

STORAGE NAME: h1145z.edk
DATE: June 18, 1999

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION K-12
FINAL ANALYSIS**

BILL #: HB 1145 (passed as CS/SB 1848)

RELATING TO: Educational Facilities

SPONSOR(S): Representative Pruitt

COMPANION BILL(S): SB 1536, SB 1848

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION K-12 (W/D)
- (2) EDUCATION INNOVATION YEAS 6 NAYS 0
- (3) EDUCATION APPROPRIATIONS (W/D)
- (4)
- (5)

I. FINAL ACTION STATUS:

PASSED BY THE LEGISLATURE - CHAPTER #99-329, Laws of Florida.

HB 1145 died on the House calendar on April 30, 1999. A companion bill, CS/SB 1848 passed the House on April 27, 1999, [YEAS 116, NAYS 0]. On April 29, 1999, the Senate concurred with the amended bill [YEAS 39, NAYS 0].

CS/SB 1848 was presented to the Governor on May 28, 1999, and on June 11, 1999, the bill was signed into law by the Governor.

This bill analysis applies to CS/SB 1848.

II. SUMMARY:

This bill changes the eligibility criteria for the Effort Index Grant Program and allocates the money in the following ways:

First, the bill allocates money to the four districts identified by the SMART Schools Clearinghouse as being eligible for the original effort index grant program.

- Clay County is allocated \$7,442, 890
- Dade County is allocated \$62,755,920
- Hendry County is allocated \$1,628,590
- Madison County is allocated \$414,950

Second, the bill transfers \$100 million from the effort index grant fund to the School Infrastructure Thrift (SIT) Program to incentivize functional, frugal school construction while ending the SIT award that school districts receive for the operation of charter schools in non-school-district facilities after the 1999-2000 school year.

Third, the bill distributes the remaining \$227.8 million of effort index grant funds based on the 1997 Classrooms First distribution formula to districts which either (1) received, between July 1, 1995 and June 30, 1999, direct proceeds from the ½ cent sales surtax for public school capital outlay or any portion of the local government infrastructure sales surtax; or, (2) met any two of the following criteria: 1) levy the full 2 mills of nonvoted discretionary capital outlay during 1995 - 1999, 2) levy a cumulative voted millage equal to 2.5 mills for fiscal years 1995 - 1999, 3) receive proceeds of school impact fees greater than \$500 per dwelling unit which were in effect on July 1, 1998, or 4) receive direct proceeds from either the ½ cent sales tax for school capital outlay or any portion of the local government infrastructure sales surtax.

The bill also makes technical and conforming changes relating to leased facilities inspection, fees for prototype school designs, operable glazing, radon testing, and standards for long-term use relocatables.

The effective date of the bill is upon becoming law.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In the November 1997 special session, House Bill 17-A was passed. The bill is known as the "SMART Schools Act" (**S**oundly-**M**ade, **A**ccountable, **R**easonable and **T**hrifty Schools Act).

Some of the provisions of HB 17-A are:

- 1) Classrooms First bond proceeds.
- 2) Setting of relocatable standards.
- 3) Legislative goal of reducing relocatables.
- 4) 5-year district facilities work programs.
- 5) Effort Index Grant (EIG) Fund.
- 6) School Infrastructure Thrift (SIT) Program.
- 7) SMART Schools Clearinghouse.

Classrooms First Bond Proceeds

Classrooms First is a \$2 billion lottery bonding program. Depending on their new school needs, districts may choose to receive their funding as bond proceeds or cash. *All 67* school districts receive a portion of these funds based on a modified Public Education Capital Outlay (PECO) distribution. As the name indicates, districts must build "Classrooms First." *After* a school district has met its need for new classroom space, these funds may be used for major repair or maintenance or the replacement of unsatisfactory relocatables. These funds are *not* to be used to purchase more relocatables.

Classrooms First funds are bonded on an as needed basis. The state bonds only the amount requested by the districts. Districts receive the bond proceeds when they are ready to encumber funds for construction. As of February 1999, the state had bonded only \$565 million of the \$2 billion in bond proceeds allocated for Classrooms First. By that date, districts had encumbered only \$134 million for ongoing school construction projects. By June 17, 1999, the total distributed to and encumbered by districts reached \$435 million.

Relocatable Standards

The Commissioner of Education must adopt rules establishing standards for long-term use relocatables. A "long-term use relocatable" is defined as a relocatable in use at the same educational plant for a period of 4 years or more. The rules must be implemented by July 1, 1998, and each long-term use relocatable acquired by the school district *after* the effective date of the rules must comply with the standards. The rules must require that by July 1, 2001, relocatables that fail to meet the new standards may not be used as classrooms.

The relocatable standards must address the following areas:

- health, safety, and welfare of occupants
- safety and stability of the construction
- fire and moisture protection
- air quality and ventilation
- appropriate wind resistance
- compliance with ADA requirements
- technology availability

At the present time the new long-term use relocatable standards have not been adopted. DOE staff have indicated that industry differences related to base wind loading standards have delayed the adoption of the new standards.

Reduction of Relocatable Facilities

The Legislature set as a goal that by July 1, 2003, the following reductions would be made in relocatable facilities:

- Student stations in relocatable facilities exceeding 20 years of age and in use by a district during the 1998-1999 fiscal year must be removed.
- The number of relocatable student stations at over-capacity schools during that same fiscal year must be decreased by half.

5-year District Facilities Work Program

Each school district must annually prepare a 5-year district facilities' work program. The program must provide for public hearings and input. The program must reflect the estimated revenues (local, state, or other), needs, a schedule of all capital outlay projects, and major repair and renovation projects and project costs of the district. Districts must identify the number of relocatable student stations scheduled for replacement during the 5-year survey period and the total dollar amount needed for that replacement. Those relocatables identified and scheduled for replacement in a school board adopted financially feasible 5-year work program are counted at zero capacity. All remaining relocatable classrooms are counted at *actual* student capacity.

Effort Index Grants

The Effort Index Grant (EIG) Fund is a \$400 million long-term effort-driven incentive program. The program is optional. It was expected that a limited number of districts would attempt to qualify for the Effort Index Grant program. Districts can qualify if they have been efficient in building functional, frugal new student stations and *still* have a need for additional new student stations to accommodate growth. They must meet a certain level of required local effort. If the district meets that level and still has need for *new* student stations, the district is eligible to receive Effort Index Grant funds.

Eligible Projects

Eligible projects are limited to those which provide *new* student stations and associated core facility space to meet student membership requirements in K-12 programs. Effort Index Grants are *not* provided to replace relocatable classrooms which meet standards.

Computation of Required Local Effort

Each school district which applies for an Effort Index Grant must use the equivalent of the amount of the following revenues for school construction:

- Public Education Capital Outlay (PECO) and Capital Outlay & Debt Service (CO&DS) funds
- Maximum potential bond proceeds from CO&DS trust fund
- Proceeds from Classrooms First Program
- ½ cent local option school sales surtax pursuant to s. 212.055(7), F.S., if fully levied for 5 year period

If after a district has spent this equivalent amount on authorized school construction and the district *still* has need for new student stations, the State will provide funding through the Effort Index Grant Fund.

Computation of Expenditures for Eligibility

The computation of basic capital outlay expenditures for projects must be based on the following:

- Expenditures for projects which provide new student stations and associated core facility space to meet student membership requirements in K-12 programs.
- Expenditures for debt service payments for outstanding capital outlay bonds sold to finance *new* construction, remodeling, renovation, or major repair of educational facilities.
- Expenditures for scheduled payments on outstanding certificates of participation (COPS) used to finance new construction, remodeling, renovation, or major repair of educational facilities.

Expenditures for relocatables which meet standards do *not* qualify. The computation of basic capital outlay expenditures for projects to be included in the Clearinghouse calculation for Effort Index Grants must only be based on the actual cost per student station or the statutorily defined cost per student station, whichever is less.

Allocation of Effort Index Grants

If the calculated district obligation is equal to or greater than the calculated required local effort on eligible expenditures, the district is eligible for an Effort Index Grant. Annually, by November 1, the Clearinghouse must report to the Governor and Legislature on the amount required to fully fund the Effort Index Grants for the following 5 year period. If Legislative appropriations are insufficient to fully fund the qualified Effort Index Grants, the Clearinghouse has the authority to give priority consideration to districts that have exceeded and maximized their local effort.

In September of 1998, 11 districts applied for Effort Index Grants. Upon an initial desk audit by the Clearinghouse of the information submitted by the districts, only 4 of those districts appear to meet the statutory qualifications of *need* and *effort* to receive an Effort Index Grant. To ensure consistency in definitions and standards applied to all districts, further on-site review *may* be necessary to determine the actual eligibility of the districts which applied.

SIT Program

The SIT Program is an incentive fund created to encourage functional, frugal school construction. A school district can receive a SIT award in one of two ways:

- Savings realized through functional, frugal construction.
- Savings realized through the operation of charter schools in non-school-district facilities.

The SIT awards are based upon 50 percent of the savings on the statutorily defined cost-per-student station. School districts may use the SIT award for any authorized capital outlay expenditure.

As of May 25, 1999, approximately \$17.4 million has been distributed to school districts for building new schools under the state required cost per student station. Approximately \$19.7 million has been distributed to school districts for the operation of charter schools in non-school-district facilities. It is estimated that more than \$44 million will be disbursed this year to school districts for SIT awards for the operation of charter schools.

Some school districts have chosen to share their SIT awards with their charter schools, thus providing capital funding for some charter schools.

SMART Schools Clearinghouse

The SMART Schools Clearinghouse (Clearinghouse) is an independent body comprised of five members appointed by the Governor, Speaker of the House and President of the Senate. The Clearinghouse is responsible for making recommendations for SIT Program awards and Effort Index Grants. The Clearinghouse recommends frugal construction standards and reviews school districts' performance in meeting established design and construction standards in the 5-year work plans. The Clearinghouse is administratively housed in the Department of Management Services.

B. EFFECT OF PROPOSED CHANGES:

The bill changes the eligibility criteria for the effort index grant program and allocates the money in the following ways:

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The bill also makes the following changes:

- Clarifies that any appropriately licensed design professional can certify that leased facilities meet the state building requirements.
- Removes language relating to the provision that prototype plans are free of charge in order to allow reuse fees for engineering and architectural design professionals.
- Clarifies that DOE must review and validate school and community college surveys, and when required by the Constitution, recommend those in compliance to the State Board of Education.
- Amends the legislative intent of the effort index grant program.
- Clarifies that plans for education facilities must be reviewed by any authorized review agency.

- Clarifies that General Revenue awards from the SIT fund may be used for any lawful capital outlay expenditure and bond proceed awards from the SIT fund may be used only for bondable capital outlay projects.
- Gives school districts and community colleges more flexibility in the use of operable glazing (i.e., windows).
- Sets July 1, 2000 as the date at which the Commissioner of Education must set standards for long-term use relocatables.
- Requires radon testing only in geographic areas where radon is an environmental issue and specifies when regulated facilities in those areas must be tested.
- Repeals an obsolete reference to the SMART Schools Small County Assistance Program.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No. However, the bill extends the date for which relocatable standards must be adopted by the Commissioner to July 1, 2000.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

An program is not eliminated or reduced.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

The bill does not purport to provide services to families or children.

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

The bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 235.056, 235.0155, 235.15, 235.175, 235.186, 235.211, 235.2155, 235.216, 235.217, 235.212, 235.31, 235.218, 235.061, 404.056, 235.26, F.S., and section 46 of chapter 97-384, Laws of Florida.

Repeals s. 235.4355, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 235.056(3)(b), F.S., requiring certain plans to be prepared by an appropriate design professional.

Section 2: Amends s. 235.0155(3), F.S., revising the fee for prototype plans usage.

Section 3: Amends s. 235.15(1)(c), F.S., requiring validation of school district and community college educational plant surveys.

Section 4: Amends s. 235.175(4), (5), and (6), F.S., deleting the formula for SIT awards and effort index grants.

Section 5: Amends s. 235.186, F.S., allocating certain funds for effort index grants and revising the eligibility criteria and allocation formula for effort index grants.

Section 6: Amends s. 235.211(4), F.S., revising plan review requirements for educational facilities.

Section 7: Amends s. 235.2155(3)(a), (7), and (8), F.S., ending the SIT award that school districts receive for the operation of charter schools in non-school-district facilities after the 1999-2000 school year and revising SIT awards related uses.

Section 8: Amends s. 235.216(2) and (3), F.S., revising the SMART school of the year award.

Section 9: Amends s. 235.217(1)(c), (d), (e), and (3)(b), F.S., to conform to amendments relating to the SIT fund and effort index grants.

- Section 10: Amends s. 235.212(1)(a), F.S., adding community colleges to the areas exempt from operable glazing requirements.
- Section 11: Amends s. 235.31(1)(a), F.S., revising review authority for code compliance.
- Section 12: Amends s. 235.218(3), F.S., to conform to amendments relating to effort index grants.
- Section 13: Amends s. 235.061(1), F.S., to require that by July 1, 2000, the Commissioner must adopt standards for all long-term use relocatables.
- Section 14: Amends s. 404.056(5), F.S., revising requirements related to radon testing.
- Section 15: Amends section 46 of chapter 97-384, Laws of Florida, relating to appropriations for School Infrastructure Thrift Program awards and effort index grants to effectively provide \$100 million of effort index grant funds to the SIT program.
- Section 16: Amends s. 235.26(3), F.S., requiring district school boards to comply with certain standards for construction materials and systems based on life-cycle costs, providing an exception, and requiring a public hearing.
- Section 17: Repeals s. 235.4355, F.S., relating to the SMART Schools Small County Assistance Program for Fiscal Year 1998-1999.
- Section 18: Provides an effective date of upon becoming law.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Approximately 28 districts which were not previously eligible for effort index grants will become eligible for a portion of approximately \$227.8 million.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

There were 4 amendments to CS/SB 1848 adopted on the House floor on April 27, 1999.

Amendment 1: Ends the SIT Award that school districts receive for the operation of charter schools in non-school-district facilities after the 1999-2000 school year.

Amendment 2: Technical amendment to replace subsection "(2)" with "(3)."

Amendment 3: Technical amendment to replace subsection "(2)" with "(3)."

Amendment 4: Changes the date for the deadline for the Commissioner to establish rules for long-term use relocatables from July 1, 2003 to July 1, 2000.

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DATE: June 18, 1999

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VIII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

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