

SB 1676 – Governmental Operations by Wise

The bill amends and creates several provisions in law to conform with new legislative policies for education appropriations.

Compensation of School Board Members and District Superintendents

The bill amends s. 1001.395 relating to school board member compensation by adding subsection (3) to provide that, for the 2009-2010 fiscal year, the salary of each district school board member shall be the amount calculated pursuant to s. 1001.395(1) or the salary of members of the Legislature, pursuant to s. 11.13 or any other law, whichever is less.

The bill amends s 1001.47 relating to district school superintendent salaries by adding subsections (6) and (7) to provide that elected district school superintendents may reduce their salary rate on a voluntary basis and that, for the 2009-2010 fiscal year, the salary of each elected district school superintendent calculated pursuant to s. 1001.47 shall be reduced by 5 percent.

The bill amends s. 1001.50 relating to appointed superintendents by adding subsections (5) and (6) to provide that, notwithstanding any other law, resolution, or rule to the contrary, an appointed district school superintendent may not receive more than \$225,000 in remuneration annually from state funds. The bill defines “remuneration” to mean salary, bonuses, and cash-equivalent compensation paid to a district school superintendent by his or her employer for work performed, excluding health insurance benefits and retirement benefits. Only compensation, as defined in s. 121.021(22), which is provided to a district school superintendent may be used in calculating benefits under chapter 121. In addition, the bill provides that district school boards and appointed superintendents are encouraged to review the superintendent’s annual remuneration for the 2009-fiscal year and mutually agree to a reduction of at least 5 percent.

The bill amends ss. 1001.42(25) and 1001.50(2) relating to the powers and duties of school board with respect to employment contracts to clarify a provision adopted during the January 2009 special session that prohibited a school board from entering into an employment contract that requires the district to pay from state funds an employee an amount in excess of 1 year of the employee’s or superintendent’s annual salary for termination, buy-out, or any other type of contract settlement. This bill clarifies that the January provision does not prohibit the payment of earned leave and benefits in accordance with the district’s leave and benefits policies which were accrued by the employee or superintendent before the contract terminates.

Class Size Requirements

The bill amends s. 1003.03(2) and (4) relating to maximum class size to provide that the calculation for compliance for each of the 3 grade groupings will remain at the school level for 2009-2010. The bill also provides a methodology for calculating funding sanctions for school districts that fail to meet class size requirements. Beginning in the 2010-2011 fiscal year and each year thereafter, if the department determines that the number of students assigned to any individual class exceeds the class size maximum at the time of the third FEFP calculation, the department must identify, for each grade group, the number of classes in which the enrollment exceeds the maximum, the number of students which exceed the maximum for each such class, and the total number of students which exceed the maximum for all classes. The department must then determine the number of full-time equivalent students which exceed the maximum class size for each grade group and multiply that total by the district’s FTE dollar amount of the class-size-reduction allocation for that year and calculate the total for all three grade groups. The district’s class-size-reduction operating categorical allocation will then be reduced by an amount equal to the sum of the calculation. Upon verification of the reduction, and no later than March 1 of each year, the Executive Office of the Governor shall place these funds in reserve and the undistributed funds shall revert to the General Revenue Fund unallocated at the end of the fiscal year. The amount

of funds reduced shall be the lesser of the amount verified by the Florida Education Finance Program Appropriation Allocation Conference or the undistributed balance of the district's class-size-reduction operating categorical allocation. The bill provides that, in lieu of the reduction calculation described above, the Commissioner may recommend a budget amendment, subject to approval of the Legislative Budget Commission, to reduce an alternative amount of funds from the district's class-size-reduction operating categorical allocation.

The bill also amends s. 1002.33(16)(a) relating to charter schools to require charter schools to comply with statutes pertaining to class size.

Virtual Instruction Programs

The bill amends s 1002.37(a) and (b) relating to the Florida Virtual School to provide that a "full-time equivalent student" is one student who has successfully completed six credits in core curricula courses which shall count toward the minimum number of credits required for high school graduation. A student who completes fewer than six credits in core curricula courses must be counted as a fraction of a full-time equivalent student. In addition, the bill provides that the maximum value for funding a full-time equivalent student in kindergarten through grade 12, including credits earned through the Florida Virtual School during the summer, combined with credits and FTE earned through a school district may not exceed one full-time equivalent membership per student per year.

The bill amends s. 1002.45(7) relating to funding for school district virtual instruction programs by deleting paragraph (c) that had limited funding for school district virtual instruction course offerings for students in grades 9-12 to Department of Juvenile Justice programs, dropout prevention programs, and career and vocational programs.

Voluntary Prekindergarten Programs

The bill amends s. 1002.71(4) and (6) relating to funding and attendance for the VPK program to provide that a child who, for any of the prekindergarten programs, has not completed more than 70 percent (rather than 10 percent) of the hours authorized to be reported may withdraw from the program for good cause and reenroll in one of the programs. The total funding for a child who reenrolls in one of the programs for good cause may not exceed one full-time equivalent student and funding shall be issued in accordance with the Agency for Workforce Innovation's uniform attendance policy. The bill amends requirements for the attendance policy to provide that, beginning with the 2009-2010 fiscal year for school-year programs, a student's attendance may be reported on a pro rata basis as a fractional part of a full-time equivalent student. At a maximum, 20 percent of the total payment made on behalf of a student to a private prekindergarten provider or a public school may be for hours a student is absent. A private prekindergarten provider or public school may not receive payment for absences that occur before a student's first day of attendance or after a student's last day of attendance.

Regional Consortium Service Organizations

The bill amends s. 1001.451(2)(c) to make permanent the provision that the appropriation for regional consortium service organizations may be less than \$50,000 per school district and eligible member. If the amount appropriated is insufficient to provide \$50,000, the funds available must be prorated among all eligible districts and members.

Technology

The bill amends s. 1001.20(4)(a) relating to the DOE Office of Technology and Information Services to add the responsibility that the office must assist school districts in securing Internet access and telecommunications services, including those eligible for funding under the Schools and Libraries Program of the federal Universal Service Fund.

The bill creates s. 1001.271 relating to the Florida Information Resource Network (FIRN) to provide that, upon requisition by school districts, community colleges, universities, or other eligible users of FIRN, the Commissioner must purchase the nondiscounted portion of Internet access services, including, but not limited to, circuits, encryption, content filtering, support, and any other services needed for the effective and efficient operation of the network. In its requisition, each user must identify the source of funds from which the commissioner is to make payments.

The bill amends s. 1001.28(2) relating to DOE's distance learning duties to provide that DOE must coordinate the use of existing resources, including, but not limited to, the state's satellite transponders, the Florida Information Resource Network, the Florida Knowledge Network and distance learning initiatives.

Instructional Materials

The bill amends s. 1006.28(1) to provide that the term "adequate instructional materials" means a sufficient number of textbooks or sets of materials that are available in bound, unbound, kit, or package form and may consist of hard backed or soft-backed textbooks, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.

The bill amends s. 1006.36(1) to increase the term of adoption of any instructional materials from 6 years to 8 years.

The bill amends s. 1006.40(2)(a) to provide that the requirement that school districts purchase instructional materials within the first 2 years after the effective date of the adoption cycle is waived for the 2009-2010 academic year if the district certifies to the Commissioner that the district has sufficient instructional materials to implement the newly adopted state standards for mathematics.

School Food Service Programs

The bill amends s. 1006.06(5)(b) relating to school food services to include state allocations in addition to federal reimbursements when the school district sets prices for breakfast meals that are sufficient to defray costs of school breakfast programs without requiring allocations from the district's operating funds.

CLAST

The bill amends s. 1008.29(7) to provide that the State Board of Education, by rule, must establish fees for the administration of the examination to public and private postsecondary students.

Funding Limitations & Flexibility

The bill creates s. 1010.06 to provide that state funds appropriated by the Legislature to the Division of Public Schools within DOE may not be used to pay indirect cost to a university, community college, school district, or any other entity.

The bill amends s. 1011.09(4) to provide that, during the 2009-2010 fiscal year, unless specifically approved by the district school board, public funds may not be expended for out-of-state travel or cellular phones, cellular phone service, personal digital assistants, or any other mobile wireless communication device or service, including text messaging, whether through purchasing, leasing, contracting, or any other method.

The bill amends s. 1011.18(4) relating to payments into or withdrawals from depositories to provide that the district superintendent that has been specifically authorized to do so may transfer funds from one depository to another, within a depository, to another institution, or from another institution to a depository for investment purposes and may transfer funds to pay expenses, expenditures, or other disbursements that must be evidenced by an invoice or other appropriate documentation

The bill amends s. 1011.60 (2) relating to minimum requirements of the FEFP to provide that the minimum term for operation of schools must be 180 days or equivalent hours.

The bill amends s. 1011.62(1) relating to funds for the operation of schools by adding paragraph (l) to provide that a student who is enrolled in study hall may not be included in the calculation of full-time equivalent student membership for funding.

The bill amends s. 1011.62(1)(m)-(p) relating to the calculation of additional FTE membership based on student performance in upper level courses by reducing the FTE value and bonus awards. For the international baccalaureate (IB) program, a value of 0.08 (rather than 0.16) FTE student membership will be calculated for each student who receives a score of 4 or higher on a subject examination. A value of 0.16 (rather than 0.3) FTE student membership will be calculated for each student who receives an IB diploma. Each teacher who provided IB instruction will receive a bonus of \$40 (rather than \$50) for each student who receives a score of 4 or higher on the IB exam. An additional bonus of \$400 (rather than \$500) will be awarded to an IB teacher in a school designated with a grade of "D" or "F" who has at least one student scoring 4 or higher on the IB exam. Bonuses awarded to an IB teacher may not exceed \$1,600 (rather than \$2,000) in any given school year. The bill provides similar reductions for the Advanced International Certificate of Education (AICE) program, the Advanced Placement (AP) program, and for career and professional academy programs. The bill also eliminates the additional FTE membership calculation for the Florida Virtual School. The bill provides that these amendments apply to bonuses earned in the 2008-2009 fiscal year for funding in the 2009-2010 fiscal year.

The bill repeals s. 1011.68(7) thus eliminating the provision that any funds received by a school district for transportation that are not required to transport students may, at the discretion of the district school board, be transferred to the district's Florida Education Finance Program.

The bill amends s. 1011.685 relation to the class size reduction operating categorical to provide that class size reduction operating categorical funds must be used by school districts to reduce class size, or the funds may be used for any lawful operating expenditure. However, priority must be given to increasing salaries of classroom teachers.

The bill amends s. 1011.71(2) relating to the district school tax to reduce – from 1.75 mills to 1.5 mills – the millage that school districts may levy. For the approved use of these funds, the bill waives the three-fourths limit for lease-purchase agreements entered into before June 30, 2009 and provides that, if the revenue from the 1.5 authorized millage is insufficient to make payments due under a lease-purchase agreement entered into prior to June 30, 2008, an amount up to 0.5 0.25 mills of the taxable value for school purposes within the school district shall be legally available for such payments, notwithstanding other restrictions on the use of such revenues. The bill also eliminates the expiration date for the use of these funds for certain vehicles and for property and casualty insurance.

The bill creates s. 1011.71(9) to provide that, for the 2009-2010 fiscal year, if the revenue from 1.5 mills is insufficient to meet the payments due under a lease-purchase agreement entered into before June 30, 2009, or to meet other critical district fixed capital outlay needs, the board, in addition to the 1.5 mills, may levy up to 0.25 mills for fixed capital outlay in lieu of levying an equivalent amount of the discretionary mills for operations as provided in the General Appropriations Act for 2009-2010. Millage levied for this purpose is subject to the provisions of s. 200.065 relating to the method for setting millage and, combined with the 1.5 mills, may not exceed 1.75 mills. If the district chooses to use up to .25 mills for fixed capital outlay, the compression adjustment will be calculated for the standard discretionary millage that is not eligible for transfer to capital outlay.

The bill creates an unnumbered section of law to provide that, if the Commissioner determines that a school district acted in good faith, he or she may waive the equal-dollar reduction, required in s. 1011.71(5), Florida Statutes, for audit findings during the 2007-2008 fiscal year which were related to the purchase of software.

The bill amends s. 1013.64 relating to funds for educational plant needs by adding subsection (7) to provide that the district school board of Wakulla County must contribute 1 mill in the 2009-2010 fiscal year and 0.50 mill in the 2010-2011 fiscal year to the cost of currently funded special facilities construction projects. The district school board of Liberty County must contribute 1 mill in the 2009-2010 fiscal year, 1 mill in the 2010-2011 fiscal year, and 1 mill in the 2011-2012 fiscal year.

The bill repeals Section 9 of chapter 2008-142 Laws of Florida (HB 5083). Section 9 set an expiration date for provisions in HB 5083 that allowed flexibility in the use of certain categorical funds. By eliminating the expiration date the bill authorizes the continuance of this flexibility. Specifically, if funds are urgently needed to maintain school board specified academic classroom instruction, the school board to transfer categorical funds for student transportation, safe schools, supplemental academic instruction, research-based reading instruction, and instructional materials (if all instructional material purchases have been completed for that fiscal year, but no sooner than March 1, 2010) to an appropriate account for expenditure.

Personnel

The bill amends s. 1011.60(3) relating to employment policies by deleting the requirement of 196 days of service and providing that the total annual number of days of service will be adopted through school board rule. However, such rules must not require more than 10 (rather than 12) calendar months of service for such principals and other school site administrators as prescribed by rules of the State Board of Education and may require up to 10 months of service, excluding Sundays and other holidays, for all members of the instructional staff. Principals and other school site administrators may serve more than 10 calendar months of service if specifically approved by the district school board, and any such service on a 12-month basis may include reasonable allowance for vacation or further study as prescribed by the school board in accordance with rules of the State Board of Education.

The bill creates s. 1011.675 to establish the Discretionary Bonus Allocation for Outstanding Performance for school districts to recognize and reward the outstanding performance of students, teachers, and school-based administrators in an amount to be determined by the Legislature. The bill provides that funds will be allocated to each school district as provided in the General Appropriations Act. Notwithstanding the provisions of s. 1012.225, relating to the Merit Award Program for Instructional Personnel and School-Based Administrators, and s. 1012.72, relating to the Excellent Teaching Program, during the 2009-2010 and 2010-2011 fiscal years, school districts may use the funds received under this section for any or all of the programs listed in this provision or for any other purpose that the district school board deems appropriate.

The bill amends s. 1012.33(3)(g) relating to the requirement that, for the purposes of pay, a district school board must recognize and accept each year of full-time public school teaching service to apply only to teaching service earned in Florida and provides that an employee may voluntarily waive this provision. The bill further amends s. 1012.33 by adding subsection (9) to provide that, for the 2009-2010 and 2010-2011 fiscal years, district school boards should not enter into a new professional service contract if the only funds available to pay such contract are from nonrecurring Federal Stabilization Funds.

The bill amends s. 1012.71 relating to the Florida Teachers Lead Program by adding subsection (6) to provide that, for the 2009-2010 fiscal year, DOE is authorized to conduct a pilot program to

determine the feasibility of managing the Florida Teachers Lead Program through a centralized electronic system. The pilot program must be established through a competitive process and provide teachers with the capability to purchase from online sources and local vendors. The pilot program would be subject to annual auditing requirements and must provide for all unused funds to be returned to the state at the close of each fiscal year. Participation in the pilot program would be voluntary for school districts and individual teachers. DOE is not required to implement this pilot program if it determines that the number of school districts willing to participate is insufficient to adequately test the viability of the pilot program.

SB 1678 – School District Accountability Millage Adjustment by Wise

The bill creates s. 1011.625 to establish the School District Accountability Millage Adjustment as a sanction for school districts that have failed to comply with specific laws. The bill provides that school districts that fail to comply with specific laws must levy an additional millage in order to generate revenue in an amount equal to the effect of the violation as follows:

- For failure to comply with class size reduction requirements, the additional millage rate must cover the amount of the violation, as determined under the provisions of s. 1003.03, for students served in classrooms that have student populations in excess of the constitutionally mandated levels if the district provides the educational facilities and governs the operations;
- For failure to comply with requirements for the classification of a student for the FEFP, the additional millage rate must cover the full costs of misclassification applied to all students in the same funding classification based on the audit sample in the annual audit.
- For failure to comply with restrictions on the use of district fixed capital outlay, the additional millage rate must cover the full cost of the amount spent for unlawful purposes.
- For failure to comply with differentiated pay for classroom teachers and school based administrators, the additional millage must cover an amount equal to 5 percent of the total salaries of teachers and administrators for the audited fiscal year.

By March 1 in the fiscal year following the audit finding, the Commissioner must calculate the additional millage rate for each school district and must certify the additional millage rate to be levied as part of the required local effort for that school district for that year. The bill provides that the additional millage rate is exempt from the 90 percent calculation of the district's total FEFP entitlement. For each school district that is subject to these provisions, the Commissioner must withhold an amount equivalent to the revenue generated by the levy of the additional millage rate from the school district's state FEFP funds. The bill specifies that the revenue generated by the levy of the additional millage may be used only to cover the cost of each violation.

The bill requires that the public notice of proposed property taxes must include a statement that the school district failed to comply with the requirements of law and that the penalty for noncompliance is to require the district school board to levy an additional property tax millage to generate revenues equal to the noncompliance amount. The notice must also state that the school district's share of state funds from the FEFP will be reduced in an amount equivalent to the additional levy. The district school board must also include this information in the notice of public hearing to adopt its annual budget. The bill provides the form for the advertisement for the proposed levy of nonvoted millage as follows:

NOTICE OF PROPOSED TAX INCREASE

The ...(name of school district)... will soon consider a measure to increase its property tax levy. This increase is necessary because the district school board failed to comply with state law. The district school board's share of state funds from the Florida Education Finance Program for ...(fiscal

year)... will be reduced in an amount equivalent to the additional levy because of the school district's failure to comply with state law. The taxes are proposed solely to pay penalties related to the following violations:

- A. Class size reduction in s. 1, Art. IX of the State Constitution. \$XX,XXX,XXX
- B. Classification of students under the Florida Education Finance Program. \$XX,XXX,XXX
- C. District fixed capital outlay. \$XX,XXX,XXX
- D. Differentiated pay for classroom teachers and school based administrators, pursuant to s. 1012.22(1)(c)4. or s. 149 1012.225, Florida Statutes. . . . \$XX,XXX,XXX
- E. Total proposed tax levy. \$XX,XXX,XXX

All concerned citizens are invited to a public hearing on the tax increase to be held on ...(date and time)... at ...(meeting place)....

A DECISION on the proposed tax increase and the budget will be made at this hearing.