

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 519 Public School Utilization

SPONSOR(S): Jordan

TIED BILLS: IDEN./SIM. BILLS: SB 1172

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on K-12	8 Y, 0 N	Gillespie	Ahearn
2) Schools & Learning Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

House Bill 519 creates the Increased Utilization Program, under which the Commissioner of Education allocates up to 15 percent of the school district funds in the Public Education Capital Outlay (PECO) and Debt Service Trust Fund to provide incentive funding for schools to adopt alternative, nontraditional school calendars in order to maximize utilization of educational facilities.

A school district is eligible to receive incentive funding for one or more eligible schools that increase their facility capacities, over the prior year’s capacities, by at least 20 percent as a result of using an alternative, nontraditional calendar. Incentive funding is limited to \$250 per FTE added to each eligible school’s capacity, and a school district may receive incentive funding for an eligible school for no more than 5 years.

The bill prohibits a school district from receiving the incentive funding for a school that increases its capacity through:

- Overcrowding;
- Implementing double sessions; or
- Assigning students to instructional spaces that do comply with state requirements for educational facilities.

The bill appears to have a positive fiscal impact. (See II. FISCAL ANALYSIS.)

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

Public Education Capital Outlay and Debt Service Trust Fund:

Current law imposes a tax on the gross receipts from the retail delivery of utility services (*i.e.*, electricity and natural or manufactured gas) and a tax on the retail delivery of communications services (*e.g.*, telephone, cable television, mobile telephone, and pagers or beepers).¹ Funds collected from the gross receipts and communications services taxes are deposited in the Public Education Capital Outlay (PECO) and Debt Service Trust Fund.² These tax collections, together with funds generated from public education bonds, investment income, and educational capital outlay funds appropriated by the Legislature are used to finance capital projects of school districts, community colleges, and state universities.³

Nontraditional School Calendars:

Current law authorizes a district school board to adopt calendars for the operation of schools, including dates for the opening and closing of schools, school holidays, and vacation periods.⁴ School calendars must provide for the operation of all public schools for at least 180 days or the equivalent on an hourly basis,⁵ and, beginning with the 2007-2008 school year, dates for the opening of schools may not be earlier than 14 days before Labor Day each year.⁶

In order to meet the constitutional class-size maximums,⁷ current law requires a district school board to consider, among other strategies, the use of “year-round schools and other nontraditional calendars that do not adversely impact annual assessment of student achievement.”⁸ For example, many schools that operate on a nontraditional calendar use a “track” system for student schedules. A “track” includes

¹ Section 203.01(1)(a), F.S.

² Sections 203.01(1)(c)2. & 1013.65(2)(a), F.S.

³ *Id.*

⁴ Section 1001.42(4)(f) & (g), F.S.

⁵ Section 1001.42(10)(a), F.S.

⁶ Section 1001.42(4)(f), F.S.

⁷ In 2002, the voters of Florida approved an amendment to the State Constitution requiring the reduction of class sizes by the 2010 school year so that the maximum number of students per public school classroom assigned to a teacher is:

- Eighteen students for prekindergarten through third grade;
- Twenty-two students for grades 4 through 8; and
- Twenty-five students for grades 9 through 12 (§ 1(a), Art. IX of the State Constitution).

To implement the constitutional amendment, the Legislature required a school district that does not comply with the maximum class sizes to reduce its average number of students per classroom by at least two students per year. The Legislature also specified how the averages are calculated:

- For fiscal years 2003-2004 through 2005-2006, the average number of students per classroom was calculated at the district level;
- For fiscal years 2006-2007 through 2007-2008, the average is calculated at the school level; and
- For fiscal year 2008-2009 and thereafter, the average is calculated at the individual classroom level (§ 1003.03(2)(b), F.S.)

⁸ Section 1001.03(3)(j), F.S.

a group of students assigned the same schedule. To maximize usage of education facilities, multiple tracks are scheduled so that certain tracks of students are attending school while others are on break.^{9,10} There are twelve schools in four school districts currently operating on nontraditional calendars:

**Schools Operating on Nontraditional Calendars
(2007-2008 School Year)**

School District	School
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 Charlotte Harbor
Polk	Valleyview Elementary

SOURCE: Florida Department of Education (2007).¹¹

Former Increased Utilization Account:

In 1990, the Legislature created the Increased Utilization Account within the PECO trust fund.¹² The account established a substantially similar program to the Increased Utilization Program created by the bill. The 1990 legislation established financial incentives for school districts to adopt modified school calendars (*i.e.*, extended school week or extended school year) beginning with the 1992-1993 fiscal year. One notable difference was that the 1990 legislation authorized up to 5 percent of PECO funds appropriated for school district capital projects to be allocated for incentive funding, while the bill authorizes up to 15 percent. In addition, the 1990 legislation limited the incentive funding to \$100 per increased FTE, while the bill limits the incentive funding to \$250 per increased FTE.¹³ According to the Department of Education, six school districts received incentive funding from the Increased Utilization Account during the years the account was active (1992-1996):

Increased Utilization Account (1992-1996)

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

SOURCE: Florida Department of Education (2007).

⁹ Florida Department of Education, Bureau of Education Information & Accountability Services, *Statistical Brief, School District Calendars 2007-08, Series 2008-03B*, 7 (Aug. 2007), available at <http://www.fldoe.org/eias/eiaspubs/pdf/calendar.pdf> (last visited Mar. 4, 2008).

¹⁰ Florida Department of Education, Government Relations, *2008 Agency Bill Analysis of HB 519*, 2 (Jan. 15, 2008).

¹¹ Florida Department of Education, *supra* note 9, at 7.

¹² Section 12, ch. 90-241, L.O.F. (1990).

¹³ See former § 235.435(7), F.S. (2001).

The Legislature repealed the statutory authority for the Increased Utilization Account in 2002.¹⁴

Proposed Changes:

The bill creates the Increased Utilization Program. Under the program, the Commissioner of Education allocates up to 15 percent of the PECO funds appropriated for school district capital projects to provide incentive funding for schools to adopt alternative, nontraditional school calendars. A school district is eligible to receive incentive funding for one or more eligible schools that increase their facility capacities, over the prior year's capacities, by at least 20 percent as a result of using an alternative, nontraditional calendar. Incentive funding is limited to \$250 per FTE added to each eligible school's capacity.

If funds are available, a school district may receive incentive funding for each year—up to 5 years¹⁵—that an eligible school increases its capacity by at least 20 percent over the prior year's capacity. If funds are insufficient during a fiscal year, the Commissioner of Education is directed to determine the pro rata amount of the incentive funding.

To receive incentive funding, a district school board must submit a resolution to the Commissioner of Education by August 1 of each fiscal year. The resolution must include a list of eligible schools from the prior year, the maximum capacity of each school as listed in the Florida Inventory of School Houses (FISH),¹⁶ and the increase in capacity attributable to use of an alternative, nontraditional calendar.

The bill requires a school district to use the incentive funding for needed projects as recommended in a survey¹⁷ under rules¹⁸ of the State Board of Education.

The bill prohibits a school district from receiving the incentive funding for a school that increases its capacity through:

- Overcrowding;
- Implementing double sessions; or
- Assigning students to instructional spaces that do not comply with State Requirements for Educational Facilities.¹⁹

The bill clarifies that a school district receiving construction funds from the Special Facility Construction Account is not required to repay the incentive funds received under the Increased Utilization Program.²⁰

¹⁴ Section 1058, ch. 2002-387, L.O.F. (2002).

¹⁵ According to the Department of Education, the 1990 Increased Utilization Account, as implemented, prohibited a school district from receiving incentive funding for any one school for a cumulative total of 5 years. *See supra*, text accompanying note 12.

¹⁶ Florida Department of Education, Office of Educational Facilities, *Florida Inventory of School Houses (FISH) Reports*, at <http://www.fldoe.org/edfacil/fishreports.asp> (last visited Mar. 4, 2008).

¹⁷ Current law requires a district school board to conduct an educational plant survey at least once every 5 years. The survey must include at least an inventory of existing educational and ancillary plants; recommendations for existing educational and ancillary plants; recommendations for new educational or ancillary plants; the utilization of school plants based on an extended school day or year-round operation; and other information required by the Department of Education. Section 1013.31(1)(a), F.S.

¹⁸ Rule 6A-2.0010, F.A.C., incorporates by reference the *State Requirements for Educational Facilities 2007*, which, in section 3.1, details the requirements for educational plant surveys. Florida Department of Education, Office of Educational Facilities, *State Requirements for Educational Facilities 2007* (Mar. 4, 2008), available at <http://www.fldoe.org/edfacil/pdf/sref-rule.pdf> (last visited Mar. 4, 2008) [hereinafter *State Requirements for Educational Facilities*].

¹⁹ The construction specifications for public school education facilities are governed by the State Uniform Building Code for Public Educational Facilities Construction (ch. 1013, F.S.), the Florida Building Code, and the State Requirements for Educational Facilities adopted by the State Board of Education. *See State Requirements for Educational Facilities, supra* note 18; rule 6A-2.0010, F.A.C.

The bill clarifies that school districts may use “alternative,” nontraditional calendars to meet constitutional class-size requirements.

The bill provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Amends section 1013.64, F.S., establishing the Increased Utilization Program, which provides incentive funding for schools to adopt alternative, nontraditional school calendars in order to maximize utilization of educational facilities.

Section 2. Amends section 1003.03, F.S., providing that school districts may use alternative, nontraditional calendars to comply with constitutional class-size requirements.

Section 3. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill earmarks 15 percent of the PECO funds appropriated for school district capital projects to provide incentive funding for schools to adopt alternative, nontraditional school calendars in order to maximize utilization of educational facilities.

2. Expenditures:

The Department of Education estimates that the state may realize a cost savings of almost \$600 million by establishing financial incentives for school districts to use alternative, nontraditional school calendars in order to maximize utilization of their educational facilities.²¹ The potential savings results from the state averting the need to build approximately 43 new schools.

(See **D. FISCAL COMMENTS.**)

Set Aside for Increased Utilization Program	
FY2007-2008 PECO for New School Construction – Includes University Lab Schools and All Funds Going to K-12	\$285,994,731
Transfer 15% to Increased Utilization Program	15%
Total Set Aside for Increased Utilization Program	\$42,899,210

²⁰ A school district that has urgent construction needs but lacks sufficient resources, and cannot reasonably anticipate sufficient resources within the next 3 years, may receive capital outlay funds from the Special Facility Construction Account. Section 1013.64(2)(a), F.S. According to the Department of Education, as a condition of receiving funds from the Special Facility Construction Account, a school district must pledge its capital outlay funds to repay the account. The bill clarifies that incentive funding received from the PECO Increased Utilization Program do not need to be repaid to the Special Facility Construction Account.

²¹ Florida Department of Education, *supra* note 10, at 3; Florida Department of Education, Office of Educational Facilities, *Cost Analysis of HB 519 (Rep. Jordan)* (2008).

Assumptions	
Total Amount of Incentive Funding Per FTE	\$250
Total Number of Eligible Students (Total Funds in Increased Utilization Program / Per FTE Incentive Funding)	171,597
Average Size of Elementary School	800
Number of Schools (Total Number of Eligible Students / Average Size Elementary School)	214
20% of Students Who Would Relocate to New Facilities	20%

Cost to Avoid Building New Schools Methodology	
Total Number of Eligible Students (Total Funds in Increased Utilization Program / Per FTE Incentive Funding)	171,597
20% of Students Who Would Relocate to New Facilities	20%
Eligible Students (Total Number of Eligible Students x 20% of Students)	34,319
Average Size Elementary School	800
Number of Schools Avoided Being Built (Eligible Students / Average Size Elementary School)	43

July 2007 Student Station Cost Factor (Elementary)	\$18,676
Student Station Cost Factor (\$18,676) x Eligible Students (34,319)	\$640,948,512
Minus the 15% Transfer to Increased Utilization Program	(\$42,899,210)
Cost Savings from Avoiding Building New Elementary Schools	\$598,049,302

SOURCE: Florida Department of Education (2008).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Education observes the following:

Historically, new programs take time to implement. The Office of Educational Facilities (OEF) believes that the proposed program will take time to fully implement in order for the state to realize \$600 million in savings.

The Legislature may wish to consider adjusting the 15 percent set aside to a 5 percent set aside, and as the state gains experience with this incentive program, increase the percentage as participation increases. Under this scenario, the state may realize a savings of \$200 million because there would not be a need to build 14 new schools.²²

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Representative Jordan submitted the following sponsor statement:

House Bill 519 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 that 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 519, I.D.E.A., takes advantage of

²² Florida Department of Education, *supra* note 10, at 3.

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 519 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 519 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