

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5101 PCB PKAS 12-01 Prekindergarten through Grade 12 Education Funding

**SPONSOR(S):** PreK-12 Appropriations Subcommittee, Coley

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Appropriations Subcommittee	11 Y, 0 N	Seifert	Heflin
1) Appropriations Committee	22 Y, 0 N	Seifert	Leznoff

### SUMMARY ANALYSIS

The bill amends statutory provisions necessary to conform the statutes to appropriations made in the General Appropriations Act for the 2012-2013 fiscal year.

The bill amends statutes relating to:

- Prohibiting the Department of Education (DOE) to provide funding to public broadcasting radio stations by codifying and deleting references to public broadcasting radio stations; maintaining DOE's ability to provide funding to public broadcasting television stations;
- Providing a date certain for reporting students for funding relating to student enrollment under the Voluntary Prekindergarten Education Program;
- Revising provisions relating to calculations for reducing a school district's class size categorical allocation when class size requirements are not met by reestablishing the 2010-2011 fiscal year penalty calculation process; and
- Revising provisions relating to the use of capital outlay millage to fund payments for educational facilities and sites due under certain lease-purchase agreements.

Except as otherwise specifically provided, the bill takes effect July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Public Broadcasting**

The Public Broadcasting Act of 1967<sup>1</sup> (47 U.S.C. § 396) set up public broadcasting in the United States, establishing the Corporation for Public Broadcasting, and eventually the Public Broadcasting Service (PBS) and National Public Radio (NPR).

Florida has provided funding for public broadcasting television and radio stations since 1977. (SA 312, Chapter 77-465, Laws of Florida). The funds appropriated in 2011 were vetoed. (SA 93, Chapter 2011-69, Laws of Florida).

#### Public Broadcasting Funding History

Fiscal Year	Funding Per Public Television Stations	Funding Per Public Radio Stations	Total Appropriation
2000-2001	\$572,000	\$99,407	8,728,285
2001-2002	\$465,081	\$90,598	7,223,826
2002-2003	\$557,675	\$98,414	8,529,154
2003-2004	\$557,675	\$98,414	8,529,154
2004-2005	\$557,675	\$98,414	8,529,154
2005-2006	\$557,675	\$98,414	8,529,154
2006-2007	\$585,559	\$111,945	9,067,552
2007-2008	\$535,368	\$107,467	8,356,858
2008-2009	\$477,580	\$95,867	7,454,818
2009-2010	\$434,837	\$87,287	6,787,612
2010-2011	\$434,837	\$87,287	6,787,612
2011-2012	\$307,447 - Vetoed	\$51,715 - Vetoed	\$4,799,106 - Vetoed

The DOE administers the state's public broadcasting program system.<sup>2</sup> State funding is administered by the DOE in the form of grants to eligible educational television and radio stations<sup>3</sup> that are qualified by the Corporation for Public Broadcasting (CPB).<sup>4</sup> Currently there are 13 public broadcasting television stations in Florida. The stations are: WFSG/WFSU, WBCC, WMFE, WDSC, WPBT, WSRE, WEDU, WXEL, WGCU, WLRN, WUSF, WUFT, and WJCT. According to the DOE, WFSG and WFSU-TV are the same station.<sup>5</sup>

#### **Effect of the Bill**

In order to provide funds to public broadcasting television stations to continue producing and distributing educational materials and programs, the bill removes references to the public broadcasting radio stations. This change limits the use of state funds provided for educational television to only be

<sup>1</sup> 47 U.S.C. § 396, <http://www.law.cornell.edu/uscode/47/396.html>

<sup>2</sup> s. 1001.26, F.S.

<sup>3</sup> Pursuant to s. 1002.26, F.S., these are existing and proposed educational television and radio systems of tax-supported and nonprofit, corporate-owned facilities.

<sup>4</sup> The CPB is a nonprofit corporation that receives an appropriation from Congress and supports local television and radio stations, programming, and improvements to the public broadcasting system as a whole. Other support is derived from sources such as memberships, businesses, colleges, and universities, and state and local governments. The CPB awards grants to stations and independent producers to create programs and services and requires station grant recipients to certify their initial and continued compliance with specific FCC requirements. See 47 U.S.C. s. 396 and <http://www.cpb.org/stations/certification/>.

<sup>5</sup> [http://www.floridaknowledgenetwork.org/PB/TV\\_Map1.pdf](http://www.floridaknowledgenetwork.org/PB/TV_Map1.pdf)

disbursed by the Department of Education to public broadcasting television stations meeting the requirements of the Corporation for Public Broadcasting.

In addition, the bill updates the resource services available for education to remove Instructional Television Fixed Service (ITFS) and include Educational Broadband Service (EBS). As part of the Wireless Telecommunications Bureau of the Federal Communication Commission (FCC), the ITFS was renamed the EBS in 2005. The EBS is a flexible use service licensed to educational institutions or non-profit educational organizations designed to accommodate a variety of fixed, portable, and mobile services relating to education and instruction. Licensees can also lease excess capacity to other entities so long as they meet educational programming requirements.

### **Voluntary Prekindergarten (VPK)**

Voluntary Prekindergarten (VPK) began as a constitutional amendment passed by Florida voters in November 2002 and statutes implementing the amendment were enacted January 2, 2005. It is designed to prepare every four-year-old in Florida for kindergarten and build the foundation for their educational success. The VPK program gives each child an opportunity to perform better in school and throughout life with quality programs that include high literacy standards, accountability, appropriate curricula, substantial instruction periods, manageable class sizes, and qualified instructors. All eligible four-year-olds are entitled to participate in one of the VPK program options.

The VPK program employs a decentralized approach in which early learning coalitions throughout the state administer the program through providers from both the private and public sectors. The early learning coalitions have a great deal of autonomy to administer the VPK program to meet the needs of their local community. The Office of Early Learning (OEL) is responsible for managing the VPK program at the state level.

VPK providers are paid in advance with a reconciliation of attendance conducted at the end of each month. The Florida Legislature allocates a fixed dollar amount per VPK child that will be paid to providers delivering the VPK program. Parents have the choice of two programs: 1) a school year program, in which children receive 540 hours of instruction, or 2) a summer program in which children receive 300 hours of instruction.

To successfully adhere to these requirements, it is essential that the number of hours and dollars associated with a VPK child in the Enhanced Field System (EFS) accurately reflect the services delivered. The EFS provides flexibility in the reimbursement process to allow prior period adjustments to correct the hours or dollars reported for a previous billing period (the month a child received VPK services). While the flexibility may be necessary for business operations, prior period adjustments must be entered into the EFS accurately so that data integrity is maintained.

#### **Effect of the Bill**

There currently is no time limit on when providers can submit a reimbursement request. The bill limits the reporting period by providers to 180 days, or December 31, after the end of the fiscal year.

### **Class Size Reduction**

In November 2002, the Florida Constitution was amended to require the Legislature, beginning with the 2003-2004 fiscal year, to provide sufficient funds to reduce the average number of students per classroom by at least two students per year until the number of students per classroom does not exceed the maximums. By the beginning of the 2010 school year, the maximum number of students who may be assigned to each teacher who is teaching in a public school classroom may not exceed the following:

- 18 for prekindergarten through grade 3;
- 22 for grades 4 through 8; and

- 25 for grades 9 through 12.<sup>6</sup>

The implementation schedule for reducing the number students per classroom by at least two students per year is as follows:<sup>7</sup>

- 2003-2004 through 2005-2006<sup>8</sup> at the district level;
- 2006-2007 through 2009-2010<sup>9</sup> at the school level; and
- 2010-2011 and thereafter, at the classroom level.

Since adoption of the class size reduction amendment, average class sizes have been reduced as follows:

<u>Fiscal Year</u>	<u>Grades PK-3</u>	<u>Grades 4-8</u>	<u>Grades 9-12</u>
2002-03	23.07	24.16	24.10
2003-04	20.54	22.43	24.06
2004-05	18.98	21.32	23.73
2005-06	18.16	20.48	22.96
2006-07	17.01	19.45	22.22
2007-08	16.28	18.76	21.39
2008-09	15.95	18.60	21.49
2009-10	16.39	18.91	21.94
2010-11	15.49	17.87	20.47
2011-12	15.61	18.16	20.08

Beginning with the 2003-2004 General Appropriations Act, the Legislature has appropriated and allocated funds annually to school districts and charter schools to be used to reduce the average number of students per classroom by two students.

<u>Fiscal Year</u>	<u>Operating Appropriations</u>	<u>Fixed Capital Outlay Appropriations</u>	<u>Total Appropriations</u>
2003-2004	\$468,198,634	\$600,000,000	\$1,068,198,634
2004-2005	\$972,191,216	\$100,000,000	\$1,072,191,216
2005-2006	\$1,507,199,696	\$83,400,000	\$1,590,599,696
2006-2007	\$2,108,529,344	\$1,100,000,000	\$3,208,529,344
2007-2008	\$2,640,719,730	\$650,000,000	\$3,290,719,730
2008-2009	\$2,729,491,033	\$0	\$2,729,491,033
2009-2010	\$2,845,578,849	\$0	\$2,845,578,849
2010-2011	\$2,913,825,383	\$0	\$2,913,825,383
2011-2012	\$2,927,464,879	\$0	\$2,927,464,879
<b>Total Year to Date Appropriations</b>	<b>\$19,113,198,764</b>	<b>\$2,533,400,000</b>	<b>\$21,646,598,764</b>

Since the 2010-2011 fiscal year, compliance has been measured at the classroom level for traditional schools<sup>11</sup> and at the school level for charter schools<sup>12</sup>. The adjustment is calculated by the Department

<sup>6</sup> s. 1(a), Art. IX of the State Constitution.

<sup>7</sup> s. 1003.03(2), F.S.

<sup>8</sup> Chapter 2003-391, L.O.F. established district level compliance for Fiscal Years 2003-2004 through 2005-2006. Chapter 2006-27, L.O.F. extended district level compliance to Fiscal Year 2006-2007.

<sup>9</sup> Chapter 2003-391, L.O.F. established school level compliance for Fiscal Years 2006-2007 through 2007-2008. Chapter 2008-142, L.O.F. extended school level compliance to 2008-2009. Chapter 2009-59, L.O.F. extended school level compliance to 2009-2010.

<sup>10</sup> Florida Department of Education, 2011 Legislative Information Request, January 2011

<sup>11</sup> s. 1003.03(1), F.S.

<sup>12</sup> s. 1002.33(16)(b)3., F.S.

of Education and verified by the Florida Education Finance Program Allocation Conference. The amount of funds adjusted is to be the lesser of the amount calculated or the undistributed balance of the district's class size reduction operating categorical. The Commissioner of Education may make a recommendation to the Legislative Budget Commission for an alternate amount of funds for the compliance calculation<sup>13</sup>, if the Commissioner of Education has evidence that a district was unable to meet the class size requirement despite appropriate efforts to do so.

For fiscal year 2010-2011, the compliance calculation was determined by the number of students out of compliance, by grade group, and multiplied by the class size base student allocation (BSA) and multiplied by 50 percent of the regular BSA. For fiscal year 2011-2012, the compliance calculation is determined by the number of students out of compliance, by grade group, and multiplied by the class size BSA and multiplied by 100 percent of the regular BSA.

For the initial calculation for the 2011-2012 fiscal year completed on December 19, 2011, 48,272 traditional public school classrooms were not in compliance with class size requirements, for a potential total compliance adjustment amount from the class size operating categorical of \$94,200,755. Forty-six charter schools were not in compliance with school level class size requirements, for a potential total compliance adjustment amount from the class size operating categorical of \$6,283,029. The Commissioner reviewed evidence presented by school districts and charter schools, and determined data reporting errors and unexpected student growth were factors to be considered. On a date yet to be determined, the Commissioner of Education will recommend that the Legislative Budget Commission approve the alternate compliance calculation amounts of \$70,084,438 for traditional public schools and \$1,029,066 for charter schools.

Following approval of the alternate compliance calculation amounts by the Legislative Budget Commission, the Commissioner will reallocate a portion of the compliance calculation amounts to districts and charter schools that have fully met class size requirements.<sup>14</sup> This reallocation may be up to 5 percent of the base student allocation multiplied by the total district FTE students, but cannot exceed 25 percent of the total funds reduced, resulting in a reallocation of \$17,521,110 for traditional schools and \$257,267 for charter schools. The funds remaining after the reallocation will be returned to districts and charter schools that were not in compliance with class size requirements, which submit a plan by February 15, 2012, describing the specifications that will be taken to fully comply with class size requirements by October of the 2012-13 school year<sup>15</sup>. For this year, if all districts and charter schools not in compliance submit a plan by the deadline, the remaining funds, or 75%, will be returned.

#### Effect of the Bill

Under the bill, the compliance calculation is maintained at 50 percent of the base student allocation through fiscal year 2013-2014 with 100 percent of the base student allocation fully implemented in fiscal year 2014-2015. This change will potentially reduce the current year initial compliance calculation for school districts to \$58,749,605 and charter schools to \$3,921,323.

#### School District Millage - Discretionary

Section 1011.71, Florida Statutes, provides that, in addition to the required local effort millage levy, each district school board may levy a nonvoted discretionary millage for capital improvements. The Legislature is to prescribe annually in the appropriations act the maximum amount of such millage a district may levy.

Each school board may levy a maximum of 1.5 mills<sup>16</sup> against the taxable value for school purposes for district schools to fund fixed capital outlay. However, if the revenue from the 1.5 mills is insufficient to meet the payments due under a lease purchase agreement entered into before June 30 2009, or to

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<sup>13</sup> s. 1003.03(4)(c), F.S.

<sup>14</sup> s. 1003.03(4)(d), F.S.

<sup>15</sup> s. 1003.03(4)(e), F.S.

<sup>16</sup> Reduced from 2.0 mills to 1.75 mills in 2008-09 (see chapter 2008-142, L.O.F.) and further reduced from 1.75 mills to 1.5 mills in 2009-10 (see chapter 2009-59, L.O.F.)

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 discretionary mills for operations as provided in the General Appropriations Act. Expenditure of the revenue from the 1.5 mill levy is limited to the following:

1. New construction and remodeling projects included in the district's educational plant survey, sites and site improvement or expansion to new sites, existing sites, auxiliary facilities, athletic facilities, or ancillary facilities.
2. Maintenance, renovation, and repair of existing school plants or of leased facilities to correct deficiencies.
3. The purchase, lease-purchase, or lease of school buses.
4. Effective June 30, 2009, the purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, having a useful life of at least 5 years, and used to support district-wide administration or state-mandated reporting requirements.
5. Payments for educational facilities and sites due under a lease-purchase agreement entered into by a district school board, not exceeding, in the aggregate, an amount equal to three-fourths of the proceeds from the millage levied by a district school board.
6. Payment of certain loans.
7. Payment of costs directly related to complying with state and federal environmental statutes, rules, and regulations governing school facilities.
8. Payment of costs of leasing relocatable educational facilities, of renting or leasing educational facilities and sites, or of renting or leasing buildings or space within existing buildings.
9. Payment of the cost of school buses when a school district contracts with a private entity to provide student transportation services if the district meets certain requirements.
10. Payment of the cost of the opening day collection for the library media center of a new school.

If the revenue from the millage authorized is insufficient to make payments due under a lease-purchase agreement entered into prior to June 30, 2008, by a district school board for educational facilities and sites, an amount up to 0.50 mills of the taxable value for school purposes within the school district shall be legally available for such payments.

In addition, effective July 1, 2008 a school district may expend up to \$100 per unweighted full-time equivalent student from the revenue generated by the capital millage levy to fund, in addition to the authorized expenditures, expenses for the following:

1. The 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.
2. Payment of the cost of premiums for property and casualty insurance necessary to insure school district educational and ancillary plants. Operating revenues that are made available through the payment of property and casualty insurance premiums from revenues generated from capital improvement millage may be expended only for nonrecurring operational expenditures of the school district.

Violations of the capital millage expenditure provisions will result in an equal dollar reduction in the Florida Education Finance Program (FEFP) funds for the violating district in the fiscal year following the audit citation.

Section 1011.71(2)(e), F.S., prohibits school districts from pledging more than three-fourths of the revenue generated from the capital improvement millage levy. Additional authority was provided in 2009-2010 for school districts to exceed the three-fourths limit for lease-purchase agreements entered into prior to June 30, 2009, due to the reduction in levying authority. Due to continued declines in

school district property taxable values, some districts still have revenues pledged for lease-purchase agreements entered into prior to June 30, 2009, above the three-fourths limitation.<sup>17</sup>

#### Effect of the Bill

The bill provides authority for school districts to be able to exceed the three-fourths limit for lease-purchase agreements entered into prior to June 30, 2009.

#### B. SECTION DIRECTORY:

Section 1: Amends s. 496.404, F.S., correcting cross-reference.

Section 2: Amends s. 1001.25, F.S., deleting provisions that authorize the Department of Education to provide equipment, funds, and other services to extend and update existing and proposed educational radio systems.

Section 3: Amends s. 1001.26, F.S., deleting provisions that authorize department support and funding for public broadcasting program system educational radio stations.

Section 4: Amends s. 1002.71, F.S., providing requirements relating to student enrollment reporting for the Voluntary Prekindergarten Education Program

Section 5: Amends s. 1003.03, F.S., revising provisions relating to calculations for reducing a school district's class size categorical allocation when class size requirements are not met.

Section 6: Amends s. 1011.71, F.S., revising provisions relating to the use of capital outlay millage to fund payments for educational facilities and sites due under certain lease-purchase agreements.

Section 7: Providing an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

##### 2. Expenditures:

See FISCAL COMMENTS section.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

2. See FISCAL COMMENTS section.

##### 3. Expenditures:

See FISCAL COMMENTS section.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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<sup>17</sup> Lake County School District have pledged revenues at 91.9%; Brevard County School District have pledged revenues at 91.6%; Franklin County School District have pledged revenues at 81.9%; Pasco County School District have pledged revenues at 80.5%; Orange County School District have pledged revenues at 78.8%; and Palm Beach County School District have pledged revenues at 78.0%.

The bill does not appear to have a direct fiscal impact on the private sector.

**D. FISCAL COMMENTS:**

The bill conforms the statutes to the PreK-12 budget. The bill provides school districts additional fiscal flexibility by giving priority to funding for the core mission of classroom instruction and less emphasis on funding noncore functions. In addition, the bill makes a series of adjustments and reductions to special allocations in the FEFP funding formula to maximize funding in the base allocation for all districts. The bill also provides fiscal efficiencies and limits unnecessary spending.

The House proposed budget provides funding for public television stations. It is necessary to remove statutory requirements for radio stations to receive allocations because the budget does not provide funding for public radio stations.

The initial class size calculation for the 2011-2012 fiscal year totals \$94.2 million for public school districts and \$6.3 million for charter schools. The changes to the compliance calculation based on the bill will reduce the current year initial compliance calculation for school districts to \$58.7 million and charter schools to \$3.9 million. The bill will result in savings of \$35.5 million for public school districts and \$2.4 million for charter schools.

	2011-2012 Initial Class Size <u>Penalty Calculation</u>	Calculation Based on <u>Bill Changes</u>	Potential Savings for <u>Schools</u>	
Traditional Schools	\$94,200,755	\$58,749,605	(\$35,451,150)	-38%
Charter Schools	\$6,283,029	\$3,921,323	(\$2,361,706)	-38%

This potential savings for schools is based on the initial calculation; the amounts would be reduced further by Commissioner of Education due to unexpected growth and data reporting errors.

**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**