

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

BILL: SB 442

INTRODUCER: Senators Flores and Garcia

SUBJECT: Educational Facilities

DATE: February 10, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Scott</u>	<u>Klebacha</u>	<u>ED</u>	Favorable
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 442 authorizes a district school board to adopt, by supermajority vote, a resolution to implement exceptions to the State Requirements for Educational Facilities (SREF). The bill requires that the district school board adopt the resolution at a public meeting that begins no earlier than 5 p.m., and conduct a cost-benefit analysis using a professionally accepted methodology for each exception selected by the district school board.

Specifically, the bill authorizes implementation of the following exceptions to the SREF:

- Interior nonload-bearing walls.
- Walkways, roadways, driveways, and parking areas.
- Standards for relocatables used as classroom space.
- Site lighting.

The bill has no impact on state funds. District school boards that adopt the authorized exceptions may achieve cost savings.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

State Requirements for Educational Facilities

The Florida Building Commission (commission) adopts the State Requirements for Educational Facilities (SREF) within the Florida Building Code (FBC), which governs the planning and

construction of public educational and ancillary plants.¹ The State Fire Marshal adopts standards for public school fire safety within the Florida Fire Prevention Code (FFPC).²

The construction of public educational facilities³ and ancillary plants by a district school board must conform to the FBC, FFPC, and the Florida Accessibility Code for Building Construction⁴ (FACBC).⁵ Collectively, the FBC, FFPC, and FACBC form the uniform building code for public educational facilities construction and ensure that such facilities are a safe, secure, sanitary, and accessible learning environment for all students, and that the structures will perform efficiently over their expected life cycles.⁶ The requirements preempt local codes and local amendments to the FBC.⁷

The SREF specifies standards including, but not limited to:⁸

- Interior walls;⁹
- Walks, roads, drives, and parking areas;¹⁰
- Covered walks;¹¹ and
- Site lighting.¹²

¹ Sections 553.73 and 1013.37(1), F.S.; Rule 6A-2.0010, F.A.C.; Section 423, FBC. The 2014 *State Requirements for Educational Facilities* (effective Nov. 4, 2014) are available at <http://www.fldoe.org/core/fileparse.php/7738/urlt/srefrule14.pdf>.

² Sections 381.006(16), 1013.03(6), and 1013.37(1) and (4), F.S.; Section 443, FBC.

³ “Educational facilities” is defined as the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards. Section 1013.01(6), F.S.

⁴ The federal Americans with Disabilities Act Standards for Accessible Design, and related regulations in 28 C.F.R. parts 35 and 36 and 49 C.F.R. part 37, are adopted by the Florida Building Commission. Sections 553.503 and 553.73(1)(b), F.S.

⁵ The ancillary plants are exempt from other state building codes; county, municipal, or other local amendments to the FBC and local amendments to the FFPC; building permits, and assessments of fees for building permits; ordinances; road closures; and impact fees or service availability fees. Section 1013.371(1)(a), F.S.

⁶ Florida Department of Education, *2016 Agency Legislative Bill Analysis* (Oct. 12, 2015), at 2 (on file with the staff of the Senate Committee on Education Pre-K – 12).

⁷ The enforcement of construction regulations governing public school districts is conducted by personnel and contract providers who are certified to perform plan reviews and inspections. Section 553.80(1)(e) and (6), F.S.

⁸ Section 423 of the FBC contains the State Requirements for Educational Facilities (SREF). However, the Florida Building Code has been redrafted and section 423 will be renumbered as section 453. *The Florida Building Code, Draft Building Chapters*, 5th Edition (2014) is available at http://ecodes.biz/ecodes_support/free_resources/14FloridaDraft/Building/14FL_Building_Draft.html (last visited January 23, 2016).

⁹ Interior nonload-bearing wood studs or partitions may not be used in permanent educational and auxiliary facilities or relocatable buildings. Section 423.8.3.1.1, FBC.

¹⁰ Walks, roads, drives, and parking areas on educational and ancillary sites must be paved. Roads, drives, and parking areas shall be in compliance with Department of Transportation (DOT) road specifications and striped in compliance with DOT paint specifications. All paved areas must have positive drainage. Section 423.10.2, FBC.

¹¹ All buildings in K-12 educational facilities must be connected by paved walks and accessible under continuous roof cover. New relocatable classroom buildings must be connected to permanent buildings by paved covered walks where applicable. Section 423.10.2.1, FBC.

¹² Design, construction, and installation of exterior security lighting for educational and ancillary facilities must be provided for auto, bus, and service drives and loading areas; parking areas; building perimeter; and covered and connector walks between buildings and between buildings and parking. Section 423.10.3, FBC.

Proposed Construction, Renovation, or Remodeling Plans

Review by the District School Board

Before the commencement of the construction, renovation, or remodeling of any educational or ancillary plants, a district school board must review the construction plans, including any related documents.¹³ In reviewing the plans, the district school board must consider, among other things:¹⁴

- The need for the new facility.
- The energy efficiency and conservation of design.
- Life-cycle cost considerations.
- The proposed construction cost per gross square foot.
- Plans for future expansion.
- The type of construction.
- Sanitary provisions.
- The design to accommodate physically handicapped persons.
- Conformity with the FBC and FFPC standards.

Approval by the District School Board

Before approving any construction plans, a district school board must ensure that the plans comply with the applicable standards of the FBC and the FFPC.¹⁵ For each proposed new facility and each proposed new addition, exceeding 2,500 square feet, the district school board must submit a copy of the plans¹⁶ to the county, municipality, or independent special fire control district providing fire protection services to the facility for review at no charge.¹⁷ Upon determining that the construction plans comply with the applicable standards, the district school board may approve the plans and construction may begin on the facilities.¹⁸

Waivers or Variances

The State Constitution prohibits the enactment of any special act or general law of local application that proposes to amend, alter, or contravene the provisions of the SREF.¹⁹ Legislative intent is that building officials, local enforcement agencies, and the commission interpret the FBC in a manner that protects the public safety, health, and welfare at the most reasonable cost.²⁰

¹³ Section 1013.37(2)(a) and (b), F.S.

¹⁴ Section 1013.37(2)(b), F.S.

¹⁵ Sections 1013.37(2), 1013.371(1)(c), and 1013.38(4)(a), F.S.

¹⁶ Such site plans are exempt from all other state building codes; local amendments to the FBC and FFPC; local ordinances; building permits, including related fees; road closures; and impact fees or service availability fees. Sections 1013.371(1)(a) and 1013.38(1)(b), F.S.

¹⁷ Section 1013.38(1)(a) and (b), F.S.

¹⁸ Sections 1013.37(2)(a) and 1013.38(4)(a), F.S.

¹⁹ Section 1013.37(5), F.S. The enactment of a special law or general law of local application is prohibited if pertaining to a subject prohibited by general law. Art. III, s. 11(a)(21), Fla. Const.

²⁰ Section 553.775(1), F.S.

The Florida Building Commission (commission) is not authorized to accept a petition for and may not grant any waiver²¹ or variance²² from the requirements of the FBC.²³ However, the commission is required to adopt criteria and procedures for granting alternative means of compliance with the FBC standards, or local amendments to the FBC, for enforcement by local governments, local enforcement districts, or other entities authorized by law to enforce the FBC.²⁴

Upon a determination by the commission of unnecessary, unreasonable, or extreme economic hardship, provided the waiver does not violate federal accessibility laws and regulations, the commission must grant an applicant's request for waiver.²⁵

If planned or actual construction of a facility deviates from the standards, a district school board must, at a public hearing, quantify and compare the costs of constructing the facility with the proposed deviations and in compliance with the adopted standards and the FBC, and explain the reason for the proposed deviations.²⁶

III. Effect of Proposed Changes:

SB 442 authorizes a district school board to adopt, by supermajority vote, a resolution to implement exceptions to the State Requirements for Educational Facilities (SREF). The bill requires that the district school board adopt the resolution at a public meeting that begins no earlier than 5 p.m., and conduct a cost-benefit analysis using a professionally accepted methodology for each exception selected by the district school board.

The bill authorizes implementation of the following exceptions to the SREF relating to:

- Interior nonload-bearing walls, by approving the use of fire-rated wood stud walls in new construction or remodeling for interior nonload-bearing wall assemblies that will not be exposed to water or located in wet areas.
- Walkways, roadways, driveways, and parking areas, by approving the use of designated, stabilized, and well-drained gravel or grassed student parking areas.
- Standards for relocatables used as classroom space, by approving construction specifications for installation of relocatable buildings that do not have covered walkways leading to the permanent buildings onsite.

²¹ "Waiver" means a decision by an agency to apply all or part of a rule to a person who is subject to the rule. Any waiver must conform to the standards for waivers outlined in the Administrative Procedure Act and in the uniform rulemaking procedures. Section 120.52(22), F.S. (definition of "waiver"); Section 120.54, F.S. (rulemaking procedure).

²² "Variance" means a decision by an agency to grant a modification to all or part of the literal requirements of an agency rule to a person who is subject to the rule. Any variance must conform to the standards for variances outlined in the Administrative Procedure Act and in the uniform rulemaking procedures. Section 120.52(21), F.S. (definition of "variance"); Section 120.54, F.S. (rulemaking procedure).

²³ Sections 120.80(16)(a) and (b) and 553.512(1), F.S.

²⁴ Section 120.80(16)(b), F.S. Each local government and each code enforcement agency with statutory authority must regulate building construction and enforce the FBC standards. Section 553.513, F.S.

²⁵ Section 553.512(1), F.S. Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20 percent of the cost of the alteration to the primary function area. 28 C.F.R. s. 36.403(f)(1).

²⁶ Section 1013.371(2), F.S.

- Site lighting, by approving construction specifications regarding site lighting that:
 - Do not provide for lighting of gravel or grassed auxiliary or student parking areas.
 - Provide lighting for walkways, roadways, driveways, paved parking lots, exterior stairs, ramps, and walkways from the exterior of the building to a public walkway through installation of a timer that is set to provide lighting only during periods when the site is occupied.
 - Allow lighting for building entrances and exits to be installed with a timer that is set to provide lighting only during periods in which the building is occupied. The minimum illumination level at single-door exits may be reduced to no less than 1 footcandle.²⁷

Before voting on a resolution, the district school board must conduct a cost-benefit analysis using a professionally accepted methodology that describes how each proposed exception:

- Achieves cost savings;
- Improves the efficient use of school district resources;
- Impacts the life-cycle costs and life span for each educational facility to be constructed; and
- Demonstrates that implementation of the exception will not compromise student safety or the quality of student instruction.

The bill requires that the district school board hold at least one public workshop, beginning no earlier than 5 p.m., to discuss and receive public comment on the proposed resolution and cost-benefit analysis, and authorizes the district school board to vote on the resolution at the same meeting. Otherwise, the vote on the resolution must be made during a public meeting beginning no earlier than 5 p.m.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁷ A “footcandle” is defined as a unit of illuminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot. See Merriam-Webster Dictionary available at <http://www.merriam-webster.com/dictionary/foot-candle> (last visited January 23, 2016).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state funds. District school boards that adopt the authorized exceptions may achieve cost savings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates section 1013.385 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.