

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 Committee on Education Pre-K -12

BILL: SB 1646

INTRODUCER: Senator Simon

SUBJECT: Educational Facilities

DATE: January 26, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Brick	Bouck	ED	Favorable
2. _____	_____	AED	_____
3. _____	_____	AP	_____

I. Summary:

SB 1646 revises provisions relating to Public Education Capital Outlay and Debt Service Trust Fund (PECO) allocations for district maintenance needs and the Department of Education's (DOE) Special Facility Construction program. The bill revises:

- The health and safety set-aside within the annual district allocation by shifting the one-tenth standard from a spending mandate to a prioritization standard.
- Special Facilities eligibility and administration by replacing the preapplication review request process with an application process and expanding the site eligibility criterion to incorporate the local government coordination framework.
- Special Facilities program administration and oversight by expanding DOE involvement in design, procurement, and construction monitoring, adjusting certain project and contracting timelines, and removing the Phase I plan approval deadline tied to the application year.
- The cost-per-student-station requirements by extending the exemption from the cost-per-student-station limitation.

The bill takes effect July 1, 2026.

II. Present Situation:

Public Education Capital Outlay and Capital Outlay and Debt Service Funding Streams

The State Constitution dedicates specified proceeds from motor vehicle license revenues to district and community college capital outlay and debt service purposes, with the revenues deposited monthly into a capital outlay and debt service fund in the state treasury and used as provided in the constitutional provision.¹

¹ Section 9(d)(3), Art. XII, Fla. Const.

The State Constitution also authorizes public education capital outlay funding derived from gross receipts taxes, with the proceeds deposited into the Public Education Capital Outlay and Debt Service Trust Fund (PECO) and appropriated, as provided by law, for public education capital outlay purposes.²

For the 2025-26 fiscal year, \$10,536,509 in PECO funds was appropriated for public school projects.³

Funds for Remodeling, Renovation, Maintenance, Repairs, and Site Improvement

Appropriations from the PECO for remodeling, renovation, maintenance, repairs, and site improvement of existing satisfactory facilities receive priority consideration and are distributed to district school boards by multiplying the building value times the building age over the sum of the years' digits.⁴ The Department of Education (DOE) compiles a sum-of-the-digits report reflecting the statutory calculation and the resulting relative shares used in the PECO allocation process.⁵

The statutory formula is based on:⁶

- Building value, calculated using assignable square footage, the net-to-gross conversion rate in State Board of Education rule, and the current average new construction cost.
- Building age, calculated using the prior year's age adjusted by the prior year distribution relative to building value, with an annual increment.
- Assumed building life spans that vary by facility type, including 50 years for permanent facilities, 35 years for modular noncombustible facilities, and 20 years for relocatable facilities.

Two expenditure limitations apply to funds received under this distribution:⁷

- The funds may not be used to supplant funds in the district's current fiscal year approved operating budget.
- Budgeted funds must be expended at a similar rate not less than the amount that would have been expended had the district not received the distribution.

A portion of each district's annual allocation is directed to health and safety needs. At least one-tenth of the annual allocation is spent to correct unsafe, unhealthy, or unsanitary conditions in educational facilities, or a lesser amount sufficient to correct all deficiencies cited in annual comprehensive safety inspection reports.⁸

² Section 9(a)(2), Art. XII, Fla. Const.

³ Florida Department of Education, *2025-26 Capital Projects Plan, Table 1* (Elementary and Secondary Education), "Public School Projects", available at <https://www.fldoe.org/file/7501/2526CPP.pdf>, at 3.

⁴ Section 1013.64(1)(a), F.S.

⁵ Section 1013.64(1)(a), F.S.; see, e.g., State University System of Florida, Board of Governors, *PECO allocation for Maintenance, Repair, Renovation and Remodeling aka: "Sum of Digits"*, available at <https://www.flbog.edu/wp-content/uploads/2025/01/2024-25-Maintenance-Repair-Renovation-Remodel-MRRR-Sum-of-Digits-Board-Request-v2.pdf>.

⁶ Section 1013.64(1)(a), F.S.

⁷ Section 1013.64(1)(b), F.S.

⁸ Section 1013.64(1)(f), F.S.; s. 1013.12(2), F.S.

Special Facility Construction Account

A separate account within the PECO, the Special Facility Construction Account, is used to provide construction funds to eligible school districts with urgent construction needs that lack sufficient current resources and cannot reasonably anticipate sufficient resources within the next 3 years from specified projected capital outlay revenue sources.⁹

Project selection and prioritization are routed through the Special Facility Construction Committee, and a project must be deemed a critical need and recommended for funding by the committee.¹⁰

A district request is limited in scope and frequency. A district submits one specific construction project, not to exceed one complete educational plant, and may not receive funding for more than one approved project in any 3-year period or while any portion of the district's participation requirement remains outstanding.¹¹

To be considered for funding, statutory criteria include, among other items:

- Committee review and critical need determination, based on factors that include facility capacity and utilization information and the district's growth and capital outlay enrollment projections.¹²
- Survey and priority list alignment, including that the construction project is recommended in the most recent educational plant survey or survey amendment and appears on the district's approved project priority list.¹³
- Site selection and planning coordination. The district selects and has an approved site for the construction project through the state site selection process and State Board of Education rules. Site planning and selection is coordinated with local governments through the interlocal agreement framework to ensure consistency with applicable local comprehensive plans and land development regulations.¹⁴
- Space utilization demonstration, including a district-adopted facilities list showing facilities do not exceed the norm for net square feet occupancy requirements under the State Requirements for Educational Facilities, using programmatic combinations for multiple uses of space to obtain maximum daily use.¹⁵
- Phase I plans are approved by the district school board as being in compliance with the building and life safety codes before June 1 of the year the application is made.¹⁶

Two program guardrails relevant to project administration include cost controls and timing controls:

- Cost Controls.

⁹ Section 1013.64(2), F.S.

¹⁰ Section 1013.64(2)(a)1., F.S.

¹¹ Section 1013.64(2), F.S.

¹² Section 1013.64(2)(a)1., F.S.

¹³ Section 1013.64(2)(a)2., F.S.

¹⁴ Sections 1013.33(4)-(6) and 1013.36(1) and (6), F.S.

¹⁵ Section 1013.64(2)(a)5., F.S.

¹⁶ Section 1013.64(2)(a)12., F.S.

- Total cost per student station, including change orders, may not exceed the applicable maximum cost per student station unless the committee approves the excess costs. Allowable exceedance categories may include specified legal and administrative fees, certain site improvements or related offsite improvements, public shelter and hurricane hardening costs, disaster-related cost overruns, security enhancements approved by the school safety specialist, and unforeseeable circumstances beyond the district's control.¹⁷
- An unfinished new construction project that was started on or before July 1, 2028, is exempt from the total cost per student station limitation.¹⁸
- **Timing Controls.** The district signs an agreement stating that it will advertise for bids within 30 days after receipt of its encumbrance authorization from the DOE. If a contract is not signed within 90 days after advertising of bids, the project funding reverts to the Special Facility New Construction Account for reallocation, but the commissioner may grant an additional 90 days (maximum 180 days after bid advertisement).¹⁹

For the 2025-26 fiscal year, \$144,419,602 was appropriated for Special Facility Construction Account projects for six district school boards.²⁰

Local Participation Requirement and Referenced Local Revenue Authority

For projects before the 2019-2020 fiscal year, eligibility is tied to levying the maximum discretionary capital outlay millage authorized, or raising an equivalent amount from the school capital outlay surtax, at the time the request is made and continuing for the period necessary to meet the participation requirement. For projects beginning in the 2019-2020 fiscal year and thereafter, eligibility is tied to levying the maximum discretionary capital outlay millage authorized, or raising an equivalent amount from the school capital outlay surtax, for at least 3 years before submitting the request and continuing for the period necessary to meet the participation requirement.²¹

District school boards are authorized to levy discretionary capital outlay millage not to exceed 1.5 mills for specified capital outlay and related purposes, including new construction and remodeling, site acquisition and improvement, lease-purchase payments, and leasing or renting facilities and sites.²² Counties may levy, subject to referendum approval, a school capital outlay surtax of up to 0.5 percent for authorized fixed capital outlay purposes.²³

For districts with a new or active project funded under the special facilities program, no more than the value of 1 mill per year is budgeted to the project until the participation requirement is satisfied.²⁴

¹⁷ Section 1013.64(2)(a)6., F.S.; s. 252.34(2), F.S.

¹⁸ Section 1013.64(6)(e), F.S.

¹⁹ Section 1013.64(2)(a)7. and 9., F.S.

²⁰ Florida Department of Education, *2025-26 Capital Projects Plan, Table 1* (Elementary and Secondary Education), "Special Facility Construction Account", available at <https://www.fldoe.org/file/7501/2526CPP.pdf>, at 3.

²¹ Section 1013.64(2)(a)8., F.S.; s. 1011.71(2), F.S.; s. 212.055(6), F.S.

²² Section 1011.71(2), F.S.

²³ Section 212.055(6), F.S.

²⁴ Section 1013.64(2)(a)8., F.S.

District school boards budgeted \$5,091,671,664.40 in revenue from the district local capital improvement tax for fiscal year 2024-25.²⁵

III. Effect of Proposed Changes:

SB 1646 revises provisions relating to Public Education Capital Outlay and Debt Service Trust Fund (PECO) allocations for district maintenance needs and the Department of Education's (DOE) Special Facility Construction program. The bill revises:

- The health and safety set-aside within the annual district allocation by shifting the one-tenth standard from a spending mandate to a prioritization standard.
- Special Facilities eligibility and administration by replacing the preapplication review request process with an application process and expanding the site eligibility criterion to incorporate the local government coordination framework.
- Special Facilities program administration and oversight by expanding DOE involvement in design, procurement, and construction monitoring, adjusting certain project and contracting timelines, removing the Phase I plan approval deadline tied to the application year.
- The cost-per-student-station requirements by extending the exemption from the cost-per-student-station limitation.

Public Education Capital Outlay and Debt Service Trust Fund (PECO) Allocations

The bill amends s. 1013.64(1)(a), F.S., to make technical and clarifying revisions to the description of the calculation used to allocate PECO funds for remodeling, renovation, maintenance, repairs, and site improvements for existing satisfactory facilities, without substantively changing the allocation methodology.

The bill amends s. 1013.64(1)(f), F.S., relating to the portion of a district school board's annual allocation used to address unsafe, unhealthy, or unsanitary conditions in educational facilities, to:

- Replace the requirement that at least one-tenth of the annual allocation be spent for corrective purposes with a requirement that the board prioritize a minimum of one-tenth of the annual allocation for those purposes.
- Conform and clarify existing language regarding use of a lesser amount when sufficient to correct all deficiencies cited in the board's annual comprehensive safety inspection reports.

Special Facility Construction Account – Application and Criteria

The bill amends s. 1013.64(2)(a)1., F.S., relating to Special Facility Construction Committee consideration of proposed facility projects, to:

- Replace the existing preapplication review request process with an application process for committee consideration.
- Require the district school board to submit the application via letter to the Special Facility Construction Committee Chair or the Director of Educational Facilities, rather than requesting a preapplication review by the committee or a project review subcommittee.

²⁵ Florida Department of Education, *Finance Data Base, District Summary Budget*, Section XIII (Capital Projects Funds 300), Fiscal Year 2024-25 State Cumulative Totals (run date Jan. 24, 2025), (account 3413, "District Local Capital Improvement Tax"), available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/StateTotalBUD2425.pdf>, at 39.

- Make conforming and clarifying changes to reflect the application terminology and reorganize existing language regarding timelines and subcommittee composition.

The bill amends s. 1013.64(2)(a)2., F.S., relating to criteria for Special Facility Construction Committee consideration of a construction project, to specify that, for a Special Facility Construction project to be considered, the district's selected and approved site must reflect completion of the required local government coordination and consistency review steps applicable to school facility planning and siting.

The bill amends s. 1013.64(2)(a), F.S., relating to requirements for participation in the special facility construction program, to:

- Require the DOE to participate in the design review process for program projects.
- Require a project to be disqualified from the program, with the district required to reapply, if the Office of Educational Facilities determines during the design phase that the project goes beyond the scope of the original requested project, including a change in site location, and the request is not corrected.
- Require the DOE to conduct construction site visits throughout the construction process.
- Require the district school board's signed bid-advertising agreement to be kept on file with the DOE.
- Revise the bid-advertising requirement by requiring the district school board to advertise for bids no later than 30 days after receipt of the encumbrance authorization for design and construction, rather than within 30 days after receipt of the encumbrance authorization from the DOE.

Special Facility Construction Account – Procurement and Contracting Requirements

The bill creates additional requirements governing procurement and contracting for special facility construction projects by:

- Requiring a district school board, when selecting an architect or construction manager through a request for qualifications or request for proposals process, to use the DOE's process, including the DOE's scoresheets, submittal requirements, and selection procedures.
- Requiring the DOE to collect and review all architect and construction manager selection documentation and authorizing the DOE to provide feedback or take action in the selection process, including overriding the district school board's selection and making a new selection.
- Authorizing district school boards to enter into a contingency construction contract for an amount up to the higher of the full construction amount initially requested at the Special Facility Construction Committee meeting or the final guaranteed maximum price, and requiring the contract to include a clause making subsequent years contingent on funding.
- Prohibiting an elected state official from participating in the architect or construction manager selection process, except to approve the selection committee's recommendation.

Special Facility Construction Account – Timelines and Participation

The bill revises the contract execution timeline by extending the period before project funds must revert from 90 days to 120 days after bid advertisement, while reducing the commissioner's

discretionary extension from 90 days to 60 days. However, the maximum time permitted to execute a construction contract after bid advertisement remains 180 days.

The bill removes the requirement that Phase I plans be approved by the district school board as complying with applicable building and life safety codes by June 1 of the year in which the application is made.

Cost Per Student Station

The bill extends the exemption from the total cost per student station limitation for an unfinished new construction project that was started on or before July 1 by moving the applicable start-date deadline from July 1, 2028, to July 1, 2030.

The bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill does not appear to have a fiscal impact. The department can absorb any associated costs within its existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1013.64 and 1013.62.

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.