

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1499

Public School Utilization

SPONSOR(S): Jordan

TIED BILLS:

IDEN./SIM. BILLS: SB 2070

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--|-------------------------|---------------|----------------|
| 1) <u>Committee on K-12</u> | <u>7 Y, 0 N</u> | <u>Beagle</u> | <u>Ahearn</u> |
| 2) <u>Schools & Learning Council</u> | <u>13 Y, 0 N, As CS</u> | <u>Beagle</u> | <u>Cobb</u> |
| 3) <u>Policy & Budget Council</u> | <u></u> | <u></u> | <u></u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

Florida law grants district school boards the authority to adopt a school calendar for the instruction of students that consists of at least one hundred and eighty instructional days each school year. District school boards are specifically authorized to implement year-round or other nontraditional calendars as a method of meeting constitutional class-size requirements. There are thirteen schools in five school districts currently operating on a nontraditional calendar.

Each district school board is required to provide adequate educational facilities for the district's students. Educational facilities are funded from state and local funding sources. The Public Education Capital Outlay and Debt Service Trust Fund (PECO) is a state program that provides funds to school districts for renovation, repairs, and other improvements to existing educational facilities and new construction projects.

House Bill 1499 establishes the Increased Utilization Program (IUP) within the PECO to provide monetary incentives to school districts that maximize facility capacity using nontraditional school calendars. The bill provides that the IUP is to be funded in an amount not to exceed fifteen percent of total funds appropriated to the PECO. School districts that receive IUP funds are required to allocate them to any district school that increases its full-time equivalent (FTE) facility capacity by at least twenty percent by operating on a nontraditional calendar. Such schools are eligible to receive IUP funds up to a maximum of \$250 per each FTE generated within the school.

The bill sets forth requirements for school district participation in the IUP. The bill provides that school district assignment of students to instructional areas must comply with the State Requirements for Educational Facilities. School districts that utilize double sessions or overcrowd students in inadequate instructional areas are not eligible to participate in the IUP.

The bill appears to have a positive fiscal impact. (See Fiscal Comments).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The bill provides monetary incentives to school districts that maximize facility capacity through use of a nontraditional calendar.

B. EFFECT OF PROPOSED CHANGES:

School District Calendars

Florida law grants district school boards the authority to adopt a school calendar for the instruction of students and operation of the district's schools.¹ District schools must be in operation for at least one hundred and eighty instructional days each school year.² In addition, district school boards may designate school holidays and vacation periods to be observed by the district.³ Beginning in 2007-2008 and thereafter, a district's school start date must not be earlier than fourteen days before Labor Day each year.⁴

District school boards are specifically authorized to implement year-round or other nontraditional calendars as a method of meeting constitutional class-size requirements. Such calendars must not adversely impact annual assessments of student achievement.⁵ There are thirteen schools in five school districts currently operating on a nontraditional calendar:

| Schools Operating on a Nontraditional School Calendar for the 2006-2007 School Year ⁶ | |
|--|----------------------------|
| District | School Name |
| Brevard | Challenger 7 Elementary |
| | Gardendale Elementary |
| Broward | Colbert Elementary |
| | Gulfstream Middle |
| | Hallandale Elementary |
| | Lake Forest Elementary |
| | McNichol Middle |
| | Watkins Elementary |
| Charlotte | East Elementary |
| | Sallie Jones Elementary |
| Hillsborough | Boyette Springs Elementary |
| Polk | Doris Springs Elementary |
| | Valleyview Elementary |

Many schools that operate on a nontraditional calendar utilize a track system for student schedules. A track includes a group of students assigned to the same schedule. To maximize facility utilization, multiple tracks of students are scheduled so that certain tracks of students are attending school while others are on break.⁷

¹ Section 1001.42(4)(f), F.S.

² Section 1001.42(10)(a), F.S.

³ Section 1001.42(4)(g), F.S.

⁴ Section 1001.42(4)(f), F.S.

⁵ Section 1003.03(3)(j), F.S.

⁶ Florida Department of Education, Bureau of Education Information and Accountability Services, Statistical Brief, School District Calendars 2006-07 (July 2006) *available at* <http://www.firm.edu/doe/eias/eiaspubs/pdf/calendar.pdf>.

⁷ *Id.*

Education Facilities

Each district school board is required to provide adequate educational facilities for the district's students. Each district school board must provide funding for the operation of district schools from state and local funding sources.⁸

The Public Education Capital Outlay and Debt Service Trust Fund (PECO)⁹ is a state program that provides funds to school districts from revenue derived from:

- Proceeds, premiums, and accrued interest from the sale of public education bonds and revenues accruing from the tax collected on the gross receipts from the sale of utility services;
- General revenue funds appropriated by the Legislature;
- Previously appropriated capital outlay funds; and
- Funds paid pursuant to s. 201.15(1)(d), F.S.¹⁰

There are two types of PECO funds for school districts, PECO maintenance funds and PECO new construction funds. Districts may use PECO maintenance funds for renovation, repairs, and other improvements to existing educational facilities. Such funds are distributed to school districts using a formula that is based on the square footage and age of "satisfactory" school facilities within the district.¹¹ School districts can declare facilities "unsatisfactory;" however, when this is done, these facilities are not used in the calculation for PECO maintenance dollars.¹²

PECO new construction dollars are distributed to school districts using a formula that considers historical student enrollments and growth in student membership. Forty percent of PECO new construction dollars are distributed based upon the average student population in the district over the last four years. Sixty percent of PECO new construction dollars are distributed based upon the district's growth over the last four years. The capital outlay FTE membership by grade-level organization for the prior year must be used to compute growth over the highest of the three years preceding the prior year's enrollment.¹³

Effect of Proposed Changes

House Bill 1499 establishes the IUP within the PECO to provide monetary incentives to school districts that maximize facility capacity using nontraditional school calendars. The bill provides that the IUP is to be funded in an amount not to exceed fifteen percent of total funds appropriated to the PECO. The bill authorizes the Commissioner of Education (Commissioner) to disburse IUP funds to eligible school districts.

Under the bill, school districts that receive IUP funds are required to allocate them to any district school that increases its FTE facility capacity by at least twenty percent by operating on a nontraditional calendar. Such schools are eligible to receive IUP funds up to a maximum of \$250 per each FTE generated within the school. IUP funds may be received for a maximum of five years if such funds are available. If funds are insufficient during any fiscal year, the Commissioner must determine the pro rata amount to be disbursed to participating school districts. The bill provides that a school district may not be compelled to pay for outstanding school construction projects funded through the Special Facilities Construction Account using funds received through the IUP.

⁸ Section 1001.42(10)(a), F.S.

⁹ Fla. Const. art. XII, § 9(a)(2) and s. 1013.65, F.S.

¹⁰ Section 1013.65, F.S.

¹¹ Section 1013.64(1)(a), F.S.

¹² Section 1013.64(1)(g), F.S.

¹³ Section 1013.64(3)(a), F.S.

To be eligible for IUP funds, the district school board must submit a resolution to the Commissioner that states the district's intent to participate in the IUP. The resolution must list each school that will operate on a nontraditional calendar. It must also list the maximum FTE capacity for each school as stated in the Florida Inventory of School Houses in the Office of Educational Facilities as well as the increased FTE capacity of each school that will operate on a nontraditional calendar. The bill provides that school district assignment of students to instructional areas must comply with the State Requirements for Educational Facilities. The bill provides that school districts that utilize double sessions or overcrowd students in inadequate instructional areas are not eligible to participate in the IUP.

The bill also amends s. 1003.03(j), F.S., to state that school districts may use "alternative," nontraditional calendars to meet constitutional class size requirements.

C. SECTION DIRECTORY:

Section 1.: Amending s. 1013.64, F.S.; establishing the Increased Utilization Program; providing funding requirements; providing school district eligibility requirements.

Section 2.: Amending s. 1003.03, F.S.; providing that school districts may use alternative, nontraditional calendars to comply with constitutional class size requirements.

Section 3.: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

The bill creates the IUP within the PECO that is to be funded in an amount not to exceed fifteen percent of total funds appropriated to the PECO. Only school districts that meet program criteria may receive program funding.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

A program similar to the IUP, the Increased Utilization Account (IUA), was previously provided for in law in s. 235.435, F.S. The IUA program operated from 1992-1996. Section 235.435, F.S., was repealed by the Legislature in 2002.¹⁴ The provisions that governed the IUA are very similar to those in House Bill 1499. One notable difference is that previously the IUA was funded at an amount not to exceed five

¹⁴ Enrolled Chapter 2002-387, Laws of Florida.

percent of the total PECO funds appropriated, not the fifteen percent provided for in this bill. Also, schools were eligible to receive up to a maximum of \$100 per total FTE generated within the school.¹⁵ The bill provides for such schools to receive a maximum \$250. Six school districts participated in the IUA when it previously existed:

| Participation in the Increased Utilization Account 1992-1996¹⁶ | | |
|--|---|--------------------------------|
| School Year | Participating School Districts | Total Amount of Funding |
| 1992-1993 | Martin, Seminole, and Volusia | \$344,700 |
| 1993-1994 | Orange, Seminole, and Volusia | \$808,800 |
| 1994-1995 | No Data Available | No Data Available |
| 1995-1996 | Broward, Duval, Orange, Seminole, and Volusia | \$1,500,000 |

The 2006 Legislature appropriated \$186,394,756 to the PECO for facilities renovation and maintenance¹⁷ and \$242,210,258 for new construction.¹⁸ The bill provides that the IUP be funded by up to fifteen percent of new construction funds appropriated to the PECO.

| Appropriation to IUP | |
|---|---------------|
| FY 2007-2008 PECO funds for New School Construction | \$285,994,731 |
| Transfer of 15% to IUP | X 15% |
| Total IUP Funds | \$42,899,210 |

| Assumptions | |
|---|------------------|
| IUP Per Pupil Funding | \$250 |
| Total Number of Eligible Students (Total IUP Funds <i>divided by</i> \$250) | 171,597 students |
| Size of Elementary School (For Example) | 800 students |
| Number of Schools (Eligible Students <i>divided by</i> 800) | 214 schools |
| Percent of Increased Utilization Required Under HB 1499 | 20% |

| Projected Number of New School Construction Projects Avoided | |
|---|------------------|
| Total Number of Eligible Students (Total IUP Funds <i>divided by</i> \$250) | 171,597 students |
| Percent of Increased Utilization Required Under HB 1499 | 20% |
| Students Who Would Not Be Required to Relocate to a New Facility (Total Number of Eligible Students <i>multiplied by</i> 20%) | 34,319 students |
| Size of Elementary School | 800 students |
| Number of New School Construction Projects Avoided | 43 schools |

| Projected New Construction Cost Savings¹⁹ | |
|--|---------------|
| July 2007 Cost Per Student Station (Elementary Schools) ²⁰ | \$18,676 |
| Student Station Cost Factor (\$18,676 <i>multiplied by</i> 34,319 eligible students) | \$640,948,512 |

¹⁵ Section 235.435(7)(a), F.S. (Repealed 2002).

¹⁶ Data provided by the Department of Education.

¹⁷ Specific Appropriation 28 of the Conference Committee Report on HB 5001, Enrolled Chapter 2006-25, Laws of Florida.

¹⁸ Specific Appropriation 29 of the Conference Committee Report on HB 5001, Enrolled Chapter 2006-25, Laws of Florida.

¹⁹ Additional costs due to wear and tear, utility costs, and increased staffing costs are not included in the savings analysis.

²⁰ Florida Department of Education, Office of Education Facilities, Cost Per Student Station *available at*

<http://www.firn.edu/doe/oef/cocps.htm>.

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| | |
|---|---------------|
| Minus the 15% IUP Appropriation | \$42,899,210 |
| Cost Savings to Avoid Building New Elementary Schools | \$598,049,302 |

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds. This bill does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate. This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

House Bill 1499 is filed as a **SOLUTION/OPTION** to meet the constitutional class size requirements. I refer to it as the "Instructional Design Educational Alternative" (I.D.E.A.). It is an optional alternative for local districts. It **DOES** however; offer incentives to those school districts the see the value of increased utilization of existing facilities. Schools that increase their traditional capacity by 20% will be eligible for a \$250.00 per student incentive for using an alternative calendar.

There is a continuing expectation of more efficiency and less expenditure for all facets of government. It is apparent that creative, futuristic and pragmatic solutions must be explored and utilized if we are to comply with the class size mandate.

There is no question that every cost aspect of building new schools is increasing and will continue to do so. The resources our students need to be competitive in the market place of the new millennium are a significant challenge. To respond to this challenge, we must find new ways to cut the costs while increasing the quality of our service. Building new schools that are committed to an under-utilization formula is not affordable or cost-effective. Many school districts must also compete with residential and business growth for the remaining usable land. In many cases acreage that is available is becoming more expensive and environmentally complex. House Bill 1499, I.D.E.A., takes advantage of the opportunity to utilize our existing school facilities in a way that maximizes their potential.

Example: Four schools utilizing a nontraditional calendar and increasing their capacity by 20% to 25% will serve the same student body as five schools operating under the traditional calendar.

House Bill 1499 as recommended will have the equivalency of saving the need for **FORTY-THREE** new schools which is worth over **SIX HUNDRED MILLION DOLLARS**.

The \$250.00 per student incentive could be used in areas such as:

- Improving existing facilities
- Timely remedial instruction to students in need
- Increasing classroom/instructional support
- Maintenance and other operational requirements

Invest \$42,899,210 in House Bill 1499 and receive \$640,948,512 in construction savings: This is common sense.

If anyone has a more cost-effective, futuristic solution, I would certainly like to hear it.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 27, 2007, the Committee on K-12 adopted a strike everything amendment and reported the bill favorably, as amended.

The strike everything amendment changes the word "Account" to "Program." This amendment is substantively identical to the bill. By changing the term "Account" to "Program," the amendment clarifies that the bill is not creating a new trust fund.

On April 4, 2007, the Schools and Learning Council reported the bill favorably as a council substitute.