

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 5005A PCB PAC 09A-01 PAC Education Funding

**SPONSOR(S):** PreK-12 Appropriations Committee; Flores

**TIED BILLS:** **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Appropriations Committee			
		5 Y, 3 N	Heflin	Heflin
1)	Full Appropriations Council on Education & Economic Development		Heflin	Martin
2)				
3)				
4)				
5)				

**SUMMARY ANALYSIS**

The bill amends several statutory provisions necessary to conform the statutes to appropriations and reductions to appropriations made in the Special Appropriations Act for the 2008-2009 fiscal year.

The bill amends statutes relating to school district financial emergencies; funding for prekindergarten education programs; transferring school district class size operating categorical funds; establishing guidelines for district school board unreserved general fund balances and actions required to avoid a financial emergency; adding property and casualty insurance premium payments and the purchase of certain motor vehicles to the list of authorized expenditures from school district capital improvement millage revenue; delaying the Merit Award Program for the 2008-2009 fiscal year; and incorporating by reference the document entitled, "Public School Funding – The Florida Education Finance Program," displaying the calculations used in making appropriations and reductions to appropriations for the 2008-2009 fiscal year Florida Education Finance Program.

The bill generates a savings of \$1.8 million in the Voluntary Prekindergarten Program as a result of increasing the student-to-teacher ratio from 10 to 12 students; creating separate base student allocations for school year and summer programs; establishing an 80 percent attendance policy; and limiting the percent of funds that can be retained for administrative expenses by the Early Learning Coalitions. Additionally, the bill provides flexibility and guidelines for school districts' operating budgets.

The bill substantially amends ss. 218.503, 1002.53, 1002.61, 1002.63, 1002.71, 1002.73, 1003.03, 1011.71, 1011.73, and 1013.64, Florida Statutes, and creates s. 1011.51, Florida Statutes. The bill also repeals s. 11 of chapter 2008-142 and s. 2 of chapter 2008-213, Laws of Florida.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **School District Financial Emergencies**

Section 218.503, Florida Statutes, provides that local governmental entities, charter schools, and district school boards shall be subject to review and oversight by the Governor, charter school sponsor, or the Commissioner of Education, as appropriate, when any one of the following conditions occurs:

- Failure to pay short-term loans or failure to make bond debt service or other long-term debt payments when due, as a result of a lack of funds.
- Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of a lack of funds.
- Failure to transfer at the appropriate time taxes withheld on the income of employees or employer and employee contributions for federal social security or employee pension, retirement or benefit plan payments, due to lack of funds.
- Failure for one pay period to pay employee wages or retirement benefits owed to former employees, due to lack of funds.
- An unreserved or total fund balance or retained earnings deficit, or unrestricted or total net assets deficit, as reported on the balance sheet or statement of net assets on the general purpose or fund financial statements, for which sufficient resources of the local governmental entity, as reported on the balance sheet or statement of net assets on the general purpose or fund financial statements, are not available to cover the deficit. Resources available to cover reported deficits include net assets that are not otherwise restricted by federal, state, or local laws, bond covenants, contractual agreements, or other legal constraints. Fixed or capital assets, the disposal of which would impair the ability of a local governmental entity to carry out its functions, are not considered resources available to cover reported deficits.

The bill creates Section 1011.051, Florida Statutes, and amends Section 218.503, Florida Statutes, to provide guidelines and corrective actions to be used by school districts for the purpose of avoiding a financial emergency or correcting a financial emergency once it has been declared.

The guidelines in s. 1011.051 provide that if at any time the unreserved general fund balance in the district's approved operating budget falls below:

- Five percent of projected general fund revenues, the superintendent must notify the district school board and the Commissioner of Education in writing; or

- Two percent of projected general fund revenues, the district must renegotiate existing collective bargaining agreements under the provisions of s. 447.4095, F.S., as necessary to avoid a financial emergency within the school district as defined under part V of Chapter 218. If the parties fail to reach agreement and proceed to impasse under s. 447.403, F.S., the superintendent shall notify the Commissioner of Education in writing, the dispute shall be resolved through an expedited impasse hearing, and the timelines prescribed in s. 447.403 (2) (c ), F.S., shall apply.

Section 218.503, Florida Statutes, is amended to provide that if the Commissioner of Education determines that corrective actions have not eliminated a state of financial emergency in a school district within 30 days after the date the condition was declared to exist, then, notwithstanding ss.1001.395 and 1001.47, F.S., requiring certain salaries for school board members and elected superintendents, the salary of each district school board member, the superintendent, and each district employee shall be reduced proportionately in an amount necessary to provide for an unreserved general fund balance of 2 percent of the general fund revenues in the district's operating budget.

School district's preliminary annual financial reports, as of June 30, 2008, showed that 23 of the 67 school districts had an end of year unreserved general fund balance of less than 5 percent, 7 of the 23 had a balance of less than 2 percent, and 3 of the 7 had less than 1 percent. The end of year balances for the 3 districts below 1 percent were 0.28, 0.27 and 0.00 percent.

### **Voluntary Prekindergarten Education Program**

Section 1002.53(3), Florida Statutes, establishes eligibility and enrollment requirements for the Voluntary Prekindergarten (VPK) Education Program.

Section 1002.61(7), Florida Statutes, provides that each prekindergarten class in the summer prekindergarten program must be composed of at least 4 students but may not exceed 10 students.

Section 1002.63, Florida Statutes, requires that school districts certify to the State Board of Education that they have met the class size requirements for the prior year and have sufficient facilities and capital outlay funds to continue reducing the average class size in each classroom in the district's elementary schools in order to achieve full class size compliance by the 2010-2011 school year as required by s. 1(a), Art. IX of the State Constitution. The Commissioner of Education must also certify concurrence with the district's certification.

Section 1002.71, Florida Statutes, specifies the requirements for funding and for financial and attendance reporting for the Voluntary Prekindergarten Education Program. These requirements include the following:

- The base student allocation per full-time equivalent student shall be the same regardless of whether the student is enrolled in a school-year or summer program.
- Each school district's funding for summer programs shall be based on a full-time equivalent student enrollment that is evenly divisible by 10.
- Each early learning coalition may retain and expend no more than 5 percent of the funds paid by the coalition to providers.

Section 1002.73, Florida Statutes, establishes the Department of Education's authority over the accountability measures and standards for the VPK program and authorizes the department to establish procedures for the certification of school districts that are eligible to offer the program.

Section 60BB-8.204, F.A.C., establishes attendance policies for the VPK program that generally amounts to 50 percent of the total number of hours for the program.

The bill amends ss. 1002.53, 1002.63, and 1002.73, Florida Statutes, to repeal the requirement that school districts meet class size requirements in order to offer the VPK program. Most school districts have adequate facilities to meet the current school level average class size reduction requirement; therefore this restriction appears to no longer be necessary.

The bill amends s. 1002.61, Florida Statutes, to increase the student-to-teacher ratio from 10 students to 12 students for the summer program beginning in the 2009 summer session of the VPK program.

The bill amends s. 1002.71, Florida Statutes, to provide for separate Base Student Allocations for regular school year programs and for summer programs, so that funding shall be based on a full-time equivalent student enrollment that is evenly divisible by 12 instead of 10 students. The amendments to s. 1002.71, F.S., also provide that funding for students who withdraw for good cause and reenroll in the same program shall not exceed one full-time equivalent student; that a student who has not substantially completed any of the prekindergarten programs may withdraw due to extreme hardship that is beyond the student's or the student's parent's control, and reenroll in one of the summer programs and be reported for full-time equivalent student funding; that beginning with the 2009-2010 fiscal year for school-year programs and the 2009 summer program, a student who meets the minimum requirement of 80 percent attendance of the total number of hours for the program may be reported as a full-time equivalent student for funding purposes; that to the maximum extent practicable administrative reporting should use automation and electronic means; and that beginning with the 2008-2009 fiscal year each early learning coalition may retain and expend for administrative expenses no more than 4.85 percent (previously 5 percent) of the funds paid by the coalition to providers.

### **Class Size Reduction**

Section 1003.03, Florida Statutes, requires that if a school district is out of compliance with the class size reduction requirements at the time of the third FEFP calculation, either by failing to reduce average class sizes by 2 or failing to reach the constitutional class size maximums, the Department of Education shall calculate an amount from the district's class size operating categorical which is proportionate to the amount of class size reduction not accomplished. Upon verification of the department's calculation by the Florida Education Finance Program Appropriation Allocation Conference, the department must transfer the lesser of the calculated amount or the undistributed balance of the district's class size reduction operating categorical to an approved fixed capital outlay appropriation for class size reduction.

Chapter 2007-328, Laws of Florida, amended s. 1003.03, Florida Statutes, to allow that in any fiscal year if a district's class size operating categorical allocation provided in the General Appropriations Act is reduced in a subsequent appropriation, the Commissioner of Education may recommend a 10 percent reduction to the amount of the transfer, thereby allowing districts to retain funding for operational expenses.

The bill amends s. 1003.03, Florida Statutes, to increase the amount the Commissioner of Education can recommend to reduce the calculated class size reduction transfer from 10 to 50 percent.

### **School District Discretionary Non-voted Capital Improvement Millage**

Section 1011.71, Florida Statutes, authorizes school districts to levy up to 1.75 mills against the taxable value for school purposes for capital improvement purposes for the school district. Authorized uses for the revenue generated by the levy are:

- New construction and remodeling projects as provided in s. 1013.64, F.S.;
- Maintenance, renovation, and repair of existing educational facilities;
- The purchase, lease-purchase, or lease of school buses;
- The purchase, lease-purchase, or lease of new and replacement equipment;
- Payments for education facilities and sites due under lease-purchase agreements, which are capped at three-fourths the proceeds of the millage levied;
- Loan payments for the purchase of school buses, land, equipment, the building or renovation of educational facilities, the adjustment of insurance on educational property on a district's 5-year plan, or for the correction of a major emergency condition in an existing school facility that is needed to prevent further damage to the building or to eliminate a safety hazard for students and other occupants;
- Costs associated with state or federal environmental requirements for school facilities;
- Payment for renting or leasing educational facilities;

- Payment for the cost of school bus contracts with private entities to provide student transportation services; and
- Payment of the costs for the opening day collection for the library media center of a new school.

Subsection 4 of section 1011.71, Florida Statutes, further allows school districts for the 2008-2009 fiscal year to use up to \$65 per FTE of the revenues generated by the capital improvement millage levy for the purchase of driver's education and maintenance vehicles and the payment of property and casualty insurance premiums if the district has met class size requirements and certifies to the Commissioner of Education that the district does not need all of its authorized capital improvement revenue and will be able to meet the district's instructional space needs for the next 5 years. This subsection is scheduled to expire July 1, 2009 pursuant to section 11, chapter 2008-142, and section 2, chapter 2008-213, Laws of Florida.

The bill repeals s. 1011.71(4), Florida Statutes, and adds paragraphs (k) and (l) to subsection (2) to add purchases, lease-purchases, or leases of driver's education vehicles, motor vehicles used for maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment and payments of property and casualty insurance premiums to the list of authorized expenditures from the 1.75 mill discretionary capital improvement revenue. The Department of Education estimates there are approximately 13 school districts that are not able to use the current allowances under subsection (4). The amendment to this section would allow that all districts that currently levy a capital improvement levy would be allowed to use revenues generated by the levy for the purchase of driver's education and maintenance vehicles and the payment of property and casualty insurance premiums.

### **Merit Award Program**

Section 1012.225, Florida Statutes, provides for a merit award program for the purpose of providing annual merit-based pay supplements to high performing school district employees. The amount of the supplement shall be at least 5 percent but not exceed 10 percent of the average teacher's salary in the school district. Pay supplements are to be disbursed to eligible employees who remain employed by a Florida school or who retired after qualifying for the award, by October 1 of the following school year. Pay supplements shall be funded from moneys appropriated by the Legislature and any additional funds that are designated by the district for the merit award program. In order to receive funding for a merit award program, school districts and charter schools must have a final approved plan for the Commissioner of Education to review by January 31 of each year. School districts are not required to implement this section of the Florida Statutes unless the program is specifically funded by the Legislature.

The bill amends s. 1012.225, Florida Statutes, to provide that the implementation of the Merit Award Program (MAP) for Instructional Personnel and School-Based Administrators shall be held in abeyance during the 2008-2009 fiscal year. In 2007-2008, 7 school districts, the Florida Virtual School and charter schools in 29 school districts participated in the map program. The funding for the 2007-2008 MAP programs which was funded in the 2008-2009 fiscal year was approximately \$32.1 million. The Department of Education will not know until February 15, 2009 which districts have approved plans for 2008-2009. Preliminary indication is that 2008-2009 participants are likely to be the same as the 2007-2008 participants. Section 1012.225, Florida Statutes, provide that school districts are not required to implement this section unless the program is specifically funded by the Legislature. Funds for 2008-2009 pay supplements are contingent upon the Legislature appropriating such funds in the 2009-2010 General Appropriations Act. Since funds may or may not be available for appropriation districts should not be required to implement this program during 2008-2009.

### **B. SECTION DIRECTORY:**

Section 1. Amends s. 218.503, F.S., revising requirements for school districts after the declaration of a fiscal emergency.

Section 2. Amends s. 1002.53, F.S., conforming a cross-reference.

Section 3. Amends s. 1002.61, F.S., providing that beginning in the 2009 summer session of the VPK program, the number of students per class in a summer program may not exceed 12 students.

Section 4. Amends s. 1002.63, F.S., repealing the requirement that school districts meet class size requirements in order to offer the VPK program at elementary schools in the district.

Section 5. Amends s. 1002.71, F.S., authorizing separate base student allocations for the school-year and summer VPK programs; providing that funding based on full-time enrollment for the summer VPK program shall be divisible by 12; that funding for students who withdraw for good cause and reenroll in the same program shall not exceed one full-time equivalent student; that a student who has not substantially completed any of the prekindergarten programs may withdraw due to extreme hardship that is beyond the student's or the student's parent's control, and reenroll in one of the summer programs and be reported for full-time equivalent student funding; that beginning with the 2009-2010 fiscal year for school-year programs and the 2009 summer program, a student who meets the minimum requirement of 80 percent attendance of the total number of hours for the program may be reported as a full-time equivalent student for funding purposes; that to the maximum extent practicable administrative reporting should use automation and electronic means; and that beginning with the 2008-2009 fiscal year each early learning coalition may retain and expend for administrative expenses no more than 4.85 percent of the funds paid by the coalition to providers.

Section 6. Amends s. 1002.73, F.S., deleting authority for the Department of Education to establish procedures for the certification of school districts that are eligible to offer the VPK program.

Section 7. Amends s. 1003.03, F.S., increasing the amount the Commissioner of Education can recommend to reduce the calculated class size reduction transfer from 10 to 50 percent.

Section 8. Creates s. 1011.51, F.S., providing guidelines for districts to maintain certain levels of unreserved general fund balance.

Section 9. Amends s. 1011.71, F.S., providing districts authority to pay property and casualty insurance premiums and purchase or lease driver's education and maintenance vehicles from the revenue generated by the discretionary capital improvement levy of property taxes.

Section 10. Amends s. 1011.73, F.S., conforming a cross-reference.

Section 11. Amends s. 1013.64, F.S., conforming a cross-reference.

Section 12. Provides that the Merit Award Program for Instructional Personnel and School-Based Administrators as provided in s. 1012.225, F.S., is held in abeyance for the 2008-2009 fiscal year.

Section 13. Incorporates by reference the document entitled "Public School Funding – The Florida Education Finance Program,": dated January 12, 2009, and filed with the Clerk of the House of Representatives for the purpose of displaying the calculations used by the Legislature in making appropriations and reductions in appropriations for the Florida Education Finance Program.

Section 14. Repeals s. 11 of chapter 2008-142 and s. 2 of chapter 2008-213, Laws of Florida.

Section 15. Provides an effective date.

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

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

There appears to be no impact on state government revenues.

## 2. Expenditures:

Amendments to statutory Voluntary Prekindergarten Education Program requirements are necessary in order to make reductions to appropriations for the VPK program. Increasing the summer program student-to-teacher ratio from 10 to 12 students and authorizing separate base student allocations (BSA) for school year and summer programs results in a savings by reducing the BSA by the same percentage as the change in the number of students per teacher. The summer program BSA would be reduced from \$2,628 to \$2,190 resulting in a savings from the summer program for the 2008-2009 fiscal year of approximately \$1.3 million. Additional savings of approximately \$500,000 are generated by changing the percentage retained by the Early Learning Coalitions for administrative expenses related to administering the VPK program. There is also an anticipated savings establishing the 80 percent attendance policy for VPK programs; however, the exact dollar savings is indeterminate at this time.

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

The bill amends s. 1003.03, Florida Statutes, to increase the amount the Commissioner of Education can recommend to reduce the calculated class size reduction transfer from 10 to 50 percent. Based on 2007-2008 class size reduction compliance and the preliminary data for 2008-2009, this change would provide minimum assistance to less than 10 school districts by allowing the retention of funds for operations.

The bill amends s. 1012.225, Florida Statutes, to provide that the implementation of the Merit Award Program for Instructional Personnel and School-Based Administrators shall be held in abeyance during the 2008-2009 fiscal year. In 2007-2008, 7 school districts, the Florida Virtual School and charter schools in 29 school districts participated in the map program. The funding for the 2007-2008 MAP programs which was funded in the 2008-2009 fiscal year was approximately \$32.1 million. The Department of Education will not know until February 15, 2009 which districts have approved plans for 2008-2009. Preliminary indication is that 2008-2009 participants are likely to be the same as the 2007-2008 participants. Section 1012.225, Florida Statutes, provide that school districts are not required to implement this section unless the program is specifically funded by the Legislature. Funds for 2008-2009 pay supplements are contingent upon the Legislature appropriating such funds in the 2009-2010 General Appropriations Act. Since funds may or may not be available for appropriation for the 2009-2010 fiscal year districts should not be required to implement this program during 2008-2009.

### 2. Expenditures:

The bill creates Section 1011.051, Florida Statutes, and amends Section 218.503, Florida Statutes, to provide guidelines and corrective actions to be used by school districts for the purpose of avoiding a financial emergency or correcting a financial emergency once it has been declared. Under the new provisions, if a district's fund balance falls below 2 percent the district must re-negotiate its collective bargaining agreements in order to avoid a financial emergency situation as defined in s. 218.503, Florida Statutes. If a financial emergency situation is declared in a school district and is not corrected within 30 days, the salaries of all district employees, including school board members and the superintendent, would be reduced proportionately until a 2 percent fund balance is achieved. School district's preliminary annual financial reports, as of June 30, 2008, 7 school districts had a fund balance of less than 2 percent, and 3 of the 7 had less than 1 percent. The end of year balances for the 3 districts below 1 percent were 0.28, 0.27 and 0.00 percent.

The bill amends s. 1011.71, Florida Statutes, to allow districts to pay property and casualty premiums and purchase or lease driver's education and maintenance vehicles out of the districts' discretionary capital improvement millage revenue instead of out of its general fund for operations. According to school district surveys, as of 2006-2007, the total statewide cost of property and

casualty insurance premiums was \$178.5 million. This change allows districts more flexibility in spending general funds for operating purposes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Early learning coalitions will have approximately \$500,000 less to administer the VPK program statewide.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill reduces the authority of the Department of Education to establish procedures related to the certification of class size requirements in order for a school district to offer the VPK program. The change in authority is necessary because the requirement for school districts to submit such certification is being repealed.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES