

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 873 Education Funding

SPONSOR(S): Education Committee, Appropriations, Diaz, M. and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1064

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	11 Y, 0 N	Cherry	Fudge
2) Appropriations Committee	19 Y, 5 N, As CS	Heflin	Leznoff
3) Education Committee	13 Y, 4 N, As CS	Cherry	Mizereck

SUMMARY ANALYSIS

The bill modifies requirements for education fixed capital outlay funding for school districts and public charter schools. Specifically the bill replaces the existing eligibility criteria for charter school outlay funding. To be eligible for charter school capital outlay funding, a charter school must:

- Be in operation for 2 or more years;
- Not have more than two consecutive school grades lower than "B" unless the school serves a student population at least 50 percent of which is eligible for free or reduced-price meals; and
- Have an annual audit with no financial emergency conditions; or
- Be part of a high-performing charter school system.

Additionally, a charter school must have received final approval from its sponsor for operation during that fiscal year and may not operate in facilities provided by the sponsor in order to receive capital outlay funding.

The bill also eliminates provisions granting priority for funding to charter schools that received capital outlay funding in FY 2005-06 and revises the methodology for calculating the amount of state funding for charter school capital outlay from 1/15th to 1/40th of the cost per student station. If state funds for charter school capital outlay do not fully fund 1/40th of the cost per student station or the amount of per student funding generated by the district school board's discretionary ad valorem tax levy for capital outlay, whichever is less, then the school district must share discretionary ad valorem tax revenues to make up the difference.

The bill revises the criteria for schools seeking to participate in the High Growth District Capital Outlay Assistance Grant Program (HGDCOA). The bill also modifies current law regarding the Special Facility Construction Account (SFCA), which provides construction funds to school districts which have urgent construction needs but lack sufficient resources. Specifically, the bill:

- Modifies school district participation requirements pertaining to new construction funding and discretionary capital improvement millage funding.
- Changes the annual deadline for district school boards to certify final phase construction plans as complete and in compliance with the required codes.
- Specifies that a representative of the department must chair the Special Facility Construction Committee (SFCC); and
- Modifies requirements relating to application review, student enrollment projections, educational plant surveys, and project cost overruns.

Changes are also made to the requirements for school district construction costs. The bill:

- Changes the revenue sources which are not allowed to be expended in amounts above the statutory costs per student station to include all capital outlay revenue sources available to school districts;
- Restricts school district eligibility for state Public Capital Outlay and Debt Service Trust Fund (PECO) appropriations for three years if the district exceeds the statutory cost per student station for school construction projects; and
- Requires the Department of Education (DOE) and the Office of Economic and Demographic Research (EDR) to work in consultation to study the actual costs of construction and submit recommendations to the legislature on new statutory costs per student station for school construction projects.

HB 5001, Specific Appropriation 19 of the House 2016-2017 General Appropriations Act (GAA), provides \$90 million in state appropriations for charter school capital outlay. If the GAA were finalized with the \$90 million appropriation, school districts would be required to provide payments totaling \$62.9 million to charter schools from the local ad valorem revenues generated from the 1.5 mill levy. See Fiscal Comments.

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

STORAGE NAME: h0873d.EDC

DATE: 2/19/2016

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter School Capital Outlay

Present Situation

To be eligible for charter school capital outlay funding, a charter school must:

- Have been in operation for at least three years, be governed by a governing board established in Florida for three or more years which operates both charter schools and conversion charter schools within the state, be part of an expanded feeder chain¹ with an existing charter school in the district that is currently receiving charter school capital outlay funds, be accredited by the Commission on Schools of the Southern Association of Colleges and Schools, or serve students in facilities that are provided by a business partner for a charter school-in-the-workplace;
- Demonstrate financial stability for future operation as a charter school;
- Have satisfactory student achievement based upon the state accountability standards applicable to charter schools;
- Have received final approval from its sponsor for operation during that fiscal year; and
- Serve students in facilities that are not provided by the charter school sponsor.²

Capital outlay funds may be used by a charter school's governing board for the:

- Purchase of real property.
- Construction of school facilities.
- Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- Purchase of vehicles to transport students to and from the charter school.
- Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of five years or longer.
- Purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications.³
- Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.
- Purchase, lease-purchase, or lease of 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

Charter school capital outlay funding is allocated based upon the following priorities:

- First priority is given to charter schools that received capital outlay funding in FY 2005-06. Such a school receives the same per-student amount that it received in FY 2005-06 up to the lesser of:
 - The actual number of students enrolled in the current year; or
 - The number of students enrolled in FY 2005-06.

¹ A charter school may be considered a part of an expanded feeder chain under s. 1013.62, F.S., if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding pursuant to Section 1013.62, F.S. Rule 6A-2.0020 (1), F.A.C.

² Section 1013.62(1)(a), F.S. A conversion charter school, i.e., a charter school created by the conversion of an existing public school to charter status, is not eligible for capital outlay funding if it operates in facilities provided by its sponsor at no charge or for a nominal fee or if it is directly or indirectly operated by the school district. Section 1013.62(1)(d), F.S.

³ Enterprise resource software applications must be "classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements." Section 1013.62(2)(f), F.S.

⁴ Section 1013.62(2)(a)-(h), F.S.

- After calculating the first priority, remaining funds are allocated with the same per-student amount to:
 - Those schools not included in the first priority allocation; and
 - Those schools in the first priority allocation with growth in excess of FY 2005-06 student enrollments.

Any excess funds remaining after the first and second priority calculations are allocated among all eligible charter schools.⁵

Each charter school's capital outlay allocation must not exceed 1/15th of the statutory cost per student station. Based on the December 22, 2015 PECO Revenue Estimating Conference, the cost per student station was \$21,407 for an elementary school, \$23,117 for a middle school, and \$30,027 for a high school. The cost per student station is adjusted annually to reflect increases or decreases in the Consumer Price Index.⁶ DOE must disburse these funds to the sponsoring school district monthly based upon 1/12th of the amount that it expects the charter school to receive during that fiscal year. The funding amount is recalculated during the fiscal year to reflect fluctuations in student enrollment indicated by the second and third enrollment surveys and impacts on available funds resulting from charter school closings and the addition of newly eligible charter schools.⁷

In the most recent five fiscal years, the Legislature appropriated the following charter school capital outlay funds:

Charter School Capital Outlay Appropriations⁸				
Fiscal Year	Appropriation	Total Charter Schools Funded	First Priority	Second Priority
2011-12	\$55.2 million ⁹	372	151	221
2012-13	\$55.2 million ¹⁰	432	144	288
2013-14	\$90.6 million ¹¹	473	138	335
2014-15	\$75.0 million ¹²	487	133	354
2015-16	\$50.0 million ¹³	535	135	400

In addition to the appropriated state funds for charter school capital outlay, the law authorizes, but does not require, school boards to allocate local discretionary capital improvement funds to charter schools.¹⁴

Effect of Proposed Changes

The bill replaces the existing eligibility criteria for charter school outlay funding. To be eligible for charter school capital outlay funding, a charter school must:

- Be in operation for 2 or more years;
- Not have more than two consecutive school grades lower than "B" unless the school serves a student population at least 50 percent of which is eligible for free or reduced-price meals; and
- Have an annual audit with no financial emergency conditions; or

⁵ Section 1013.62(1)(b), F.S.

⁶ Sections 1013.62(1)(c), and 1013.64(6)(b), F.S. Adjusted cost per student station may be found at <http://edr.state.fl.us/Content/conferences/peco/archives/141209peco.pdf>.

⁷ Section 1013.62(1)(f), F.S.

⁸ School totals provided by FDOE. Email, Office of Independent Education and Parental Choice (Sept. 17, 2014).

⁹ Specific Appropriation 15A, s. 2, ch. 2011-69, L.O.F.

¹⁰ Specific Appropriation 16, s. 2, ch. 2012-118, L.O.F.

¹¹ Specific Appropriation 18, s. 2, ch. 2013-40, L.O.F.

¹² Specific Appropriation 25, s. 2, ch. 2014-51, L.O.F.

¹³ Specific Appropriation 18, s. 2, ch. 2015-232, L.O.F.

¹⁴ Section 1011.71(2), F.S.

- Be part of a high-performing charter school system.

Additionally, a charter school must have received final approval from its sponsor for operation during that fiscal year and may not operate in facilities provided by the sponsor in order to receive capital outlay funding.

Additionally, the bill eliminates provisions granting priority for funding to charter schools that received capital outlay funding in FY 2005-06. The bill revises the methodology for calculating the amount of state funding for charter school capital outlay from 1/15th to 1/40th of the cost per student station. If state funds for charter school capital outlay do not fully fund 1/40th of the cost per student station or the amount of per student funding generated by the district school board's discretionary ad valorem tax levy for capital outlay, whichever is less, then the school district must share discretionary ad valorem tax revenues to make up the difference.

A charter school or charter lab school may not receive state charter school capital outlay funds greater than the 1/40th cost per student station formula if the charter school's combination of state charter school capital outlay funds and capital outlay funds allowed in s. 1002.32(9)(e) and (h), F.S., exceeds the 1/40th cost per student station formula.

The bill adds as allowable uses of capital outlay funds, for both charter schools and non-charter public schools, the purchase or lease of computer hardware necessary for gaining access to electronic content or to serve purposes specified in the charter schools and non-charter public schools digital classrooms plan. Charter schools are also aligned with non-charter public schools to allow payment of the cost of the opening day collection for the library media center of a new school.

Special Facilities Construction Account

Present Situation

The SFCA is established as part of the PECO Trust Fund to provide construction funds to school districts that have urgent construction needs but lack sufficient resources, and have no reasonable expectation of raising the needed funds over the next three years from authorized sources of capital outlay revenue.¹⁵ A district may not receive funds for more than one approved project in any 3-year period.¹⁶ The department must encourage a construction program that reduces the average size of schools in the district.¹⁷

Typically, the projects that receive funds through the SFCA are located in rural areas and that have an insufficient tax base to fund large construction projects.¹⁸ The state's smaller school districts, which serve fewer than 20,000 students, generally raise considerably less through local discretionary property taxes than larger Florida school districts.¹⁹ To improve the effectiveness of programs funded by the SFCA, a recent report by the Office of Program Policy Analysis and Government Accountability recommended the relevant statutes be modified to:

- Clarify the types of projects that are eligible for funding.
- Clarify the department's rule in making funding decisions.
- Require that the department conduct educational plant surveys.
- Require the department to approve the final construction plans for funded projects.
- Change the membership of the project selection committee; and
- Require districts to levy the maximum discretionary millage prior to their application.²⁰

¹⁵ Section 1013.64(2)(a), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Office of Program Policy Analysis and Government Accountability, *Special Facility Construction Projects Appear Needed, but Have Excess Capacity* (Report No. 11-02), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1102rpt.pdf>, at 1.

¹⁹ *Id.*

²⁰ *Id.* at 12.

District Effort and Participation Requirement

To receive funds from the SFCA, districts must, at the time of request for funds and for a continuing period of 3 years, levy the maximum millage against their nonexempt assessed property value or raise an equivalent amount of revenue from the school capital outlay surtax.²¹ Additionally, districts must apply unencumbered Capital Outlay and Debt Service funds, PECO new construction funds, and discretionary capital improvement millage funds to the project.²² The district must also forego all other fixed capital outlay funding for a period of 3 years.²³ This leaves participating districts with limited ability to pay for other fixed capital outlay needs.

Construction Plans

District school boards must certify that final phase III construction plans are complete and in compliance with the building and life safety codes before August 1.²⁴ This deadline does not provide the department sufficient time to review the construction plans before such plans are considered by the Special Facility Construction Committee (SFCC). Small districts do not have the expertise to determine if an architect used the most cost-effective school design or overbuilt the school. As a result, such districts may not identify features that do not add value or may incur controllable cost overruns.²⁵

Special Facility Construction Committee

The SFCC is responsible for a preapplication review of a school district's funding requests for special facility construction projects. The SFCC is composed of:

- Two department representatives;
- A representative from the Governor's office;
- A representative selected annually by the district school boards; and
- A representative selected annually by the superintendents.²⁶

The law does not specify which representative serves as the committee chair but in practice a department representative serves this role.²⁷ Additionally, the law authorizes a project review subcommittee, convened by the SFCC, to review preapplications.²⁸ The subcommittee is composed of:

- Two department representatives; and
- Two staff from school districts that are not eligible to participate in the Special Facility Construction program.²⁹

The SPCC and the subcommittee evaluate the ability of the projects to relieve critical needs and rank the requests in priority order.³⁰ The statewide priority list for special facilities construction must be submitted to the Legislature in the Commissioner of Education's annual capital outlay legislative budget request at least 45 days before the legislative session.³¹

²¹ Section 1013.64(2)(a)8., F.S.

²² Section 1013.64(2)(a)11., F.S.

²³ *Id.*

²⁴ Section 1013.64(2)(a)12., F.S.

²⁵ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 3.

²⁶ Section 1013.64(2)(b), F.S.

²⁷ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 3.

²⁸ Section 1013.64(2)(a)1., F.S.

²⁹ *Id.*

³⁰ Section 1013.64(2)(a)1. and (c), F.S.

³¹ Section 1013.64(2)(c), F.S.

Application Review

Within 60 days after receiving the preapplication review request, the SFCC or subcommittee must meet in the school district to review the project proposal and existing facilities.³² The law, however, does not specify a deadline for the school districts to submit the preapplications for review by the committee or subcommittee.³³ In practice, to meet the deadline for the commissioner to submit the capital outlay legislative budget request, the department convenes the committee meeting in August of each year.³⁴

Determining Critical Need

To determine whether a school district's proposed construction project is a critical need, the SFCC or subcommittee must consider:

- The capacity of all existing facilities within the district as determined by the Florida Inventory of School Houses;
- The district's pattern of student growth; and
- The district's existing and projected capital outlay full-time equivalent student enrollment as determined by the department.

Laws governing educational facilities plans³⁵ require such plans to be based on demographic, revenue, and education estimating conferences.³⁶

Educational Plant Surveys

To be considered for funding through the SFCA, the construction project must be recommended in the most recent survey or surveys by the school district under the rules of the State Board of Education.³⁷ School districts may:

- Contract with a private consultant to conduct the educational plant surveys,
- Request the department to conduct facility reviews; or
- Conduct the surveys in-house.³⁸

Since 1998, school districts have hired private consultants to conduct surveys for 19 of the 24 projects that received funding through the SFCA, "in part, because the districts believed this provided an independent, third-party assessment of their facilities' needs."³⁹ Often these consultants also worked for firms that designed or constructed the facilities.⁴⁰ Between 2010 and 2015, 13 school districts requested funding, which included 5 districts that contracted with private consultants to conduct the educational plant surveys.⁴¹

Project Cost Overruns

SFCA Project costs are limited by the statutorily established maximum cost per student station.⁴² However, the law is silent regarding cost increases and changes in project scope.⁴³ The department

³² *Id.*

³³ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 3.

³⁴ *Id.*

³⁵ Sections 1013.31 and 1013.35(2)(a)1., F.S.

³⁶ *Id.*

³⁷ Section 1013.64(2)(a)2., F.S.

³⁸ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 4.

³⁹ Office of Program Policy Analysis and Government Accountability, *Special Facility Construction Projects Appear Needed, but Have Excess Capacity* (Report No. 11-02), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1102rpt.pdf>, at 8.

⁴⁰ *Id.*

⁴¹ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 4.

⁴² Section 1013.62(6)(b)1., F.S., see also Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 4. Cost per student station includes contract costs, legal and administrative costs, fees of architects and engineers, furniture

identified three projects since 1998 in which the final cost exceeded the amount that the committee originally approved.⁴⁴

Effect of Proposed Changes

The bill modifies current law regarding the SFCA to incorporate technical changes suggested by the department and options recommended by OPPAGA to improve the effectiveness of the construction projects funded by the SFCA.⁴⁵

The bill preserves the prohibition on a school district from receiving SFCA funding for more than one approved project within a 3-year period. However, the bill extends this prohibition to any time during which any portion of the district's participation requirement remains outstanding. As a result, this modification may help to allocate SFCA funds for targeted construction projects to meet critical need.

District Effort and Participation Requirement

The bill clarifies that a school district's participation requirement is equivalent to all unencumbered and future revenue acquired during a 3-year period, beginning with the year of the initial appropriation and the next two years from Capital Outlay and Debt Service funding, PECO new construction funding, and discretionary capital improvement millage funding. In addition, the bill:

- Requires that beginning in the 2019-2020 fiscal year, a school district seeking SFCA funding for a construction project must have levied the maximum discretionary capital improvement millage against its nonexempt assessed property value, as authorized in law,⁴⁶ or an equivalent amount of revenue from the school capital outlay sales surtax, as authorized in law,⁴⁷ for a minimum of three years prior to the request and for a continuing period necessary to meet the district's participation requirement;
- Removes the requirement that a school district's participation requirement be satisfied within a 3-year period.
- Reduces from 1.5 mills to 1.0 mill, the value of the discretionary capital improvement millage that a school district with a new or active project must budget annually until the district's participation requirement is met.

A district school board must set the discretionary capital improvement millage levy rate at a public meeting. The school capital outlay surtax is subject to approval by voter referendum.⁴⁸

Construction Plans

The bill makes June 1 the annual deadline for the district school boards to certify their final phase III construction plans as complete and in compliance with the building and life safety codes. This modification addresses an existing issue regarding insufficient time for the department to review the construction plans before such plans are considered by the SFCC. The modified deadline will allow the department to:

- Review the construction plans before convening the committee meeting in August of each year; and
- Advise the committee whether the construction plans are economical and compliant with the required codes.⁴⁹

and equipment, and site improvement costs. Cost per student station does not include the cost of purchasing or leasing the site for the construction or the cost of related offsite improvements. Section 103.64(6), F.S.

⁴³ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 4.

⁴⁴ Office of Program Policy Analysis and Government Accountability, *Special Facility Construction Projects Appear Needed, but Have Excess Capacity* (Report No. 11-02), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1102rpt.pdf>, at 11.

⁴⁵ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 3.

⁴⁶ Section 1011.71(2), F.S.

⁴⁷ Section 212.055(6), F.S.

⁴⁸ *Id.*

Special Facility Construction Committee

The bill codifies current practice by specifying that a representative of the department must chair the SFCC. This modification will allow the department to designate one of its two representatives to the SFCC to serve as the committee chair. The bill does not alter the composition of either the SFCC or the project review subcommittee.

Application Review

The bill specifies that a school district may request a preapplication review of the district's construction project proposal at any time. However, if the district school board seeks inclusion in the department's next annual capital outlay legislative budget request, the district must make the preapplication review request before February 1 of the fiscal year before the legislative budget request.

Additionally, the bill changes the deadline for the committee or subcommittee to complete the preapplication review from 60 days to 90 days after receiving the preapplication review request.

Determining Critical Need

The bill modifies the way the SFCC and project review subcommittee determines whether a proposed construction project is a critical need. The bill requires the use of capital outlay enrollment projections that are based on demographic, revenue, and education estimating conferences rather than the enrollment projections determined by the department. This modification aligns the change in projecting student enrollment to existing laws governing educational facilities plans.⁵⁰

Educational Plant Surveys

The bill requires proposed special facility construction projects to be included in the most recent survey or survey amendment that is collaboratively prepared by a school district seeking SFCA funding and the department. This modification will allow the department to better assess the need for special facility construction projects and provide assurance to other school districts and the general public that the SFCA funds are spent on critically needed capital projects.⁵¹

The bill also precludes a district, in preparation of a survey, from using a consultant who is employed by or receiving compensation from a third party that designs or constructs a project recommended by the survey.

Project Cost Overruns

The bill authorizes SFCA funds to be used to pay for cost overruns necessitated by a disaster as defined in law⁵² or an unforeseeable circumstance beyond the district's control as determined by the SFCC.

School District Construction Costs

Present Situation

Section 1013.64(5)(2), F.S., limits the cost of school district capital outlay projects to the following student station costs:

- \$17,952 for an elementary school;
- \$19,386 for a middle school; and

⁴⁹ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 5.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Section 1013.64, F.S.

- \$25,181 for a high school.

These costs were established in 2006, and the statute provides for an annual adjustment each year by the Office of Economic and Demographic research based on the Consumer Price Index.⁵³ The site cost and offsite improvement costs are not included in the cost per student station. School districts are not required to adhere to these cost maximums when using sales surtax proceeds authorized in s. 212.055, F.S., proceeds from revenue bonds authorized in s. 17, Art. XII of the State Constitution, or voted ad valorem property tax proceeds authorized by a referendum of the general electorate⁵⁴. School districts that exceed the cost maximums are required to report the reasons for the excess costs to the department. The department is required to provide this information to the Legislature each year by December 31.

Effect of Proposed Legislation

The bill requires the department to work in consultation with the Office of Economic and Demographic Research to conduct a study of the statutory cost per student station amounts using the most recent available information on construction costs. The department shall report the final results of the analysis to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2017. The bill also prohibits school districts from spending more than the cost per student station from any available revenue sources. The site cost and offsite improvement costs are required to be included in the cost per student station. A district that exceeds the statutory student station costs shall be ineligible for allocations from the PECO Trust Fund for the next three years in which the district would have received allocations had the violation not occurred.

High Growth District Capital Outlay Assistance Grant Program

Present Situation

The HGDCOA program provides funding for school districts that experience high student growth rates and have comparatively low property tax bases.⁵⁵

Section 1013.738, F.S., establishes the criteria for school districts seeking to qualify for the High Growth District Capital Outlay Assistance Grant Program. This section also establishes the methodology for allocating funds to eligible school districts.

Effect of Proposed Legislation

The bill revises the criteria for schools seeking to participate in the HGDCOA program by:

- Revising the amount of revenue that must be derived from a school district's nonvoted discretionary capital outlay millage.
- Requiring school districts to have a combined unweighted FTE enrollment in charter schools, the virtual instruction program, the Florida Virtual School, and educational scholarship programs under Part III of chapter 1002, F.S., of at least 10 percent of the total student population of the district.
- Requiring a cumulative growth in capital outlay FTE students over the four-year period, which replaces the previous requirement of school districts having equaled or exceeded twice the statewide average of growth in Capital outlay FTE students.
- Removing requirements relating to fund allocation from the Classrooms First Program and the total capital outlay FTE students of participating school districts.

⁵³ Based on the December 22, 2015 Public Education Capital Outlay (PECO) Revenue Estimating Conference, the cost per student station is \$21,407 for an elementary school, \$23,117 for a middle school, and \$30,027 for a high school. Adjusted cost per student station may be found at <http://edr.state.fl.us/Content/conferences/peco/archives/141209peco.pdf>.

⁵⁴ Section 1011.73, F.S.

⁵⁵ Florida Senate, 2005 Legislative Bill Analysis for SB 1374, at 1.

The bill also revises the methodology that the Department uses to allocate funds for eligible districts participating in the HGDCOA program.

B. SECTION DIRECTORY:

Section 1. Amends s. 1011.71, F.S., providing for the calculation and payment of capital outlay funding to charter schools; and providing that enterprise resource software may be acquired by certain means.

Section 2. Amends s. 1013.62, F.S., revising eligibility requirements for charter school capital outlay funding; revising charter school funding allocations; revising the list of approved uses of charter school capital outlay funds.

Section 3. Amends s. 1013.64, F.S., providing that a school district may not receive funds from the Special Facility Construction Account under certain circumstances; revising the criteria for a request for funding; authorizing the request for a preapplication review to take place at any time; providing exceptions; revising the time period for completion of the review; providing that certain capital outlay full-time equivalent student enrollment estimates be determined by specified estimating conferences; requiring surveys to be cooperatively prepared by certain entities and approved by the Department of Education; prohibiting certain consultants from specified employment and compensation; requiring the cost per student station to include certain cost overruns; requiring a school district to levy the maximum millage against certain property value or raise a specified amount from the school capital outlay surtax under certain circumstances; reducing the required millage to be budgeted for a project; requiring certain plans to be finalized by a specified date; requiring a representative of the department to chair the Special Facility Construction Committee; prohibiting district school boards from using certain funds for new construction of educational plant space that exceeds maximum thresholds for cost per student station after a specified date; prohibiting new construction initiated after a specified date by a district school board from exceeding the maximum thresholds; providing that school districts that exceed the maximum thresholds are ineligible for certain allocations for a specified period; revising the costs included in calculating the maximum thresholds; and requiring the department to conduct a study of the total cost per student station and provide a report to the Governor and Legislature by a certain date.

Section 4. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill prohibits school districts from spending more than the cost per student station from any available revenue sources. A district that exceeds the statutory student station costs shall be ineligible for allocations from the PECO Trust Fund for the next three years in which the district would have received allocations had the violation not occurred.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill amends s. 1011.71, F.S., relating to district school tax and s. 1013.62, F.S., relating to charter school capital outlay funding. The bill changes the methodology for calculating the amount of funding that shall be provided from state funds for charter school capital outlay from 1/15th to 1/40th of the cost per student station provided in s. 1013.64, F.S. Based on current capital outlay FTE estimates and the January 2016 cost per student station, total funding required at the 1/40th level is estimated to be \$157.9 million. The bill requires school boards to provide to charter schools a portion of the funding generated by the 1.5 mills levied for capital outlay funding if the amount of state funding provided for charter school capital outlay is insufficient to fully fund the 1/40th of the cost per student station or the amount of funding per student generated by the levy of local ad valorem for capital outlay, whichever is less. HB 5001, Specific Appropriation 19 of the House 2016-2017 General Appropriations Act (GAA), provides \$90 million in state appropriations for charter school capital outlay. If the GAA were finalized with the \$90 million appropriation, school districts would be required to provide payments totaling \$62.9 million to charter schools from the local ad valorem revenues generated from the 1.5 mill levy.⁵⁶

The bill requires proposed special facility construction projects to be included in the most recent survey or survey amendment that is collaboratively prepared by a school district seeking SFCA funding and the department. This modification will allow the department to better assess the need for special facility construction projects and provide assurance to other school districts and the general public that the SFCA funds are spent on critically needed capital projects.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 9, 2016, the Appropriations Committee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The proposed committee substitute:

- Modified the requirements for education fixed capital outlay funding for school districts and public charter schools.
- Revised eligibility criteria for charter school capital outlay funding.

⁵⁶ The amount is less than the remaining balance of \$67.9 million due to some charter schools potentially receiving more than the school district local ad valorem revenue per student at the full 1/40th calculated amount. The bill provides for the amount of the 1/40th or the amount the district generates per fixed capital outlay student from the local ad valorem revenue. Charter schools in sixteen districts would receive the lesser amount of the revenue generated by the district's local ad valorem revenue. Those districts are: Clay, Columbia, Dixie, Escambia, Gadsden, Glades, Hernando, Hillsborough, Levy, Madison, Marion, Osceola, Pasco, Polk, Putnam, Santa Rosa, and Wakulla.

- Modified requirements for the Special Facility Construction Account.
- Revised requirements for school district construction costs.
- Required the Department of Education and the Office of Economic and Demographic Research to study the actual costs of construction and submit recommendations to the Legislature.

On February 17, 2016, the Education Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Excluded local ad valorem capital outlay funds and capital outlay funds received through a reduction in the administrative fee provided in s. 1002.33(20) from the calculation of charter capital outlay funds subject to the limitation of one-fortieth of the cost per student station. The bill originally included local ad valorem capital outlay funds in the calculation and would have reduced the amount of funds certain charter schools currently receive. As a result of the amendment, school districts will still be able to share local ad valorem capital outlay funds without reducing the total amount of capital outlay funds a charter school may receive.
- Revised eligibility criteria for the High Growth District Capital Outlay Assistance Grant Program.

The bill analysis reflects the committee substitute as passed by the Education Committee.