

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Education Pre-K - 12 Appropriations Committee

**BILL:** CS for SB 574 & CS/SB 1228

**INTRODUCER:** Education Pre-K – 12 Appropriations Committee, Education Pre-K – 12 Committee and Senators Bennett and Gaetz

**SUBJECT:** High-Performance School District/School District Taxation/Millage

**DATE:** April 17, 2007                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>Matthews</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Armstrong</u>	<u>Hamon</u>	<u>EA</u>	<b>Fav/Combined CS</b>
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill provides for designating academically high-performing school districts, which must meet the following criteria:

- Earn a grade of “A,” under s. 1008.34 (7), F.S., for 2 consecutive years, beginning with the 2004-2005 school year;
- Have no district-operated school that earns a grade of “F”;
- Comply with all class size requirements; and
- Have no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted under s. 218.39, F.S.

The designation may be retained for 3 years, if the district complies with all the initial eligibility criteria and earns at least a grade of “A” for 2 years within a 3-year period. However, a district may not retain the designation if a district-operated school earns a grade of “F” during the 3-year period.

An academically high-performing school district shall be exempt from provisions of chapters 1000 to 1003, except for those enumerated for compliance in s.1003.621(2) of the bill. The bill specifically provides for exemptions relating to the following: program expenditure levels in the Florida Education Finance Program (FEFP) for kindergarten through grade 12; annual K-12 comprehensive reading plans; requirements for covered walkways for relocatable facilities (portables); the use of relocatable facilities; procurement of instructional materials; and the use of the instructional materials allocation.

The bill also provides for renewing the designation at the end of 3 years, and specifies a district's requirements for reporting academic performance to the SBE and the Legislature.

The SBE must make recommendations to the Legislature for eliminating any reporting requirements in state law that duplicate those in the federal No Child Left Behind Act.

The bill provides that in addition to other projects authorized in statute for discretionary capital improvement millage, payment of premiums for property and casualty insurance for the purpose of insuring the educational and ancillary plant and the purchase, lease-purchase, or lease of certain motor vehicles required for district operations is authorized for a school district that meets all of the following:

- Has met class size reduction requirements for the current year pursuant to s. 1003.03;
- Has received an unqualified opinion on its financial statements for the preceding 3 years;
- Has no material weakness or instances of material noncompliance noted in an audit for the preceding 3 years; and
- Certifies to the Commissioner of Education that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources the district reasonably expects to receive during the next 5 years from local revenues and from currently appropriated state facilities funding or from alternative scheduling or construction, leasing, rezoning, or technological methodologies that exhibit sound management.

The bill provides that operating revenues that are made available through the payment of property and casualty insurance premiums from funds generated under s. 1011.71 (2), F.S., may be expended only for nonrecurring operational expenditures of the school district.

The bill provides that before a district school board may levy discretionary millage for the payment of property and casualty insurance premiums it must publish notice as provided in s. 200.065 (9) (a), F.S.

The bill deletes redundant and obsolete language relating to the use of two mill revenues.

This bill creates section 1003.621 of the Florida Statutes.

## **II. Present Situation:**

### **Florida Statewide Assessment Program and Accountability System**

Student achievement data from the Florida Comprehensive Assessment Test (FCAT) in grades 3-10 are used to establish both proficiency levels and annual progress for individual students, schools, districts, and the state.<sup>1</sup> Results are also used as the primary criteria in calculating school performance grades, school rewards and recognition, and performance-based funding.<sup>2</sup>

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<sup>1</sup> Section 1008.34, F.S.

<sup>2</sup> Rule 6A-1.09981, F.A.C.

The results of the statewide assessment program must be annually reported by the Commissioner of Education.

The following letter grades are used to designate school performance:

- "A," for schools making excellent progress;
- "B," for schools making above average progress;
- "C," for schools making satisfactory progress;
- "D," for schools making less than satisfactory progress; and
- "F," for schools failing to make adequate progress.<sup>3</sup>

The criteria for designating school performance grades are based on a combination of the following:<sup>4</sup>

- Student achievement scores, including achievement scores for students seeking a special diploma;
- Student learning gains as measured by annual FCAT assessments in grades 3 through 10; and
- Improvement of the lowest 25th percentile of students in the school in reading, math, or writing on the FCAT, unless these students are exhibiting satisfactory performance.

Student assessment data used in determining school grades includes:<sup>5</sup>

- Aggregate scores of all eligible students enrolled in the school who have been:
  - Assessed on the FCAT; and
  - Assessed on the FCAT, including Florida Writes, with scores at or in the lowest 25th percentile of students in the school in reading, math, or writing, unless these students are exhibiting satisfactory performance; and
- Achievement scores and learning gains of eligible students attending alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53, F.S.

Under the statewide accountability system, districts are also graded.<sup>6</sup> District grades are weighted district average grades by level, for all elementary, middle, and high schools in the district. The grade is calculated by weighting individual school grades by school enrollment. According to the DOE, district grades are calculated in the same manner as are school grades, which are determined by the accumulation of percentage points for measures of achievement, including learning gains, the percent of students tested, and adequate progress of the lowest performing students. For the 2004-2005 school year, there were 15 districts that earned an "A,"<sup>7</sup> while there were 24 districts that earned an "A" for the 2005-2006 school year.<sup>8</sup>

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<sup>3</sup> Section 1008.34, F.S.

<sup>4</sup> *Ibid.*

<sup>5</sup> Two performance categories (math for the lowest 25 percent of students and science) will be added beginning in the 2006-2007 school year. See Rule 6A-1.09981(8) (a) (b), F.A.C.

<sup>6</sup> Section 1008.34(7), F.S.

<sup>7</sup> Brevard, Calhoun, Charlotte, Clay, Gilchrist, Indian River, Leon, Martin, Nassau, Okaloosa, Palm Beach, St. Johns, Santa Rosa, Sarasota, and Seminole. See [http://schoolgrades.fldoe.org/xls/2006\\_district\\_grades.xls](http://schoolgrades.fldoe.org/xls/2006_district_grades.xls)

<sup>8</sup> Alachua, Bay, Brevard, Broward, Calhoun, Charlotte, Citrus, Clay, Gilchrist, Hillsborough, Leon, Marion, Martin, Monroe, Nassau, Okaloosa, Palm Beach, St. Johns, Santa Rosa, Sarasota, Seminole, Sumter, Wakulla, and Walton. To earn an "A" in 2005-2006, a district needed at least 410 points, testing of at least 95 percent of eligible students, and having at least half of

## Current School District Flexibility

- *Pilot Charter School Districts*

In 1999, the law authorized the SBE to enter into a performance contract with up to six school districts to establish them as pilot charter school districts.<sup>9</sup> The designation was based on a proposal approved by the SBE for the district to be exempt from statutes and administrative rules if the district agreed to meet specific performance goals. The law was substantially amended in 2003, to allow for the designation of “academic performance-based charter school districts,”<sup>10</sup> establish additional statutes from which a district may not be exempt, decrease the number of years that a charter is valid (from 3 years to 1 year), and grandfather the original four pilot programs until July 1, 2007, or the end of a 5-year renewal contract between the SBE and the districts, whichever is later.<sup>11</sup>

Four school districts (Palm Beach, Hillsborough, Orange, and Volusia) currently operate as pilot charter school districts. The performance contracts for Orange and Palm Beach expire in 2007 and the contracts for Hillsborough, and Volusia expire in 2008. The law prohibits any other districts from being designated as a pilot charter district.

The pilot districts differ in the number and types of statutes and rules waived.<sup>12</sup> However, some districts waived the same statutes. For example, Volusia and Hillsborough waived the requirements for covered walkways for relocatable facilities (portables)<sup>13</sup> to save costs. Additionally, the districts waived the requirement for spending 50 percent of the instructional materials allocation on state-adopted materials.<sup>14</sup> According to the districts, this waiver provides flexibility in selecting supplementary materials to accelerate student achievement.

- *Deregulated Public Schools and Other Provisions*

Section 1003.63, F.S. allows the following school districts to participate in a pilot program for deregulated public schools until the end of the 2003-2004 school year: Citrus, Lee, Leon, Palm Beach, Pinellas, Seminole, and Walton. Schools in these districts could be given deregulated status and be exempt from all statutes in the School Code, with some exceptions (e.g., those

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the lowest performing students make learning gains in reading. Rule 6A-1.09981, F.A.C. See also Florida Department of Education, *2006 Guide to Calculating School Grades, Technical Assistance Paper*, 2005-2006.

<http://schoolgrades.fldoe.org/pdf/2006SchoolGradesTAP.pdf>

<sup>9</sup> Section 228.058, F.S., was created by ch. 99-374, L.O.F.

<sup>10</sup> To be considered an academic performance-based charter district under s. 1003.62, F.S., at least 50 percent of schools in the district must earn an “A” or a “B” and no schools may earn a “D” or “F” for 2 consecutive years. A charter may not be renewed for districts in which the percentage of schools that earn an “A” or “B” is less than 50 percent for 2 consecutive years.

<sup>11</sup> Section 1003.62, F.S.

<sup>12</sup> See *Addendum to State Board of Education Contract with Palm Beach Charter School District, 2006*; *State Board of Education Contract with Volusia Charter School District Agreement Renewal, 2002*; and *Hillsborough County Charter District Contract Annual Report, 2006*. The contracts include academic performance goals.

<sup>13</sup> Section 1013.20, F.S. (previously s. 235.061, F.S.).

<sup>14</sup> Section 1006.40(3) (a), F.S.

pertaining to civil rights and student health, safety, and welfare).<sup>15</sup> Currently, this status and the exemptions may be provided to schools that earn an “A” and schools that have improved at least two performance grades.<sup>16</sup>

Other statutes that provide for school district flexibility include the following:

- Section 1011.62(6)(b), F.S., relating to a district’s ability to transfer certain categorical funds to the appropriate account for expenditures, upon resolution of the school board based on urgent need;
- Section 1011.64, F.S., relating to minimum classroom expenditures and failure to meet academic performance standards;<sup>17</sup> and
- Section 1011.68(7), F.S., relating to the use of transportation funds.

### **Discretionary Two mill Tax Levy**

Section 9(b) of Article VII of the State Constitution authorizes school districts to levy ad valorem taxes for school purposes. Ad valorem taxes levied for school purposes are capped at 10 mills.

Local school districts are permitted a discretionary levy of up to 2 mills to fund the following:<sup>18</sup>

- New construction and remodeling projects;
- Maintenance, renovation, and repair of existing school plants or of leased facilities to correct non-conformity with the Florida Building Code or the Fire Safety Prevention Code;
- Purchase, lease-purchase, or lease of school buses;
- Purchase of other vehicles if certain conditions are met;
- Purchase, lease-purchase, or lease of new and replacement equipment;
- Payment for educational facilities and sites per certain lease-purchase agreements;
- Payment of loans incurred for specific school-related purposes;
- Payment of costs needed to comply with state and federal environmental laws, rules, and regulations;
- Payment of costs for renting and leasing educational facilities;
- Payment of the cost of school buses when a school district contracts with a private entity; and
- Payment of the cost for the opening day collection for the library media center of a new school.

For millage to be levied, local public hearings are required, with notice to be published in a local newspaper of general circulation. Section 200.065 (9) (a), F.S., requires a district school board to publish a second notice of its intent to levy additional taxes under s. 1011.71 (2), F.S. Requires to be included in the second notice are specific projects or number of school buses expected to be funded by the additional taxes.

<sup>15</sup> Section 1003.63, F.S.

<sup>16</sup> Rule 6A-1.09981, F.A.C.

<sup>17</sup> Districts that meet academic standards are not subject to the requirements in this section.

<sup>18</sup> Section 1011.71(2), F.S.

Sixty-four school districts opted to levy discretionary capital improvement millage in 2005-2006.<sup>19</sup> Three districts, Calhoun, Jackson, and Liberty, did not levy the tax.

Insurance premiums are currently paid from a local school district's operating budget, not from funds levied for capital purchases.

### III. Effect of Proposed Changes:

#### Definition of High-Performing School Districts

The bill provides for designating academically high-performing school districts, which must meet the following criteria:

- Earn a grade of "A," under s. 1008.34(7), F.S., for 2 consecutive years, beginning with the 2004-2005 school year;
- Have no district-operated school that earns a grade of "F";
- Comply with all class size requirements;<sup>20</sup>
- Have no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted under s. 218.39, F.S.<sup>21</sup> and

Currently, the following school districts meet these criteria: Calhoun, Charlotte, Gilchrist, Martin, Nassau, Okaloosa, St. Johns, and Santa Rosa.<sup>22</sup>

The designation may be retained for 3 years, if the district complies with all the initial eligibility criteria and earns an "A" for 2 years within a 3-year period. However, a district may not retain the designation if a district-operated school earns a grade of "F" during the 3-year period. The district must meet the initial eligibility criteria in order to be re-designated as a high-performing district.

A district may continue to be designated as a high-performing district after 3 years if it meets the eligibility criteria in the bill. A district that fails to meet the requirements must notify the SBE that it is no longer eligible for this designation. A district school board serves as the governing board and supervisor for a high-performing district.

#### Exemptions from Current Law

High performing districts may be exempt from the education code, chapters 1000 to 1013 with certain exceptions provided in the bill. The bill specifically authorizes exemptions from the following provisions:

- Program expenditure levels in the FEFP for kindergarten through grade 12;<sup>23</sup>

<sup>19</sup> Office of the Auditor General, February 13, 2007.

<sup>20</sup> Section 1, Article IX of the State Constitution and s. 1003.03, F.S.

<sup>21</sup> Section 218.39(1) (d), F.S., requires annual financial audits of district school boards. The scope of these audits includes an examination of a district's basic financial statements and compliance with federal requirements applicable to the district's major federal programs as of and for the end of a fiscal year.

<sup>22</sup> These districts had no audit finding that was considered to be a material weakness in the audit of the financial statements for the 2004-2005 Fiscal Year. The final audits of district school boards are not complete for the 2005-2006 Fiscal Year. Office of the Auditor General, February 18, 2007. See *Report on Significant Findings and Financial Trends in Audits of District School Boards for the Fiscal Year Ended June 30, 2005*, Report 2007-011, August 2006. These districts also met the class size requirements for 2006-2007.

- Submission of an annual K-12 comprehensive reading plan;<sup>24</sup>
- Requirements for covered walkways and the use of relocatable facilities;<sup>25</sup>
- Requirements for obtaining instructional materials from the textbook depository under contract with the publisher;<sup>26</sup> and
- Requirements for using at least 50 percent of the instructional materials allocation.<sup>27</sup>

A district that chooses to be exempt from submitting a reading plan is approved to receive the reading allocation.

A district may not be exempt from provisions of law related to the following:

- Services to students with disabilities;
- Civil rights;
- Student health, safety, and welfare;
- Election and compensation of school board members;
- Student assessment program and school grading system;
- Financial matters, planning, and budgeting, other than ss. 1010.20(3)(a)1.,2., and 3., 1011.62(9)(d), and 1011.71(2), F.S.;
- Differentiated pay and performance-pay policies for school administrators and instructional personnel;<sup>28</sup>
- Educational facilities, other than ss. 1013.20 and 1013.21, F.S.;
- Instructional materials, other than ss. 1006.37 and 1006.40(3) (a), F.S.; and
- Academically high-performing school districts s. 1003.621, F.S.

High-performing districts are tasked with submitting annual performance reports to the SBE and the Legislature that include: longitudinal student performance data in reading, math, writing, science, and any other subject that is included as a part of the statewide assessment system in s. 1008.22, F.S.; Advanced Placement student participation and performance data; evidence of compliance with the eligibility criteria for high-performing districts; and a description and status of each waiver.

### **Duplicative Reporting Requirements**

The SBE is tasked with making recommendations to the Legislature by December 1, 2007, for eliminating any reporting requirements in state law that duplicate those in the federal No Child Left Behind Act, P.L. 107-110.

### **Discretionary Two mill Tax Levy**

<sup>23</sup> Section 1010.20(3) (a) 1., 2. and 3., F.S., specifies the minimum percentage of funds that must be spent for specific grade levels: 90 percent for K through grade 3 and 80 percent for grades 4 through 12.

<sup>24</sup> Under s. 1011.62(9) (d), F.S., a district must submit its plan in order to receive the research-based reading instruction allocation.

<sup>25</sup> Sections 1013.20 and 1013.21, F.S., respectively.

<sup>26</sup> Section 1006.37, F.S.

<sup>27</sup> Section 1006.40(3) (a), F.S.

<sup>28</sup> Professional service contracts are subject to ss. 1012.33 and 1012.34, F.S.

This bill provides an additional permissible use of the discretionary two mill levy for capital outlay and related purposes and revises the certification requirements for authorization to use two mill revenue for vehicles other than school buses. A school district may use two mill revenue for payment of property and casualty insurance premiums to insure the educational and ancillary plants of the school district and for the purchase, lease-purchase, or lease of certain motor vehicles required for districts operations if the district meets all of the following:

- Has met class size reduction requirements for the current year pursuant to s. 1003.03, F.S.;
- Has received an unqualified opinion on its financial statements for the preceding 3 years;
- Has no material weakness or instances of material noncompliance noted in an audit for the preceding 3 years; and
- Certifies to the Commissioner of Education that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources the district reasonably expects to receive during the next 5 years from local revenues and from currently appropriated state facilities funding or from alternative scheduling or construction, leasing, rezoning, or technological methodologies that exhibit sound management.

This bill also revises the publication of notice requirement to add the property and casualty insurance premiums category to the list of projects to be included in the district school board's second notice of its intent to levy additional taxes for capital outlay purposes.

School boards who opt to use this discretionary levy for insurance premium payments are limited to expending the operating revenues, which would otherwise be used to pay insurance premiums, to paying nonrecurring operational costs.

The effective date of the bill is upon becoming a law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

It should be noted that the exemptions provided for school districts in this bill may raise certain legal claims, including unlawful delegation of legislative authority, equal protection under the law, and the "uniform system of free public schools."



**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:****C. Government Sector Impact:**

This bill does not require an appropriation; however, it does authorize increased flexibility of expenditure as a reward for high-performing school districts for: FEFP Kindergarten to Grade 12 programs; reading allocation funds; fixed capital outlay funds; the instructional materials allocation; and other sections of chapters 1000 to 1013 not enumerated in 1003.621(2) of the bill.

There may be some additional cost for the high performing districts associated with the reporting requirements for application and accountability. In addition, there may be additional cost associated with the SBE's review of duplicative federal and state reporting requirements. However, depending on the recommendations and subsequent implementation, there may be savings to school districts from the reduced reporting.

This bill authorizes a school district that meets specified requirements to use revenues generated from the discretionary two mill tax levy for capital improvements to pay property and casualty insurance premiums on its educational and ancillary plants and to purchase, lease-purchase, or lease certain motor vehicles required for district operations. Most districts currently levy the maximum two mills allowed, so this provision does not increase tax revenues for those districts; however, if these districts opt to pay property and casualty insurance premiums for their two mill revenue it will increase the funds available for the district's operations. A school district that uses its discretionary millage to pay for property and casualty insurance premiums is limited to using the freed-up operating revenue for nonrecurring operational expenditures.

The Department of Education indicates that the two mill levy has always been restricted to costs associated with capital outlay, and not for operating expenditures. Unrestricted use of capital funds for operations may not be sound fiscal policy because it may contribute to fiscal inequity for operations amongst districts, which is counter to the constitutional requirement for uniformity, and secondly, some districts have significant fixed capital outlay needs which would not be met. The provisions of this bill address these concerns to some great degree by requiring evidence of sound fiscal management, adherence to class size reduction requirements, and demonstration of no need for fixed capital outlay for five years before two mill funds for capital may be transferred to the operating budget for the payment of property and casualty insurance costs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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