

STORAGE NAME: h1145a.ei

DATE: April 21, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION INNOVATION
ANALYSIS**

BILL #: HB 1145

RELATING TO: Implementation of chapter 97-384, LOF (Educational Facilities)

SPONSOR(S): Representative Pruitt

COMPANION BILL(S): SB 1536

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

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

I. SUMMARY:

This bill revises provisions relating to educational facilities in the following areas:

- Clarifies that only long-term use relocatables constructed, purchased, leased, or otherwise acquired by the school district *after* the effective date of the new relocatable standards are affected by those standards.
- Clarifies the Legislative goal for the reduction of relocatable facilities by July 1, 2003 includes student stations in relocatable facilities in use that are 20 years of age or older which do *not* meet the new long-term use relocatable standards.
- Clarifies projects which are eligible for Effort Index Grants.
- Requires the Auditor General to annually audit the revenues and expenditures of districts which apply for Effort Index Grants to certify that requirements of the program are met.
- Ends the SIT award for the operation of charter schools in non-school-district facilities after the 1998-1999 school year.
- Clarifies the Clearinghouse measures for evaluating performance and productivity of school district facilities work program related to safety.

An estimated \$67,375 is required to fund an additional 1.75 FTE for the Auditor General's office to conduct annual audits of districts applying for Effort Index Grants.

Strike Everything Amendment

HB 1145 was considered by the Committee on Education Innovation on April 20, 1999. The bill passed unanimously, by a vote of six to zero, with one "strike everything" amendment, which is traveling with the bill. The amendment differs from the original bill in the following manner:

- Clarifies the distribution of the Effort Index Grant Dollars.
- Provides that no Effort Index Grant dollars will be distributed until ALL classroom first dollars have been encumbered or spent.
- Creates the "Effort Index Grant Task Force" to study the Program and to issue a report with recommendations for statutory changes.
- Provides that task force will have six members: two appointed by the Governor, two by the Speaker and two by the Senate President.
- Provides that task force members cannot be a member of the legislature or employees of the school district.
- Provides for at least one architect and one SMART schools clearinghouse board member and two representatives from the business community and two private sector facilities experts.
- Clarifies that private sector facilities experts can be engineers, architects, construction managers, builders or planners.
- Provides that the task force will visit each district which applies for an Effort Index Grant and conduct a review of the five year district facilities work program to validate the basis for the Effort Index Grant application.

II. 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. To date, \$565 million of the \$2 billion has been bonded at the request of school districts. Of that, \$134 million has actually been encumbered by districts on construction.

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.

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.

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.

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.

To date, approximately \$13.7 million has been distributed to school districts for building new schools under the state required cost per student station. Approximately \$14.4 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:

Relocatable Standards

The bill clarifies that new relocatable standards for long-term use facilities are *prospective*; they only apply to newly acquired relocatables, whether constructed, purchased, or leased by the school district, *after* the effective date of the new standards.

The date for the Commissioner to adopt new standards for relocatables intended for long-term use as classrooms is extended to July 1, 2003.

The bill deletes provisions for relocatable standards to be implemented by July 1, 1998, since this date has already passed.

Reduction of Relocatable Facilities

The legislative goal for reduction of relocatable facilities requires the following:

- By July 1, 2003, the number of relocatable student stations at over-capacity schools during the 1998-1999 fiscal year must be decreased by *half*.
- Student stations in relocatable facilities in use by a district that are 20 years of age or older during the 1998-1999 fiscal year and thereafter *may only* be used if they meet the new standards for long-term use relocatables.

Educational Plant Survey

Relocatables clearly identified and scheduled for replacement *in the current year* of a school board adopted 5-year district facilities work program are counted at *zero* capacity.

Effort Index Grants

Eligible Projects

The bill clarifies that projects eligible to be included in Effort Index Grant calculations are limited to those projects which provide **new** student stations and associated core facility space to meet projected growth.

The only projects which may be funded are:

- Construction of new permanent student stations at new or existing schools.
- Core facilities associated with construction of new student stations.
- Core facilities at existing schools where the capacity of permanent and relocatable student stations exceed the capacity of the food service dining area by one third.
- Replacement of relocatables that will be 20 years or greater in age by July 1, 2003.

The following projects are **not** eligible for Effort Index Grant calculations:

- Remodeling and renovation of existing facilities.
- Maintenance and repair of existing facilities.
- Replacement of permanent facilities.
- New student stations or core facilities in excess of requirements needed for projected growth.
- Phased replacement of existing schools, purchase of land, site improvement, site development, ancillary facilities, ancillary space, multipurpose rooms, stages, auditoria, hurricane shelters, student services, leased relocatables, or the design of new schools.
- Any project not specifically defined as eligible.

Computation of Expenditures for Eligibility

The bill clarifies current law related to the computation of basic capital outlay expenditures for projects to be included in the Clearinghouse calculation for Effort Index Grants. 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. In other words, if a district that applies for an Effort Index Grant, builds a facility that costs *more* per student station than is statutorily allowed, *only* the expenditure amount *up* to the statutorily defined cost per student station may be counted toward that district meeting its required level of local effort.

A district is *not* eligible for an Effort Index Grant if during the 5-year qualifying period, it exercises a waiver to exceed the cost per student station. Also, during the 5-year qualifying period, applicant districts must spend, from their discretionary local 2 mill capital money, an amount not less than the average amount spent by the district for new construction during the previous 3 years. This provision will ensure that districts that are applying for Effort Index Grants do not shift funds and reduce the amount of their expenditures on new construction from local 2 mill capital funds and spend these funds on non-new construction projects.

Allocation of Effort Index Grants

Annually by November 1, the Clearinghouse must report to the Governor and the Legislature on the *status* of eligible applicants for Effort Index Grants.

The bill clarifies that Effort Index Grants are based on the 5-year qualifying period from fiscal years 1998-1999 through 2002-2003. School districts are allowed to resubmit applications for this qualifying period during the fall of 1999.

The Auditor General is required to annually audit the revenues and expenditures of eligible districts to certify that requirements of the Effort Index Grant program are met.

The bill clarifies that Effort Index Grant funds are not to be distributed until an eligible district has encumbered all of its allocated Classrooms First bond proceeds. DOE must distribute EIG funds in the same manner as Classrooms First bond proceeds.

SIT Program

The SIT award that school districts receive for the operation of charter schools in non-school-district-facilities is ended after the 1998-1999 school year.

Performance and Productivity Standards in the 5 year work program

The Clearinghouse must develop measures for evaluating the performance and productivity of school district facilities work programs in the area of safety *as it relates to the general conditions of the physical plant.*

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.

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

The Auditor General must annually audit the revenues and expenditures of eligible districts for an Effort Index Grant.

(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. 235.062, 235.15, 235.186, 235.2155, and 235.218, F.S.

Reenacts ss. 235.062, 235.435, 235.186, 235.217, and 235.26, F.S., to incorporate cross references.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 235.061(1), F.S., revising standards for relocatable facilities intended for long-term use, requiring the adoption of certain standards.

Section 2: Amends s. 235.062(1)(a), F.S., revising procedures for reducing the number of relocatable facilities in use.

Section 3: Amends s. 235.15(1)(b) and (c), F.S., revising criteria for district educational plant surveys; revising requirements for department review and validation of school district and community college educational plant surveys.

Section 4: Amends s. 235.186(1), (4)(b), (5)(e), (f), and (g), F.S., clarifying eligibility criteria for Effort Index Grants; revising reporting requirements; requiring the Auditor General to certify certain district revenues and expenditures; providing for distribution of Effort Index Grants.

Section 5: Amends s. 235.2155(3)(a), F.S., revising the purpose of the SIT program.

Section 6: Amends s. 235.218(1)(d), F.S., revising areas in which measures for evaluating school district facilities work programs will be developed and adopted.

Section 7: Reenacts s. 235.062(2) and 235.435(1)(e) and (g), and (4)(a), F.S., incorporating cross references and amendments.

Section 8: Reenacts s. 235.186(3)(g), F.S., incorporating cross references and amendments.

Section 9: Reenacts s. 235.217(1)(a), F.S., incorporating cross references and amendments.

Section 10: Reenacts s. 235.26(2)(a), F.S., incorporating cross references and amendments.

Section 11: Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

An estimated \$67,375 is required to fund an additional 1.75 FTE for the Auditor General's office to conduct annual audits of districts applying for Effort Index Grants.

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:

None.

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:

N/A

IV. 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.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

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