

STORAGE NAME: h0265.ge.doc
DATE: December 28, 2001

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

BILL #: HB 265
RELATING TO: District School Board Employees
SPONSOR(S): Representative(s) Richardson
TIED BILL(S): None.

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

- (1) GENERAL EDUCATION
 - (2) EDUCATION APPROPRIATIONS
 - (3) COUNCIL FOR LIFELONG LEARNING
 - (4)
 - (5)
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I. SUMMARY:

HB 265 expands the application of the special death benefits established by the 2001 Legislature in the Barry Grunow Act. Under the current Barry Grunow Act, the special death benefits are available only to teachers and school-based (as opposed to *district-based*) administrators. HB 265 makes the benefits applicable to all school district employees, specifically listing secretaries, cafeteria workers, janitors, and school bus drivers and excluding "noncertified, noninstructional employees" or "contract workers." This language appears to be contradictory: secretaries, cafeteria workers, janitors, and school bus drivers are "noncertified, noninstructional employees;" and teachers and school administrators are hired under contract.

There are approximately 160,000 persons covered under the current law (150,560 full-time instructional personnel, and 9,470 full-time administrative employees). If the contradictory language is removed from the bill and all district employees are covered, 275,096 full-time employees will be covered. This represents a 72 percent increase. Since the bill does not distinguish between part-time employees and full-time employees, the numbers of additional employees that this bill will extend special death benefits to are indeterminate.

The 2001 Act provided benefits retroactively to the family of Barry Grunow, a teacher killed by a student in May 2000. HB 265 excludes any coverage when the death occurs as a result of any act of terrorism.

Current law provides that the designated benefits are paid only if the death occurs during required or assigned "teaching duties" or the motivation is related to the fact that the individual was a teacher or school administrator. By striking the definition of "teaching duties" from current law (with its "assigned" element), the new language blurs the notion of what constitutes "duties" and the increased risk a teacher or school-based administrator could have and gets away from the premise of the law that the increased risk of being a teacher or school-based administrator warrants the special death benefits. Currently, the special death benefits for teachers and school-based administrators are similar to the special death benefits for firefighters and law enforcement officers. Under this bill, that would not be the case.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

This bill does not support the principles of less government and personal responsibility because it expands an entitlement to a government service or benefit.

B. PRESENT SITUATION:

History of the Barry Grunow Act

The incident that generated interest in a bill for special death benefits for teachers, and which led to the passage of House Bill 279 in the 2001 Legislative Session, was the death of Barry Grunow, a teacher at Lake Worth Middle School in Lake Worth, Florida. Barry Grunow was shot and killed by a 13 year old boy with a .25 caliber automatic pistol, while just outside his classroom, on May 26, 2000. The Legislature made the benefits retroactive to May 26, 2000.

Definitions Applicable to the Barry Grunow Act

EMPLOYER – According to s. 112.1915(1)(a), F.S., employer means the district school board.

TEACHERS – Pursuant to s. 228.041(9), F.S., teachers are defined as any instructional staff, including classroom teachers, pupil personnel services staff, librarians and media specialists, other instructional staff, and instructional paraprofessionals.

SCHOOL ADMINISTRATORS – School administrators perform activities as the administrative head of a school and have been delegated responsibility for the coordination and administrative direction of instructional and noninstructional activities of the school (s. 228.041(10)(c)(1), F.S.). This employment classification also includes vocational center directors. Assistant principals, pursuant to s. 228.041(10)(c)(2), F.S., are also included in the classification of school administrators and are staff members who assist the administrative head of the school

TEACHING DUTIES – According to s. 112.1915(1)(d), F.S., teaching duties are defined as the actual performance of duties required by a teacher's employment during his or her regularly scheduled working hours or irregular working hours as required or assigned by the employer.

BENEFICIARY – According to s. 112.1915(1)(f), F. S., a beneficiary is a person designated by the teacher or school administrator in writing, signed by the teacher or school administrator and delivered to the employer during the teacher's or school administrator's lifetime.

Provisions of the Barry Grunow Act

Current law, s. 112.1915, F.S., establishes special death benefits for teachers and school administrators. According to s. 112.1915(2), F.S., the benefits must be provided when a teacher or school administrator is killed or injured and dies as a result of an unlawful and intentional act,

provided that the killing or injury and death is the result of an act of violence inflicted by another person, and provided that:

- The act is inflicted upon the teacher or school administrator while he or she is engaged in the performance of teaching duties or school administrator duties; or
- The motivation for the act is related in whole or in part to the fact that the individual is a teacher or school administrator.

Section 112.1915(3), F.S., specifies that special death benefits provided to the beneficiary include the following:

1. A cash payment of \$75,000 must be paid to the beneficiary or heirs of a deceased teacher or school administrator, and the payment must be in addition to any other insurance, workers' compensation, or pension benefits that the teacher or school administrator beneficiaries are entitled to under state or federal statutes. This payment must be exempt from the claims and demands of creditors of the teacher or school administrator, pursuant to s. 732.402(2)(d), F.S.
2. The sum of \$1,000 must be paid to the beneficiary toward funeral and burial expenses of the teacher or administrator, and the payment must be in addition to any other insurance, workers' compensation, or pension benefits that the teacher or school administrator beneficiaries are entitled to under state or federal statutes. This payment must be exempt from the claims and demands of creditors of the teacher or school administrator, pursuant to s. 732.402(2)(d), F.S.
3. Payment of the entire health insurance premium must continue for the surviving spouse until remarried and for each dependent child of the deceased teacher or school administrator until the children reaches majority or until the end of the calendar year in which the child reaches the age of 25 if the following conditions are met.
 - At the time of the teacher's or school administrator's death, the child is dependent upon the teacher or school administrator for support; and
 - The surviving child continues to be dependent for support, or the surviving child is a full-time or part-time student and is dependent for support.

The district school board that employed the teacher or school administrator who is killed must pay the health insurance premiums. The district school board must report the amount of the premiums to the Department of Education each year, and the Department of Education must reimburse the district for the premium.

4. The state must waive any state matriculation and tuition fees for a total of 120 hours for the teacher's or school administrator's dependent children who are admitted into a publicly funded vocational-technical school, community college, or university. The benefits must continue until the child's 25th birthday or unless the child who benefits fails to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship.

Special Death Benefits for Law Enforcement Officers

According to current law, s.112.19, F.S., special death benefits are provided for the beneficiary of law enforcement, correctional probation officers, if while engaged in the performance of his or her duties, the officer is unlawfully and intentionally killed or dies as a result of such unlawful and intentional act.

Special Death Benefits for Firefighters

Pursuant to s 112.191, F.S., special death benefits for the beneficiaries of firefighters are provided, if while engaged in the performance of his or her duties, a firefighter is unlawfully and intentionally killed and dies as a result of a fire which has been determined to have been caused by an act of arson, or subsequently dies as a result of injuries sustained therefrom.

C. EFFECT OF PROPOSED CHANGES:

HB 265 expands the application of the special death benefits established by the 2001 Legislature in the Barry Grunow Act. The Barry Grunow Act provides special death benefits to the surviving spouse of a teacher or a school-based administrator, if the death occurs during assigned duties. The bill amends current law to provide designated benefits to the survivors of an employee of a district school board, if killed while performing his or her job-related duties, or if the act causing the death was motivated by the fact that the victim was an employee of a district school board. However, the bill specifically excludes noncertified, noninstructional employees or contract workers from receiving such benefits. The benefits include:

- \$75,000 cash payment to the beneficiary or heirs of a decedent teacher or administrator;
- \$1,000 to be paid toward the funeral and burial expenses of such teacher or administrator;
- Payment of health insurance premiums for the spouse and dependent children of the decedent teacher or administrator; and
- Waiver of any state matriculation and tuition fees for a teacher's or an administrator's dependent children admitted into a public funded vocational-technical school, community college, or university.

The bill uses contradictory language with regard to *eligible employee*. The bill specifically adds secretaries, cafeteria workers, janitors, and school bus drivers who are all noncertified noninstructional employees, but the bill specifically excludes noncertified noninstructional employees or contract workers from receiving such benefits. In addition, the bill deletes "teachers" and "school administrators," as defined in s. 228.041, F.S. from current law. However, the bill adds "district school board employees" and since teachers and school administrators are employees of district school boards, teachers and school administrators would still be eligible for the special death benefits except that the bill excludes "contract workers." Since teachers and school administrators are hired under contract, it could be construed that teachers and school administrators are excluded as *contract workers*.

The bill also excludes any coverage when the death occurs as a result of any act of terrorism. However, the bill does not provide a definition for the word *terrorism*.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 112.1915, F.S., in order to (1) extend the benefits of the Barry Grunow Act to specified district school board employees and certain noninstructional personnel who provide indirect services to students in addition to teachers and school administrators and (2) amend the definitions of certain terms.

Section 2: Establishes an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The benefits include: an amount per slain teacher of a \$75,000 payment, \$1,000 for funeral and burial expenses, tuition and matriculation fees waived for surviving dependent children, plus the cost of health insurance premium for the survivors. The 2001 Legislature appropriated \$165,000 to fund the Barry Grunow Act.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

According to the Department of Education, school districts would incur a payment of \$76,000 to the surviving spouse for each eligible school board employee killed in the line of duty. The bill uses contradictory language with regard to eligible employees. If amended to include all employees except for independent contractors, the number of eligible employees covered increases from 160,030 to 275,096, or approximately 72 percent.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private health insurance companies will receive annual insurance premiums. Beneficiaries will receive a one-time payment of \$75,000 and funeral and burial expenses of \$1,000.

D. FISCAL COMMENTS:

The potential fiscal impact includes the following variables:

- According to the Department of Education, approximately 160,000 teachers and school-based administrators are covered under the current law; 150,560 full-time instructional personnel and 9,470 full-time administrative employees. This bill would make the law applicable to all district employees; 275,096 full-time employees. Since the bill does not distinguish between part-time employees and full-time employees, the numbers of additional employees that this bill will extend special death benefits to are indeterminate.
- Since the payment of special death benefits are contingent on how many school district employees may be killed while performing his or her duties, provided the death results in whole or in part due to the fact the person is a school district employee, the expenditures required by this bill cannot be calculated.
- It should be noted that current law does not distinguish between part-time and full-time employees, either. However, in the areas of teachers and administrators, about the only part-time employees would be substitute teachers or adjunct teachers (pursuant to s.

231.1726, F.S.) Among ALL employees, almost certainly a large *unknown* number and variety are part-time employees.

- Current law provides that the designated benefits are paid only if the death occurs during required or assigned "teaching duties" or the motivation is related to the fact that the individual was a teacher or school administrator. By striking the definition of "teaching duties" from current law (with its "assigned" element), the new language blurs the notion of what constitutes "duties" and the increased risk a teacher or school-based administrator could have; thus, the bill gets away from the premise of the law that the increased risk of being a teacher or school-based administrator warrants the special death benefits. Currently, the special death benefits for teachers and school-based administrators are similar to the special death benefits for firefighters and law enforcement officers. Under this bill, that would not be the case.

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:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not grant additional rule-making authority.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VII. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:

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