



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House principles.

### B. EFFECT OF PROPOSED CHANGES:

#### Present Situation:

Section 9, Article VII of the State Constitution permits a school district, if authorized by law, to levy up to 10 mills<sup>1</sup> of property taxes for school purposes. From the 10 mills, current law authorizes a school district to levy up to 2 mills for the following uses without voter approval (commonly known as the “nonvoted capital improvement millage”):<sup>2</sup>

- New construction and remodeling projects;
- Maintenance, renovation, and repair of existing educational plants<sup>3</sup> or leased facilities to correct nonconformity with the Florida Building Code or Fire Safety Prevention Code;
- Purchase, lease-purchase, or lease of school buses and other school vehicles;
- Purchase, lease-purchase, or lease of new and replacement equipment;
- Payment for educational facilities and sites under certain lease-purchase agreements;
- Payment of loans for specific school-related purposes;
- Payment of costs to comply with state and federal environmental laws, rules, and regulations;
- Payment of costs for renting or leasing educational facilities; and
- Purchase, lease-purchase, or lease of school buses or payment to a private entity to offset the cost of school buses.

In 1997, the Legislature limited the use of revenues from the discretionary 2-mill levy, phased out over 6 years. Thus, since July 1, 2003, current law limits the use of revenues from the 2-mill levy to the following projects:<sup>4</sup>

- Construction, renovation, remodeling, maintenance, and repair of the educational plant;
- Purchase, lease, or lease-purchase of equipment, educational plants, and construction materials directly related to the delivery of student instruction;
- Rental or lease of existing buildings or space converted for use as educational facilities;
- Opening day collection for the library media center of a new school;
- Purchase, lease-purchase, or lease of school buses or payment to a private entity to offset the cost of school buses; and
- Payments for certificates of participation<sup>5</sup> issued before January 7, 2003.<sup>6</sup>

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<sup>1</sup> A mill is 0.001 of one dollar. Thus, one mill of \$100,000 of taxable value is \$100.

<sup>2</sup> Section 1011.71(2), Florida Statutes.

<sup>3</sup> Section 1013.01(7), Florida Statutes, defines the term “educational plant” to comprise the educational facilities, site, and site improvements necessary to accommodate students, faculty, administrators, staff, and the activities of the educational program of each plant.

<sup>4</sup> Section 8, chapter 97-265, Laws of Florida; Section 35, chapter 97-384, Laws of Florida; section 1011.71(5), Florida Statutes.

<sup>5</sup> A “certificate of participation” is an instrument evidencing a pro rata share in a specific pledged revenue stream, usually lease payments by the issuer that are subject to annual appropriation. The certificate generally entitles the holder to receive a share, or participation, in the lease payments from a particular project. Municipal Securities Rulemaking Board, *Glossary of Municipal Securities Terms* 2d ed. (Jan. 2004), at <http://www.msrb.org/msrb1/glossary/default.asp> (last visited Apr. 6, 2007).

<sup>6</sup> See sections 663 and 1065, chapter 2002-387, Laws of Florida.

A school district that spends revenues from the 2-mill levy in violation of these limits is subject to an equal-dollar reduction in funds appropriated to the district under the Florida Education Finance Program the fiscal year after an audit finds the violation.<sup>7</sup>

Current law exempts a school district from these limits, thereby allowing the district to spend revenues from the 2-mill levy on any of the projects listed, including those authorized before the 1997 restrictions previously discussed in this analysis, if the Commissioner of Education certifies that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive within 5 years or from sound methods of meeting the district's space needs (i.e., alternative scheduling or construction, leasing, rezoning, or technological methodologies).<sup>8</sup>

A review by the Department of Education of the legislative history of the 2-mill nonvoted capital improvement levy shows that the levy "has always been restricted to costs associated with capital outlay, and not with operating expenses."<sup>9</sup>

The department reports that, for 2006-2007, the value of 1 mill of school taxable value is \$1.56 billion. Thus, the 2-mill levy could generate a statewide value of \$ 3.11 billion. The following table shows the millage rates levied by Florida's school districts for 2006-2007.<sup>10</sup>

<b>2006-2007 Capital Improvement Millage Rates</b>	
<b><i>Levy of Discretionary 2 Mills</i></b>	<b><i>School Districts</i></b>
Three school districts do not levy millage	Calhoun, Holmes, and Jackson
Three school districts levy 0.001 to 0.500 mills	Gulf, Madison, and Monroe
Seven school districts levy 0.501 to 1.500 mills	Bay, DeSoto, Orange, Pasco, Santa Rosa, Walton, and Washington
Two school districts levy 1.501 to 1.999 mills	Citrus and Okaloosa
<b><i>The remaining 52 school districts levy the maximum of 2.000 mills</i></b>	

**Tax Notices:**

Current law requires a school district to annually publish certain notices of its tentative budget, tax increases, and budget hearings in a newspaper of general paid circulation in the district, which is of general interest and readership in the community and not one of limited subject matter.<sup>11</sup> If a school district levies the nonvoted capital improvement millage (up to 2 mills), current law requires the district to publish a second notice of that tax, which also must appear in a newspaper of general paid circulation in the district.<sup>12</sup> The notice must include a list of the projects anticipated to be funded by the capital improvement tax.<sup>13</sup>

<sup>7</sup> Flush-left provisions of section 1011.71(5), Florida Statutes.

<sup>8</sup> *Id.*

<sup>9</sup> Florida Department of Education, *2007 Bill Analysis of HB 511*, at 2 (Feb. 6, 2007).

<sup>10</sup> Florida Department of Education, Office of Funding and Financial Reporting, *Florida Education Finance Program 2006-07 Third Calculation 47* (Dec. 15, 2006), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-4169/coefo-07-12c.pdf>.

<sup>11</sup> Section 200.065(2)(f) and (3), Florida Statutes.

<sup>12</sup> Section 200.065(9)(a), Florida Statutes.

<sup>13</sup> *Id.*

Proposed Changes:

The bill allows a school district to use revenues from the 2-mill nonvoted capital improvement levy for payment of the district's property and casualty insurance necessary to insure the district's educational plants. The bill limits a school district's use of operating revenues, which are made available through payment of property and casualty insurance costs from the 2-mill levy, to nonrecurring operational expenditures.

The bill also requires a school district, if the district anticipates using revenues from the 2-mill levy for payment of property and casualty insurance costs, to list that anticipated use on the list of projects included on its annual public tax notice published in a newspaper of general paid circulation in the district.

The bill provides an effective date of July 1, 2007.

C. SECTION DIRECTORY:

Section 1. Amends section 200.065, Florida Statutes, requiring the addition of specified information in an annual tax notice.

Section 2. Amends section 1011.71, Florida Statutes, to allow revenues from the 2-mill nonvoted capital improvement levy to be used to pay certain insurance costs.

Section 3. Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

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:

The bill allows a school district to use revenues from the 2-mill nonvoted capital improvement levy for the district's property and casualty insurance costs, regardless of whether the district meets the class-size reduction requirements<sup>14</sup> or has other demands for capital outlay funds. According to the Department of Education, 24 school districts are subject to transfers of operating funds to the district's

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<sup>14</sup> See Section 1(a), Article IX of the State Constitution; section 1003.03, Florida Statutes.

fixed capital outlay account for class-size reduction<sup>15</sup> because the districts have one or more public schools that did not meet the 2006-2007 class-size reduction requirements:<sup>16</sup>

School District	Transfer Amount
Bay	\$68,834
Brevard	\$2,474
Broward	\$954,157
Clay	\$37,392
Collier	\$2,573
Miami-Dade	\$518,149
Duval	\$34,210
Gadsden	\$4,294
Hendry	\$35,956
Lee	\$37,685
Levy	\$7,392
Manatee	\$596,123

School District	Transfer Amount
Monroe	\$13,041
Orange	\$1,766,907
Osceola	\$444,463
Palm Beach	\$59,831
Pasco	\$7,226
Pinellas	\$153,569
Polk	\$120,551
Putnam	\$7,151
Sarasota	\$20,623
Seminole	\$722
Sumter	\$193,466
Washington	\$19,220

In addition to these school districts, five districts had at least one public school that did not meet the class-size reduction requirements, but, as a result of the department's appeal and adjustment process, are not subject to the transfer of operating funds to fixed capital outlay: Alachua, Franklin, Lake, Okaloosa, and Walton.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

Current section 1011.71, Florida Statutes, which is amended by the bill, contains historical provisions that are now obsolete but create ambiguity as to the future application of the law and may create confusion as to how to apply the bill's provisions.

#### D. STATEMENT OF THE SPONSOR

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

<sup>15</sup> See section 1003.03(4)(a), Florida Statutes.

<sup>16</sup> Florida Department of Education, *2006-07 Class Size Reduction Transfer to Fixed Capital Outlay: All Schools* (Feb. 2007).