

STORAGE NAME: h1161s1.ge.doc

DATE: February 14, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL EDUCATION
ANALYSIS**

BILL #: CS/HB 1161

RELATING TO: Florida Academic Improvement Trust Fund matching grants

SPONSOR(S): Committee on General Education & Representative(s) Fiorentino

TIED BILL(S): CS/HB 1159

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

- (1) GENERAL EDUCATION YEAS 10 NAYS 0
- (2) EDUCATION APPROPRIATIONS
- (3) COUNCIL FOR LIFELONG LEARNING
- (4)
- (5)

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I. SUMMARY:

CS/HB 1161 establishes a program which, when paired with CS/HB 1159 (creating The Florida Academic Improvement Trust Fund) and funded by the General Appropriations Act, will provide each school district and the Florida School for the Deaf and Blind the opportunity to strengthen private/public partnerships, by offering private donors the incentive of state matching funds for contributions that support the improvement of academic programs.

A district school board approved direct-support organization for the Florida School for the Deaf and the Blind or any public school district that is a not-for-profit corporation and uses its resources for pre-kindergarten through grade 12, adult vocational and community educational programs may participate. The eligible foundations that participate in the program must account for all funds received and must be responsible for: (1) soliciting and receiving private sector contributions; (2) the maintenance, investment, and administration of the trust funds; and (3) the proper expenditure of funds received. Funds must be used at the discretion of the school or public school foundation. Such funding cannot be used for facility construction nor interscholastic athletics; however, facility purchases may be allowed if the Legislature has granted prior approval.

The Department of Education is responsible for allocating funds appropriated to the Florida Academic Improvement Trust Fund. The matching grants will be allocated on the basis of matching \$6 of private contributions with every \$4 of state money. To be eligible for matching funds, a minimum of \$4,500 must be raised from private sources.

CS/HB 1161 is "tied" with -- and contingent upon passage of -- CS/HB 1159 that creates the Florida Academic Improvement Trust Fund from which matching funds will be drawn. Its successful operation is also contingent upon money being appropriated by the Legislature to supply the matching funds. CS/HB 1161 does not appropriate funds.

A similar trust fund, and the associated provisions for administering the fund, were scheduled for sunset in 1999 and were allowed to repeal in 1999. The program had not received funding since 1997.

There is no fiscal impact unless money is appropriated through the General Appropriations Act.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

CS/HB 1159 (2002)

CS/HB 1159 (2002) is "linked" to CS/HB 1161. CS/HB 1159 creates the Florida Academic Improvement Trust Fund, into which any funds to implement the program established in CS/HB 1161 will be placed by the General Appropriations Act, and from which funds will be drawn to match the private donations.

District school board direct support organizations (a.k.a. "district education foundation")

Section 237.40, F.S., provides that a "district school board direct-support organization" means an organization which: (1) Is approved by the district school board; (2) Is a Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State; and (3) Is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of public prekindergarten through 12th grade education and adult vocational and community education programs in this state.

Section 237.40, F.S., further provides that a district school board:

- Is authorized to permit the use of property, facilities, and personal services of the district by a direct-support organization, subject to the provisions of this section.
- Shall prescribe by rule conditions with which a district school board direct-support organization must comply in order to use property, facilities, or personal services of the district. Promulgation of such rules shall be coordinated with the Department of Education. The rules shall provide for budget and audit review and oversight by the district school board and the department.
- Shall not permit the use of property, facilities, or personal services of a direct-support organization if such organization does not provide equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin.

The section also provides that the district school board shall approve the board of directors of the district school board direct-support organization. The direct-support organization shall make provisions for an annual post-audit of its financial accounts, to be conducted by the district auditor in accordance with rules to be adopted by the Commissioner of Education.

Of the 67 school districts, only nine do not currently have an authorized district education foundation. Six counties, which are Calhoun, Holmes, Jackson, Liberty, Lafayette, and Nassau,

have no district education foundation. Three others, which are Gilchrist, Putnam, and Taylor counties, are in the process of creating foundations. According to DOE, creating a foundation is simply a matter of time (two to three months) and paperwork, and counties that have no foundation should have no difficulty creating them, given the incentive of the availability of matching funds.

State Universities

Trust funds to provide challenge grants to state universities date back to 1979, when the Trust Fund for Eminent Scholars was created. A second fund, the Major Gifts Trust Fund was created in 1985. In 1994, these two trust funds were merged in s. 240.2605, F.S., as the Trust Fund for Major Gifts. Each university foundation establishes a challenge grant account for each challenge grant as a depository for private contributions and state matching funds to be administered on behalf of the university. The foundation serving a university has the responsibility for the maintenance and investment of its challenge grant account and for the administration of the program, pursuant to procedures specified by the Board of Regents. In the fiscal year 1994-95, before the Trust Fund for Eminent Scholars and the Major Gifts Trust Fund were merged, \$4.7 million was appropriated to each. For the 2001-2002 fiscal year, the Legislature appropriated \$22 million in the General Appropriations Act (SA. 13A and SA 202 G.A.A.).

The formula for matching for the Major Gifts Trust Fund is as follows:

Private Contribution	State Match
\$100,000 but no more than 599,999	50%
\$600,000 but no more than 1,000,000	70%
\$1,000,000 but no more than \$1,500,000	75%
\$1,500,000 but no more than \$2,000,000	80%
In excess of \$2,000,000	100%

A pledged contribution was not eligible for matching until the total contribution was collected.

Community Colleges

In 1983, the Legislature created the Florida Academic Improvement Trust Fund to encourage private support of public community colleges. In 1997, the name of the trust fund was changed to the Dr. Philip Benjamin Academic Improvement Trust Fund for Community Colleges. Section 240.36(3), F.S., authorizes challenge grants from this trust fund on the basis of matching each \$4 of state funds with \$6 of local or private funds, and to be eligible, a minimum of \$4,500 must be raised from private sources. Each community college entity establishes its own academic improvement trust fund as a depository for the private contributions and matching state funds. The foundations of the community college entities are responsible for the maintenance, investment, and administration of their academic improvement trust funds. The board of trustees of the community college and the State Board of Community Colleges are responsible for determining the uses for the proceeds of their respective trust funds. In 1999, the Legislature eliminated the trust fund, and now state money goes directly from general revenue to the program. For the 2001-2002 fiscal year the Legislature appropriated \$7.1 million for this program (SA 180, G.A.A.).

Public Schools

Florida Private Sector and Education Partnership Act

In 1987, the Legislature enacted the Private Sector and Education Partnership Act in s. 229.602, F.S., to encourage meaningful collaborations between Florida public schools and the private sector. Funds were provided for challenge grants to school districts. Projects receiving these challenge grants must obtain a 60 percent match from the private sector. The Legislature appropriated \$1.3 million to the partnership for the 2001-2002 fiscal year (SA 137A G.A.A.).

According to the Department of Education, appropriations to the Florida Private Sector and Education Partnership must be used within the fiscal year it is appropriated or returned. Appropriations to trust funds do not have to be used within the fiscal year appropriated.

Florida School Improvement and Academic Achievement Trust Fund

In 1995, the Legislature created the Florida School Improvement and Academic Achievement Trust Fund to provide challenge grants and matching endowment grants to district school boards. The 1995 Legislature established a formula for matching private contributions with state dollars to create an endowment for school improvement and academic achievement. For each year that an appropriation was made, the lesser of the amount appropriated divided by the number of districts or \$10,000 had to be reserved to provide each school board with an opportunity to receive and match a challenge grant. Trust funds that remained unmatched on March 1 of any year were also available for matching by any district school board. However, no district school board could receive more than its percentage of the total full-time equivalent enrollment or 15 percent, whichever was greater, of the funds appropriated to the trust fund for that fiscal year.

The 1998 Legislature amended the formula established in 1995. The new formula was modeled after the formula used for the challenge grants program for community colleges. Every \$6 of private funds were matched with \$4 of state funds, and a minimum of \$4,500 had to be raised from private sources. It provided that every year a legislative appropriation was made to the trust fund, an equal amount of the annual appropriation was to be determined by dividing the total legislative appropriation by the number of local educational foundations so that amount was reserved to provide each public school district education foundation with an opportunity to receive and match a challenge grant. Trust funds that remained unmatched by contribution on March 1 of any year were made available for matching by any public school district education foundation or by the Department of Education Florida Education Foundation. However, no public school district education foundation could receive more than its percentage of the total full-time equivalent enrollment or 15 percent, whichever was greater, of the funds appropriated to the trust fund for that fiscal year.

The Florida School Improvement and Academic Trust Fund and the associated provisions for administering the fund were scheduled for sunset in 1999 and were allowed to repeal (SB 602 [1999]). The program had not receive funding since fiscal year 1997.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 1161 establishes a program which, when paired with CS/HB 1159 (creating the associated trust fund), and provided sufficient money through the General Appropriations Act, will provide each school district and the Florida School for the Deaf and Blind the opportunity to strengthen private/public partnerships by offering private donors the incentive of state matching funds for contributions that support the improvement of public school K-12 academic programs.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates s. 236.1226, F.S., establishing the administrative provisions for the Florida Academic Improvement Trust Fund. Specifically, the newly created section:

- Provides for the use of a trust fund to offer matching state funds as an incentive to attract private contributions with state funds earmarked directly to the district-based, public K-12 education foundations recognized by the local school district as its designated K-12 education foundation and for the Florida School for the Deaf and Blind Endowment Fund.
- Gives the Commissioner of Education the authority to specify procedures for the administration of the matching fund program.

- Gives the district-based, public K-12 education foundations and the Florida School for the Deaf and the Blind the discretion to use this funding for academic achievement within the school district or school, except that such funding received cannot be used for facility construction nor interscholastic athletics—although there is a caveat that may allow facility purchases if the Legislature has granted prior approval.

The section also instructs the Florida Department of Education to allocate the Trust Fund money in the following manner. It:

- Gives all district-based, public K-12 education foundations and the Florida School for the Deaf and Blind equal (proportionate) access to state matching funds until April 1 of each year for which there is a legislative appropriation. After April 1, remaining balances can be requested by any public school district foundation and by the Florida School for Deaf and the Blind based on procedures established by the Commissioner.
- Sets forth the matching requirement of \$4 from the state to every \$6 of local contributions, with the minimum request for state funds based on a foundation having raised \$4,500.
- Provides for the state distribution of funds upon notification that private contributions have been made and deposited.
- Finally, the section describes the requirements for creating separate accounts and responsible accounting by the foundations.

Section 2: Provides that the act shall take effect July 1, 2002.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

CS/HB 1161 is "linked" with -- and contingent upon passage of -- CS/HB 1159, which creates the trust fund from which matching funds will be drawn (the Florida Academic Improvement Trust Fund). In practical terms, its successful operation is also contingent upon money being appropriated by the General Appropriations Act, to supply the matching funds. However, the committee substitute does not have a fiscal impact, since it does not *mandate* an appropriation.

III. 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.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not grant rule-making authority.

C. OTHER COMMENTS:

There is no provision for providing money directly to districts that have not created a "district school board direct-support organization" (foundation). Apparently, as many as nine school districts have no associated foundation. Without some provision which takes this discrepancy into account, these districts will not be able to receive the matching funds. *However, the districts themselves should be able to address this problem, by simply creating such foundations.*

The committee substitute refers to "public school education foundations." However, we are assured by the Consortium of Education Foundations and the DOE that the intent and operation of the program would be to funnel the money through the "district school board direct-support organizations" created in s. 237.40, F.S., and that "public school education foundations" used in the bill is intended to be synonymous with the "district school board direct-support organizations" created in s. 237.40, F.S.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 13, 2002, the Committee on General Education adopted an amendment to HB 1161 that removes the "intent language" and reported the bill favorably as a committee substitute.

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VI. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:

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