

**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 Education Pre-K - 12 Committee

BILL: SB 922

INTRODUCER: Senator Flores

SUBJECT: Florida Education Finance Program

DATE: April 8, 2011

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	<b>Pre-meeting</b>
2.			RC	
3.			BC	
4.				
5.				
6.				

**I. Summary:**

This bill requires the Department of Education (DOE) to enter into a contract with an out-of-state entity to review the current funding distribution formula provided in the Florida Education Finance Program (FEFP) and to submit a report to the Legislature and the Governor by January 1, 2012.

For the 2011-2012 fiscal year, \$100,000 in nonrecurring funds would be appropriated from general revenue to fund this study.

This bill creates an undesignated section of the Florida Statutes.

**II. Present Situation:**

**FEFP and FPLI**

Currently, school districts are funded through both local and state dollars. Local dollars are provided through ad valorem, or property tax, collections.

State dollars are allocated to school districts through the Florida Education Finance Program (FEFP).<sup>1</sup> The calculation of the FEFP is adjusted by a variable known as a district cost differential (DCD), as provided in the Florida Price Level Index for School Personnel (FPLI).<sup>2</sup> The index is explained as follows:

<sup>1</sup> s. 1011.62, F.S.

<sup>2</sup> The FPLI is published annually by the Bureau of Economic and Business Research at the University of Florida in Gainesville. The latest FPLI can be viewed at: <http://www.bibr.ufl.edu/category/subject-index/publications/florida-price-level-index-fpli>. Last checked April 5, 2011.

The index uses extensive data on wages, occupational location, and the prices of goods and services to estimate the relative wage level needed to maintain a given standard of living for occupations comparable to school personnel across Florida's counties.<sup>3</sup>

The generated FPLI represents the costs of hiring equally qualified personnel across all school districts. Calculated annually for all 67 districts, the FPLI reaches back three years with the final number representing an average of those years.<sup>4</sup> Therefore, the DCD slightly shifts every year, based on prior years captured. For example, 2009-2010 FEFP calculations included the average of years 2006, 2007, and 2008. The final sum is the cost differential for that district for that year.

The legitimacy of the FPLI as an accurate measure of relative wages was challenged in the case of The School Board of Miami-Dade County v. James E. King, Jr.<sup>5</sup> In this case, four school boards alleged that the 2004-2005 General Appropriations Act violated Section 1, Article 9 of the State Constitution. In addition to the Department of Education, the State Board of Education, and the Florida Legislature being named as defendants, various school boards joined the case as defendants. The plaintiff school boards argued that the use of the recently amended FPLI in the FEFP violated the state's constitutional obligation to adequately provide for a uniform system of free public schools. At issue in the case was the finding of a 2003 FPLI report, which recommended that the wage index be added to the FPLI as a factor in calculating personnel costs.<sup>6</sup> The Legislature adopted the recommendations contained in the report, which resulted in the General Appropriations Act providing increases in funding to some counties, at the expense of concurrent decreases in other counties.<sup>7</sup> The District Court of Appeal decided this case on other grounds ("We consider the holding in this case to be that no private cause of action exists for the enforcement of Article IX, section I, against *individual school boards*..."), and the court did not invalidate the use of the FPLI.<sup>8</sup> The Florida Supreme Court subsequently denied review of the case.<sup>9</sup>

### **Procurement Law**

Chapter 287, F.S., subjects state agencies to state procurement and competitive bid law. A contractual service is defined to include "research and development studies or reports on the findings of consultants engaged thereunder" by independent contractors.<sup>10</sup>

### **III. Effect of Proposed Changes:**

This bill would require the DOE to contract with an out-of-state entity to study the FEFP, with an analysis on the current funding distribution formula and recommended improvements to ensure

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<sup>3</sup> James F. Dewey, David A. Denslow and Eve Irwin, *2010 Florida Price Level Index*, pg. 2, Bureau of Economic and Business Research, University of Florida (2011).

<sup>4</sup> s. 1011.62(2), F.S.

<sup>5</sup> 940 So.2d 593 (Fla. 1<sup>st</sup> DCA 2006).

<sup>6</sup> *Id.* at 596.

<sup>7</sup> *Id.* Leon, Duval, Gadsden, and Nassau counties received the largest increases in funding (up to 5.4 percent) and Monroe, Miami-Dade, and Broward counties incurred the biggest decreases (up to 7.6 percent).

<sup>8</sup> *Id.* at 603.

<sup>9</sup> 954 So.2d 1156 (Table).

<sup>10</sup> s. 287.012(8), F.S.

equity among school districts, in light of school district characteristics and student demographics. No guidelines are provided regarding the commissioning of this study.

The DOE is required to provide a report to the Governor and Legislature by January 1, 2012.

From general revenue, \$100,000 is provided in nonrecurring funds to be used solely to pay the entity conducting the study. Unexpended funds would be reappropriated for the 2012-2013 fiscal year. It is unclear why the funds would be reappropriated when the report due date is captured in the first fiscal year of the appropriation.

The bill does not specify whether the entity conducting the study would provide this service as an independent contractor. In the event that the DOE does commission a study for compensation with an independent contractor, as a qualifying state agency, it appears that the DOE would be subject to state purchasing requirements regarding the competitive bid process.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOE would be required to expend resources in generating the report to be provided to the Governor and Legislature and in assisting the consultant with research data.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The DOE indicates that the 1979 Legislature passed a law which provided for the DOE to conduct or contract for a study to develop a Cost of Education Index and provided funding in the amount of \$200,000. In its request for proposals, the DOE stated as the purpose:

...to determine whether there is a set of variables or factors relating to the cost of public school education which, when combined into an index, would guarantee, to a greater degree than the Florida Price Level Index, each student in Florida's public schools the availability of program and services appropriate to education needs which are substantially equal to those available to any similar student notwithstanding geographic differences and varying local economic factors.<sup>11</sup>

The DOE contracted with SRI International to develop the index and prepare a report. SRI provided the report in 1981, but its recommendations were not implemented.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>11</sup> Bill Analysis, Department of Education, April 6, 2011 (pg. 4).