such funds listed in statute.

The bill specifies that the district must be authorized to make the transfers for ten years after the date on which the authorization for the sales surtax expired. Based on the expiration date for currently approved sales surtaxes, a district would be able to make the transfer for up to 25 years by initiating such transfers in the first year of the sales surtax levy and continuing for ten years after its expiration date. There is no limit on the length of time a sales surtax may be levied. The resolution approved by the voters specifies the number of years the sales surtax is collected.

The Department of Education estimates that the existing thirteen surtax districts will, in total, be granted flexibility to transfer approximately \$460,000,000 to their operating budgets.

The bill requires the district school boards to agree that, for five years following such expenditures, the district will fulfill its obligation needs as delineated in the district 5-year work plan and as required for purposes of compliance with the class size reduction schedule.

For years 2004 – 2008, the bill requires the Department of Education to annually determine if a district school board expending flexible funds is in compliance with the class size reduction schedule specified by the Legislature. If a school district is not in compliance, it loses the ability to use flexible funds. The bill limits the use of the two-mill flexibility to districts located in counties with populations of less than 500,000.

The bill provides an effective date of July 1, 2003.

C. SECTION DIRECTORY:

Section 1: Creates a new section of law authorizing district school boards to expend in their operating budgets nonvoted capital improvement millages; specifying certain conditions and restrictions; and providing for transfer of proceeds by budget amendment approved by the district school board.

Section 2: Provides an effective date of July 1, 2003.

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 require an increase in local expenditures. The bill does authorize eligible school boards to exercise the authority to spend the two mill capital improvement millage for operating purposes. The Department of Education estimates that the existing thirteen surtax districts will, in total, be granted flexibility to transfer approximately \$460,000,000 to their operating budgets.

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 fiscal impact. The bill may raise concerns relating to equity in funding to the extent that an eligible school district uses the transfer authority for operating purposes.

In a recent survey, the Department of Education identified thirteen districts that meet the eligibility requirements related to additional authority provided in the bill for the use of the two-mill funds. The districts are: Bay, Escambia, Gulf, Hernando, Jackson, Leon, Manatee, Monroe, Okaloosa, Orange, Santa Rosa, St. Lucie, and Volusia. Expiration dates for levies by these thirteen counties range from 1999 to 2016. In addition, Polk and Walton Counties have scheduled elections for referendums in May and June, 2003, respectively. The Department of Education estimates that the existing thirteen surtax districts will, in total, be granted flexibility to transfer approximately \$460,000,000 to their operating budgets.

According to the Department of Education, the five-year work programs prepared by the districts represent a plan for meeting their capital outlay needs. In preparing their five-year work programs, districts are instructed to include estimated Public Education Capital Outlay (PECO), Capital Outlay (CO), and Debt Service (DS). The two-mill levy is typically part of the current year budget and estimated budgets for the four subsequent years. Except for Jackson County, which does not levy two mills and does not plan to levy two mills, the DOE confirmed that, based on the most recent work programs received, each of the eligible districts are levying a portion of the two mills for capital outlay purposes in the current year and plan to continue the levy in subsequent years. Since the eligible districts are currently using the two-mill money to fund capital outlay projects, the transfer authority provided in the bill may raise concerns that the capital outlay needs of some districts might not be met if two-mill funds were transferred to the operating budget.

The bill also raises concerns associated with the implementation of the requirements s. 1, Art. IX of the State Constitution, related to class-size reduction. Pursuant to the transfer authority provided by the bill, an eligible school district could opt to exercise the transfer authority and to expend capital outlay funds for nonrecurring operating expenditures. 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:

This bill does not grant additional rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 7, 2003, the Committee on Education K-20 adopted an amendment, to add the following provisions to the bill:

- The expenditure of two-mill money as nonrecurring operating funds may only be used to fund up to the state average of per-student funding.
- Such expenditures are limited to those that will not constitute a recurring obligation following the 10-year period after the date that the sales surtax expires.
- Agreement by the district that, for five years following such expenditures, the district will fulfill its obligation needs as delineated in the district 5-year work plan and as required for purposes of compliance with the class size reduction schedule.
- For years 2004 – 2008, the bill requires the Department of Education to annually determine if a district school board expending flexible funds is in compliance with the class size reduction schedule specified by the Legislature. If a school district is not in compliance, it loses the ability to use flexible funds. The bill limits the use of the two-mill flexibility to districts located in counties with populations of less than 500,000.
- A district may only use the two-mill flexibility if it is located in a county with a population of less than 500,000.