

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

BILL #:	HB 5101	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	PreK-12 Appropriations Subcommittee, Coley	80 Y's	38 N's
COMPANION BILLS:	SB 1972	GOVERNOR'S ACTION:	Pending

SUMMARY ANALYSIS

House Bill 5101 passed the House and the Senate on Friday, March 9, 2012. This bill conforms applicable statutes to the appropriations provided in the General Appropriations Act for Prekindergarten through grade 12 education for the 2012-2013 fiscal year.

The bill:

- Modifies the FEFP Supplemental Academic Instruction and Reading allocations for 2012-2013 and 2013-2014 to require districts with the 100 lowest performing elementary schools to provide intensive reading instruction by effective teachers for the students in these schools for an additional hour a day beyond the normal school day for the entire school year.
- Delays the increased class size penalty (from 50% to the full amount of the base student allocation) until 2014-2015, including a retroactive adjustment of the 2011-2012 penalty calculation.
- Provides school districts with flexibility for instructional materials purchases, for the 2012-2013 mathematics adoption if the districts meet certain requirements.
- Requires providers and schools to implement pre and post assessments for students in the voluntary prekindergarten program.
- Limits the amendatory period for the reporting of FTE for payment to providers and schools by early learning coalitions for the voluntary prekindergarten program.
- Requires districts to provide Discretionary Local Effort funds up to the state average and/or state compression funding for juvenile justice education students.
- Requires school districts to participate in a School District Consortium to maximize purchasing power for goods and services.
- Creates the K-12 Public School Facility Funding Task Force to make recommendations for funding equity among charter schools and school district schools.
- Creates the Digital Instructional Materials Work Group to plan and monitor the transition to digital instructional materials.
- Limits the 5% charter school administrative charge for schools with exceptional student enrollment that is 75% or greater of the total school enrollment.
- Conforms severance package language for district superintendents and employees to s. 215.425, F.S. (from a maximum of one year's salary to a maximum of 20 weeks compensation).
- Limits the use of public broadcasting funds to TV stations to reflect budget allocations.
- Clarifies that the Sheriff is an eligible juvenile justice education provider.
- Repeals the Manatee County School District compulsory school attendance age pilot project.
- Authorizes the Commissioner of Education to waive certain school district facilities construction requirements if justified by the district.
- Clarifies that Auditor General audits satisfy the independent audit requirement for the educational facilities plan of school districts.
- Provides technical clarification of FEFP reporting requirements and audit adjustments.
- Maintains the waiver of the three-fourths limit for the use of school district discretionary capital outlay millage funds for payments required by lease-purchase agreements.

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

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Public Broadcasting

The Public Broadcasting Act of 1967¹ (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 Department of Education (DOE) administers the state's public broadcasting program system.² State funding is administered by the DOE in the form of grants to eligible educational television and radio stations³ that are qualified by the Corporation for Public Broadcasting (CPB).⁴ 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.⁵

Effect of the Bill

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 disbursed by the Department of Education to

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

² s. 1001.26, F.S.

³ 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.

⁴ 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/>.

⁵ http://www.floridaknowledgenetwork.org/PB/TV_Map1.pdf

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.

School District Purchases of Goods and Services

School districts are independent constitutional entities that make purchasing decisions and have purchasing policies that are authorized by the district school board. For cost effective purchasing of goods and services, districts are free to make cooperative arrangements with other districts for pool purchasing of goods and services. School districts of 20,000 or fewer students participate in regional educational consortia which provide services that include purchasing. Section 1006.27, F.S. authorizes the Department of Education to pool school district bids for school bus purchases.

Effect of the Bill

The bill requires school districts to participate in the School District Consortium to maximize purchasing power for goods and services.

Severance Packages

A district school board may not enter into an employment contract that requires the district to pay from state funds an employee or a district school superintendent an amount in excess of one year of the employee's annual salary for termination, buyout, or any other type of contract settlement. This 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 before the contract terminates.⁶

Section 215.42, F.S. requires that after July 1, 2011, a unit of government that enters into a contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement, that contains a provision for severance pay with an officer, agent, employee, or contractor, must include the following provisions in the contract:

- A requirement that severance pay provided may not exceed an amount greater than 20 weeks of compensation.
- A prohibition of provision of severance pay when the officer, agent, employee, or contractor has been fired for misconduct, as defined in s. 443.036(29), by the unit of government.

Effect of the Bill

The bill conforms the severance package language for district superintendents to s. 215.425, F.S. which limits severance from July 1, 2011, forward to no greater than 20 weeks of compensation and to not allow any severance if an employee has been fired for misconduct.

Charter School Administrative Fee

Charter Schools

⁶ s. 1001.42(24), F.S., 1001.50, F.S.

A school district sponsor is required to provide certain administrative and educational services to charter schools.⁷ These services include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure school lunch services under the federal lunch program; test administration services; processing of teacher certificate data services; and information services. Student performance data for each student in a charter school are also provided.

A total administrative fee for the provision of such services is calculated based upon up to 5 percent of the amount of funds for all students. However, a sponsor may only withhold up to a 5-percent administrative fee for enrollment for up to and including 250 students. For charter schools with a population of 251 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(2), F.S.

High-performing Charter Schools

For high-performing charter schools, a sponsor (school district) may withhold a total administrative fee of up to 2 percent for enrollment up to and including 250 students per school.

System of charter schools

A sponsor may withhold up to a 5-percent administrative fee for enrollment for up to and including 500 students within a system of charter schools which meets all of the following:

- Includes both conversion charter schools and nonconversion charter schools;
- Has all schools located in the same county;
- Has a total enrollment exceeding the total enrollment of at least one school district in the state;
- Has the same governing board; and
- Does not contract with a for-profit service provider for management of school operations.

The difference between the total administrative fee calculation and the amount of the administrative fee withheld may be used for instructional and administrative purposes as well as for capital outlay purposes specified in s. 1013.62(2), F.S.

High-performing Charter School System

For a high-performing charter school system that also meets the requirements of a charter school system, a sponsor may withhold a 2-percent administrative fee for enrollments up to and including 500 students per system.

Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum 5-percent administrative fee.

Virtual Charter School

A sponsor of a virtual charter school may withhold a fee of up to 5 percent. The funds shall be used to cover the cost of services provided and for the school district's local instructional improvement system pursuant to s. 1006.281, F.S. or other technological tools that are required to access electronic and digital instructional materials.

Effect of the Bill

The bill reduces the 5% charter school administrative fee charged by school districts for schools that have an exceptional student enrollment that is 75% or greater of the total school enrollment. The fee for

⁷ s. 1002.33(20), F.S.

affected schools would be based on unweighted FTE rather than weighted FTE since the funds generated by the weighted FTE could be as much as five times more than the unweighted FTE, this change has the effect of reducing administrative fees by as much as 80 percent.

VPK Assessments

The bill requires public and private Voluntary Prekindergarten (VPK) providers implement an evidence-based pre- and post-assessment that has been approved by the State Board of Education. The assessment must be valid, reliable, developmentally appropriate, and designed to measure student progress including reading, numbers, and language.

The bill requires the State Board of Education to determine learning gains using a value-added measure based on results of the pre- and post-assessment from at least two years of administration.

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.

Juvenile Justice Providers

The bill revises the definition of a "juvenile justice provider" in section 1003.01, F.S. to include "the sheriff" as an approved provider of treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention, or commitment programs.

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 12.⁸

The implementation schedule for reducing the number students per classroom by at least two students per year is as follows:⁹

- 2003-2004 through 2005-2006¹⁰ at the district level;
- 2006-2007 through 2009-2010¹¹ 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:

District Average Class Size¹²

<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.

Class Size Reduction Funding History

<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

⁸ s. 1(a), Art. IX of the State Constitution.

⁹ s. 1003.03(2), F.S.

¹⁰ 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.

¹¹ 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.

¹² Florida Department of Education, 2011 Legislative Information Request, January 2011

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
Total Year to Date Appropriations	\$19,113,198,764	\$2,533,400,000	\$21,646,598,764

Since the 2010-2011 fiscal year, compliance has been measured at the classroom level for traditional schools¹³ and at the school level for charter schools¹⁴. The adjustment is calculated by the Department 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 calculation¹⁵, 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.¹⁶ 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, and submitted 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 year¹⁷. For this year, all districts and charter schools not in compliance submitted a plan by the deadline, and 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.

¹³ s. 1003.03(1), F.S.

¹⁴ s. 1002.33(16)(b)3., F.S.

¹⁵ s. 1003.03(4)(c), F.S.

¹⁶ s. 1003.03(4)(d), F.S.

¹⁷ s. 1003.03(4)(e), F.S.

Juvenile Justice Education Funding

Each district school board must fund the educational program in a Department of Juvenile Justice facility at the same or higher level of funding for equivalent students in the district school system based on the funds generated by state funding through the Florida Education Finance Program for such students¹⁸. Juvenile justice educational programs are to be funded in the appropriate FEFP program based on the educational services needed by the student for Department of Juvenile Justice programs in accordance with s. 1011.62, F.S. Juvenile justice educational programs eligible to receive the appropriate FEFP funding include those operated through a contract with the Department of Juvenile Justice and which are under purview of the Department of Juvenile Justice quality assurance standards for education.

A supplemental allocation that is equal to the state average of the class-size-reduction factor is provided for students in the juvenile justice programs.¹⁹

Because the law provides some discretion for school district sharing of funds with juvenile justice educational programs, there is a disparate level of funding for these programs among school districts. In addition, there is some concern that juvenile justice education in many districts does not receive a proportionate share of the district funding.

Effect of the Bill

The bill requires districts to provide Discretionary Local Effort funds and state compression funds, if necessary, up to the state average funds per student for juvenile justice education students; this amount for 2012-2013 from the discretionary .748 mill levy is \$360. In addition, juvenile justice education programs would receive a uniform funding amount per student from school districts.

Repeal Manatee Compulsory Attendance Pilot

The bill repeals section 1003.61, F.S, the Manatee County school district pilot attendance project to increase the compulsory school age for attendance from the age of 16 years to 18 years. The project was to be implemented beginning July 1, 1999. Chapter 2010-102, Laws of Florida, repealed the section of law requiring the project to report results of the pilot.

Instructional Materials Purchases

Each district school board must purchase current state adopted instructional materials for the subject areas of mathematics, language arts, science, social studies, reading, and literature for student in kindergarten through grade 12. The term of each adoption is a 5-year period, and school district purchases must be made within the first 2 years after the effective date of the adoption cycle. The department of education publishes annually an official schedule of subject areas to be called for adoption for each of the succeeding 2 years, and a tentative schedule for years 3, 4, and 5.²⁰

Each district receives an instructional materials allocation through the FEFP;²¹ the allocation for the 2011-2012 fiscal year was \$209,240,737. Each district must use 50 percent of its allocation to purchase instructional materials on the state-adopted list.

Effect of the Bill

¹⁸ s. 1003.52(12), F.S.

¹⁹ s. 1011.62(12), F.S.

²⁰ s. 1006.40(2), F.S.

²¹ s. 1011.67, F.S.

The bill provides a waiver for the requirement to purchase newly adopted instructional materials for 2012-2013 mathematics adoption cycle. A district currently using a comprehensive mathematics instructional materials from the 2009-2010 adoption shall be deemed in compliance if each student is provided with additional state-adopted materials necessary to align to the Common Core standards and the other criteria of the 2012-2013 mathematics adoption cycle.

Categorical Funds

Supplemental Academic Instruction Allocation

Funds from the Supplemental Academic Instruction categorical fund are allocated annually to each school district in the amount provided in the General Appropriations Act. These funds are provided in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program and are included in the total funds for each district. These funds are used to provide supplemental academic instruction to students enrolled in the K-12 program. Supplemental instruction strategies may include, but are not limited to: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student achievement. Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.²² The Supplemental Academic Instruction appropriation for the 2011-2012 fiscal year is \$615,924,773.

Reading Instruction Allocation

Funds for comprehensive, research-based reading instruction are allocated annually to each school district in the amount provided in the General Appropriations Act. Each eligible school district receives the same minimum amount as specified in the General Appropriations Act, and any remaining funds are distributed to eligible school districts based on each school district's proportionate share of K-12 base funding. These funds must be used to provide a system of comprehensive reading instruction to students enrolled in K-12 programs. The reading instruction program may include the following:

- The provision of highly qualified reading coaches;
- Professional development for school district teachers in scientifically based reading instruction, including strategies to teach reading in content areas and with an emphasis on technical and informational text;
- The provision of summer reading camps for students who score at Level 1 on FCAT Reading;
- The provision of supplemental instructional materials that are grounded in scientifically based reading research; or
- The provision of intensive interventions for middle and high school students reading below grade level.

Annually, by a date determined by the Department of Education but before May 1, school districts must submit a K-12 comprehensive reading plan for the specific use of the research-based reading instruction allocation in the format prescribed by the department for review and approval by the Just Read, Florida! Office created pursuant to s. 1001.215, F.S. The plan annually submitted by school districts must be deemed approved unless the department rejects the plan on or before June 1. If a school district and the Just Read, Florida! Office cannot reach agreement on the contents of the plan, the school district may appeal to the State Board of Education for resolution. No later than July 1 annually, the department shall release the school district's allocation of appropriated funds to those districts having approved plans. A school district that spends 100 percent of this allocation on its approved plan shall be deemed to have been in compliance with the plan. The department may withhold funds upon a determination that reading instruction allocation funds are not being used to

²² s. 1011.62(1)(f), F.S.

implement the approved plan.²³ The Reading Instruction allocation was provided an appropriation for the 2011-2012 fiscal year of \$97,673,434.

Categorical Program Fund Flexibility

Categorical program funds are provided for a specific purpose, such as student transportation, safe schools, supplemental academic instruction, reading instruction, or instructional materials. These funds may only be spent by the school district for the designated purpose. However, under Section 1011.62(6), if a school district finds that these funds are urgently needed to maintain academic classroom instruction, the school board may adopt a resolution to amend the district budget and use the categorical funds for the classroom instruction.

Effect of the Bill

The bill:

- Modifies the FEFP Supplemental Academic Instruction allocation to require that districts with low performing elementary schools provide intensive reading instruction for the students in these schools for an additional hour a day beyond the normal school day for the entire school year.
- Modifies the FEFP Reading allocation to require that priority be given to school districts to provide intensive reading instruction for low performing students during an additional one hour of instruction beyond the normal school day for each school day and limits the use of these funds for reading coaches. The bill also modifies the types of intensive reading instruction that may be provided in the additional hour and modifies other criteria for use of the funds.
- Limits flexibility for the use of Reading and Supplemental Academic Instruction allocations to first require the additional hour of instruction for low performing schools and students.

Discretionary Capital Outlay Millage

In addition to the maximum millage levy for operations that each school board may levy, the board may also levy up to 1.5 mills for capital outlay purposes, one of which is for payments for educational facilities and sites due under a lease-purchase agreement. These payments may not exceed, in the aggregate, an amount equal to three-fourths of the proceeds from the millage levied for educational facilities. However, the three-fourths limit is waived for lease purchase agreements entered into before June 30, 2009.²⁴

Effect of the Bill

The bill deletes an obsolete fiscal year reference of 2009-2010 for the waiver of the three-fourths limit for the proceeds of discretionary capital outlay millage for payments for lease-purchase agreements.

State Requirements for Educational Facilities

It is the responsibility of each district school board to ensure that all plans and educational and ancillary plants meet the standards of the Florida Building Code and the Florida Fire Prevention Code and to provide for the enforcement of these codes in the areas of its jurisdiction.²⁵ Each board must provide for the proper supervision and inspection of the work. Each board may employ a chief building official and such other inspectors, who have been certified pursuant to chapter 468, a fire official and such other inspectors, who have been certified pursuant to chapter 633, and such personnel as necessary to administer and enforce the provisions of such codes. Boards may also use local building department inspectors who are certified by the department to enforce the Florida Building Code and the State

²³ s. 1011.62(9), F.S.

²⁴ s. 1011.72 (2)

²⁵ s. 1013.371(2), F.S.

Requirements for Educational Facilities. Boards may also use local county, municipal, or independent special fire control district fire safety inspectors who are certified by the State Fire Marshal to conduct reviews of site plans and inspections and to enforce the Florida Fire Prevention Code.

Plans or facilities that fail to meet the standards of the Florida Building Code or the Florida Fire Prevention Code may not be approved. When planning for and constructing an educational, auxiliary, or ancillary facility, a board must use construction materials and systems that meet standards adopted pursuant to s. 1013.37(1)(e)3. and 4. If the planned or actual construction of a facility deviates from the adopted standards, the board must, at a public hearing, quantify and compare the costs of constructing the facility with the proposed deviations and in compliance with the adopted standards and the Florida Building Code. The board must explain the reason for the proposed deviations and compare how the total construction costs and projected life-cycle costs of the facility or component system of the facility would be affected by implementing the proposed deviations rather than using materials and systems that meet the adopted standards.

Each school district that undertakes the construction, renovation, remodeling, purchasing, or lease-purchase of any educational plant or ancillary facility, the cost of which exceeds \$200,000, may submit plans to the department for approval.²⁶

Effect of the Bill

The bill authorizes the Commissioner of Education to waive facilities demolition requirements for school districts when substantial savings of funds can be realized or they are advantageous to the educational system, subject to justification by the school district.

Audits

Not less than once every 5 years, each district school board must contract with a qualified, independent third party to conduct a financial management and performance audit of the educational planning and construction activities of the district. An audit conducted by the Office of Program Policy Analysis and Government Accountability and the Auditor General pursuant to s. 1008.35 satisfies this requirement.²⁷

Effect of the Bill

The bill clarifies that the Auditor General audits satisfy the independent audit requirement of school districts.

K-12 Public School Facility Funding Task Force

The bill creates the K-12 Public School Facility Funding Task Force for the 2012-2013 fiscal year. The purpose of the 11 member task force is to exam relevant factors to make recommendations to the Legislature by December 1, 2012, for more equitable funding for all public schools, including, but not limited to:

- Charter school facility funding needs.
- Existing funding and revenue sources available for fixed capital outlay needs of charter schools and schools operated by a school district.
- Long-term debt for school facilities.
- Class size requirements and the impacts of such requirements on facilities funding needs.
- District facilities utilization.

Digital Instructional Materials Work Group

²⁶ s. 1013.371(3), F.S.

²⁷ s. 1013.35 (2)(f), F.S.

The bill creates the Digital Instructional Materials Work Group. The purpose of the 8 member group is to plan and monitor the implementation of the transition to digital instructional materials. The group will submit a plan to the Legislature by March 1, 2013, for meeting the deadline of transition to digital instructional materials as provided in ss. 1006.29(3) and 1006.40(3)(a), Florida Statutes.

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: See FISCAL COMMENTS section.
2. Expenditures: See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: The bill does not appear to have a direct fiscal impact on the private sector.

D. FISCAL COMMENTS:

The bill designates Supplemental Academic Instruction allocation funds for all low performing elementary schools and Reading allocation funds for low performing students to be used to provide an additional hour a day of intensive reading instruction beyond the normal school day for the entire school year.

The bill requires uniform and proportionate funding for juvenile justice education programs among all districts.

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.

The bill increases fiscal flexibility and efficiency by:

- Providing a waiver for the requirement to purchase instructional materials within two years of the current adoption cycle if required content is provided by alternative means;

- Requiring school districts to participate in the School District Consortium to maximize purchasing power for goods and services;
- Reducing the 5% charter school administrative fee for charter schools that have an exceptional student enrollment that is 75% or greater of the total school enrollment;
- Reducing the cost of severance for school districts to no greater than 20 weeks of compensation for superintendents and to not allow any severance if an employee has been fired for misconduct; and
- Reducing district facilities costs if certain facilities requirements are waived, subject to adequate justification by the district.

The bill also provides technical clarification of FEFP FTE reporting requirements, FTE audit adjustments, and removes an obsolete fiscal year reference for the waiver of the three-fourths limitation for payments for lease purchases from the proceeds from discretionary capital outlay millage.