

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education Pre-K -12

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BILL: SPB 7002

INTRODUCER: For consideration by the Education Pre-K -12 Committee

SUBJECT: Deregulation of Public Schools/School District Finance and Budgets, Facilities, and Administration and Oversight

DATE: November 13, 2023      REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Brick/Jahnke/ Sabitsch	Bouck		<b>Pre-meeting</b>

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**I. Summary:**

SPB 7002 builds on the deregulation of public schools provisions in House Bill 1 (Ch. 2023-16, Laws of Fla.) and removes unnecessary and burdensome regulations on school districts to advance efficient administrative processes, enhance facilities management, and simplify financial requirements.

The bill advances efficiency for school board administrative processes. Specifically, the bill:

- Simplifies school board rulemaking and policy development procedures to follow a single process that focuses on open meetings with public input.
- Authorizes electronic notifications to parents and required advertisements regarding school board meetings to be posted on the district school board website.
- Provides flexibility for school districts to decide whether to make up days lost because of a bona fide emergency.
- Revises the requirements allowing students to carry essential medical supplies at school with simpler prescription and parent approval processes.
- Removes the obligation for school boards to provide surplus property for charter schools on the same basis as other public schools.
- Removes requirements for school boards to provide:
  - Parents with an economic security report.
  - An annual report on district guidance services.

The bill simplifies financial requirements for school boards. The bill:

- Provides flexibility for school boards to use federal funds.
- Specifies that school districts identified in State Board of Education rule as having a financial concern would be subject to monthly reporting. All others would be subject to less frequent reporting.
- Provides that charter schools are to receive and respond to monitoring questions from the Department of Education regarding the charter school's cost report.

To enhance the ability of school boards to plan for and manage their facilities, the bill:

- Supports flexible funding for all facets of the educational environment, from classrooms to transportation hubs by expanding the use of anticipated revenues to payments for auxiliary facilities and ancillary plants.
- Provides autonomy for school boards to plan for facilities in accordance with local long-term needs instead of state-specified assessments over 5-year, 10-year, and 20-year periods.
- Removes the requirement for each district school board to conduct an educational plant survey.
- Clarifies and expands construction flexibility under the state requirements for educational facilities.

The bill also removes from statute:

- Cost per student station limitations on projects funded with state funds or discretionary millage.
- The caps on the amount from the discretionary levy that school boards may use for school board vehicles and property insurance.

The bill takes effect July 1, 2024.

## **II. Present Situation:**

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

## **III. Effect of Proposed Changes:**

### **Education Administration and Oversight**

#### ***Present Situation***

##### State-Level Regulation

The State Board of Education (SBE) is the chief implementing and coordinating body of public education in Florida except for the State University System, and it is required to focus on high-level policy decisions.<sup>1</sup> The SBE has authority to adopt rules pursuant to the Administrative Procedures Act (APA)<sup>2</sup> to implement its statutory duties to improve the state system of Early Learning-20 public education except for the State University System. The SBE is authorized to delegate its general powers to the Commissioner of Education (commissioner) or the directors of the divisions of the Department of Education (DOE).<sup>3</sup>

The APA provides uniform procedures for the exercise of specified government authority.<sup>4</sup> An agency is required to comply with the APA rulemaking procedures when developing rules.<sup>5</sup>

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<sup>1</sup> Section 1001.02(1), F.S. The Florida Constitution provides that the state board of education is a body corporate and have such supervision of the system of free public education as is provided by law. FL. CONST. art. 9, s. 2.

<sup>2</sup> Chapter 120, F.S.

<sup>3</sup> Section 1001.02(1), F.S.

<sup>4</sup> Section 120.515, F.S.

<sup>5</sup> Section 120.54(1)(a), F.S.

A “rule” under the APA is defined as each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule.<sup>6</sup>

The SBE is required to adopt cohesive rules pursuant to the APA, within statutory authority.<sup>7</sup> An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency is authorized to adopt a rule only because it is reasonably related to the purpose of the enabling legislation.<sup>8</sup> An invalid exercise of delegated legislative authority means action that goes beyond the powers, functions, and duties delegated by the Legislature.<sup>9</sup>

The DOE is the administrative and supervisory agency under the implementation direction of the SBE.<sup>10</sup> The commissioner is appointed by the SBE and serves as the executive director of the DOE.<sup>11</sup> The DOE assists in providing professional leadership and guidance and in carrying out the policies, procedures, and duties authorized by law or by the SBE.<sup>12</sup>

#### District School Board Policymaking

District school boards derive from the Florida Constitution the authority to operate, control and supervise all free public schools within the school district and determine the rate of school district taxes.<sup>13</sup> Rulemaking requirements under the APA only apply to district school boards when acting pursuant to powers other than those derived from the State Constitution.<sup>14</sup> Policy developed pursuant to constitutional authority is subject to review by a judicial tribunal, such as the local circuit court.<sup>15</sup>

The Legislature also identifies the general powers of district school boards. These include, for example, the power to:<sup>16</sup>

- Determine policies and programs consistent with state law and rule deemed necessary by it for the efficient operation and general improvement of the district school system.
- Adopt rules pursuant to the APA to implement the provisions of law conferring duties upon it to supplement those prescribed by the SBE and the commissioner.
- Prescribe and adopt standards and policies to provide each student the opportunity to receive a complete education program, including language arts, mathematics, science, social studies,

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<sup>6</sup> Section 120.52(16), F.S.

<sup>7</sup> Section 1001.02(2)(n), F.S.

<sup>8</sup> Section 120.52(8), F.S.

<sup>9</sup> Section 120.52(8), F.S.

<sup>10</sup> Section 1001.20(1), F.S.

<sup>11</sup> Section 20.15(2), F.S.

<sup>12</sup> Section 1001.20(2), F.S.

<sup>13</sup> FLA. CONST. art. IX, s. 4(b).

<sup>14</sup> See s. 120.52(1)(a) and (6), F.S. See also *Escambia Cnty. Sch. Bd. v. Warren*, 337 So. 3d 496, 500-502 (Fla. 1st DCA 2022) (Tanenbaum, J., concurring).

<sup>15</sup> See *Escambia Cnty. Sch. Bd. v. Warren*, 337 So. 3d 496, 500-502 (Fla. 1st DCA 2022) (Tanenbaum, J., concurring).

<sup>16</sup> Section 1001.41, F.S.

health, physical education, foreign languages, and the arts, as defined by the state academic standards.

When promulgating rules under the APA, district school boards are required to notify the public:<sup>17</sup>

- By publication in a newspaper in the affected area or on a publicly accessible website;
- By mail to all persons who have made requests for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and
- By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

The APA also provides a process for any substantially affected person to seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.<sup>18</sup> The petition seeking a declaratory statement must state with particularity the petitioner's set of circumstances and specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.<sup>19</sup>

The agency is required to give notice of the filing of each petition in the next available issue of the Florida Administrative Register and transmit copies of each petition to the Administrative Procedures Committee.<sup>20</sup> The agency must issue a declaratory statement or deny the petition within 90 days after the filing of the petition and notice the statement in the next available issue of the Florida Administrative Register. Agency disposition of petitions are final agency action.<sup>21</sup>

Charter schools are not required to follow rulemaking procedures prescribed by the APA.<sup>22</sup>

#### General Powers of District School Superintendent

Each school district must have a superintendent of schools who is elected at a general election for a term of four years; or, when provided by resolution of the district school board, or by special law, approved by vote of the electors, is employed by the district school board.<sup>23</sup> The district school superintendent has the authority, and when necessary for the more efficient and adequate operation of the district school system, the responsibility, to:<sup>24</sup>

- Oversee the district school system.
- Advise and counsel with the district school board on all educational matters.
- Recommend to the district school board for adoption such policies pertaining to the district school system as are necessary for its more efficient operation.

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<sup>17</sup> Section 120.81(1)(d), F.S.

<sup>18</sup> Section 120.565(1), F.S.

<sup>19</sup> Section 120.565(2), F.S.

<sup>20</sup> Section 120.565(3), F.S. The term "Administrative Procedures Committee" means a committee designated by joint rule of the Legislature or by agreement between the President of the Senate and the Speaker of the House of Representatives. Section 1.01(16), F.S.

<sup>21</sup> Section 120.565(3), F.S.

<sup>22</sup> Section 1002.33(16), F.S.

<sup>23</sup> FLA. CONST. art. 9, s. 5.

<sup>24</sup> Section 1001.49, F.S.

- Submit to the district school board for adoption rules to contribute to the efficient operation of any aspect of education in the district.
- Submit to the district school board for adoption minimum standards relating to the operation of any phase of the district school system.
- Perform duties and exercise responsibilities as are assigned to the district school superintendent by law and by rules of the State Board of Education.

Included among the specific powers of the superintendent is the duty to recommend to the district school board for adoption such policies pertaining to the district school system as are necessary for its more efficient operation.<sup>25</sup>

#### Student Online Personal Information Protection Act

Schools and district school boards typically use hundreds of companies to provide services every school year. Edtech companies perform widely varying tasks for schools and districts, such as data storage, educational games, learning management systems, attendance tracking, and many other school functions.<sup>26</sup> The privacy protections that each company must implement can vary based on the type and sensitivity of student data they hold and how it is collected, used, or shared.<sup>27</sup> Contracting individually with each service provider to ensure this protection is often extremely difficult for both district school boards and companies.<sup>28</sup>

The Student Online Personal Information Protection Act<sup>29</sup> resolves this problem by substantially restricting the operator of a website, online service, or online application that is used for K-12 school purposes from collecting, disclosing, or selling student data, or from using student data to engage in targeted advertising.<sup>30</sup> Any violation of the Act is a deceptive and unfair trade practice and constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act, part II of chapter 501. The Department of Legal Affairs is the sole entity authorized to bring an enforcement action against an entity that violates the Act.<sup>31</sup>

An SBE rule requires that all contracts or agreements executed by or on behalf of a school district or charter school with a third-party vendor or a third-party service provider must protect the privacy of education records and a student's personally identifiable information contained therein.<sup>32</sup> Any agreement that provides for the disclosure or use of student's personally

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<sup>25</sup> Section 1001.49(3), F.S.

<sup>26</sup> Student Privacy Compass, *The First National Model Student Data Privacy Agreement Launches*, <https://studentprivacycompass.org/the-first-national-model-student-data-privacy-agreement-launches/> (last visited Nov. 10, 2023).

<sup>27</sup> Student Privacy Compass, *The First National Model Student Data Privacy Agreement Launches*, <https://studentprivacycompass.org/the-first-national-model-student-data-privacy-agreement-launches/> (last visited Nov. 10, 2023).

<sup>28</sup> Student Privacy Compass, *The First National Model Student Data Privacy Agreement Launches*, <https://studentprivacycompass.org/the-first-national-model-student-data-privacy-agreement-launches/> (last visited Nov. 10, 2023).

<sup>29</sup> Section 1006.1494, F.S.

<sup>30</sup> Section 1006.1494, F.S.

<sup>31</sup> Section 1006.1494(7), F.S.

<sup>32</sup> Rule 6A-1.09550(4)(a), F.A.C.

identifiable information must require vendors to ensure compliance with the Student Online Personal Information Protection Act.<sup>33</sup>

### District Guidance Report

Each district school board is required to annually submit a district guidance report to the commissioner by June 30.<sup>34</sup> The guidance report must include:<sup>35</sup>

- Examination of student access to certified school counselors.
- Degree to which a district has adopted or implemented a guidance model program.
- Evaluation of the information and training available to certified school counselors and career specialists to advise students on areas of critical need, labor market trends, and technical training requirements.
- Progress toward incorporation of best practices for advisement as identified by the department.
- Consideration of alternative guidance systems or ideas, including, but not limited to, a teacher-advisor model, mentoring, partnerships with the business community, web-based delivery, and parental involvement.
- A guidance plan for the district.

This report is no longer necessary as district school boards provide this information in their annual Mental Health Assistance Allocation Plan and the Mental Health Assistance Allocation Outcomes and Expenditures Report.<sup>36</sup>

### Reflective Tape

District school boards are required to post high-visibility reflective signage on the rear of each school bus in which a school bus infraction detection system is installed and operational.<sup>37</sup> The signage must be in the form of one or more signs or stickers and must contain, in the same form:

- The words “STOP WHEN RED LIGHTS FLASH” or “DO NOT PASS WHEN RED LIGHTS FLASH.”
- The words “CAMERA ENFORCED.”
- A graphic depiction of a camera.

### *Effect of Proposed Changes*

#### State-Level Regulation

The bill modifies s. 1001.02, F.S., to clarify that the SBE is authorized to adopt rules within statutory authority as specifically provided in law.

The bill expands s. 1001.23, F.S., to add to the specific powers and duties of the DOE. The additional requirements may provide clarity to district school boards in the implementation of state law. The bill requires the DOE to annually:

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<sup>33</sup> Rule 6A-1.09550(4)(a)3., F.A.C.

<sup>34</sup> Section 1006.025(1), F.S.

<sup>35</sup> Section 1006.025(2), F.S.

<sup>36</sup> Florida Department of Education, *Recommendations to Reduce Regulation in Public Schools* (Nov. 1, 2023), available at [https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/5953/10483\\_MeetingPacket\\_5953\\_2.pdf](https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/5953/10483_MeetingPacket_5953_2.pdf), at 17.

<sup>37</sup> Section 316.173(2)(a), F.S.

- By August 1, inform district school superintendents that they may receive a declaratory statement pursuant to the APA regarding the DOE's opinion as to the applicability to a school district of a statutory or rule provision as it applies to the district's particular set of circumstances.
- Maintain and make available to school districts a list of all requirements in statute and rule relating to required actions by district school boards or superintendents. The list must include, but is not limited to, required parent notifications; information that must be posted to the district website; and reporting, filing, and certification requirements.

#### District School Board Policy

The bill modifies s. 120.81, F.S., to provide that district school boards are not subject to the requirements for rules in the APA when exercising their powers and duties identified in the Education Code to formulate policy with public input at a public meeting. This will provide consistency and clarity in the manner of district school board policy development.

#### General Powers of District School Superintendent

The bill amends s. 1001.49, F.S., to authorize the district school board to delegate to the superintendent the authority to establish a process for the review and approval of district-wide policies and procedures to improve efficiency. This may allow the school board and the superintendent to be more responsive to the needs of students.

#### Student Online Personal Information Protection Act

The bill modifies s. 1006.1494, F.S., to clarify that nothing in the Student Online Personal Information Protection Act requires a K-12 school, school district, or district school board to include any additional provisions in contracts with operators or vendors.

#### District Guidance Report

The bill repeals s. 1006.025, F.S., relating to the requirement for district school boards to submit to the commissioner a district guidance report.

#### Reflective Tape

The bill modifies s. 316.173, F.S., to provide flexibility to district school boards to post signage on the rear of each school bus in which a school bus infraction detection system is installed and operational that is not high-visibility reflective signage. Without this revision, district school boards that install school bus infraction detection systems will incur costs to replace current signage with highly reflective material.<sup>38</sup>

### **Finance and Budget**

#### ***Present Situation***

The Florida Legislature established the Florida Education Finance Program (FEFP) in 1973 to equalize funding for educational programs and services for all students in the K-12 public school

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<sup>38</sup> Florida Department of Education, *Recommendations to Reduce Regulation in Public Schools* (Nov. 1, 2023), available at [https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/5953/10483\\_MeetingPacket\\_5953\\_2.pdf](https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/5953/10483_MeetingPacket_5953_2.pdf), at 10.

system, regardless of geographic or local economic factors.<sup>39</sup> The FEFP is the primary mechanism for funding the operating costs of Florida school districts.<sup>40</sup>

Charter schools also receive funding through the FEFP. Students enrolled in a charter school, regardless of the sponsorship, are funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in a school district.<sup>41</sup>

### Emergency Make-up Days

To receive state funding through the FEFP, district school boards are required to meet minimum requirements, including operating all schools for a term of 180 actual teaching days or the equivalent on an hourly basis each school year.<sup>42</sup> The SBE may alter this requirement during a national, state, or local emergency as it may apply to an individual school or schools in any district or districts if, in the opinion of the SBE, it is not feasible to make up lost days or hours.<sup>43</sup> The apportionment from the FEFP may, at the discretion of the commissioner, and if the board determines that the reduction of school days or hours is caused by the existence of a bona fide emergency, be reduced for such district or districts in proportion to the decrease in the length of term in any such school or schools.<sup>44</sup>

### Equity in School-Level Funding

Title I of the Elementary and Secondary Education Act of 1965 (ESEA),<sup>45</sup> as amended by the Every Student Succeeds Act of 2015,<sup>46</sup> is a federal funding program to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.<sup>47</sup> For the 2022-2023 fiscal year, Florida received approximately \$1.01 billion for Title I programs.<sup>48</sup>

Part A of Title I focuses on improving basic programs operated by local educational agencies, including district school boards.<sup>49</sup>

District school boards must allocate Title I-A funds first to serve schools in areas with poverty rates of at least 75 percent, or 50 percent for high schools.<sup>50</sup> If funds remain, the school board may serve schools in rank order according to the percentage of children from low-income families in the area, but a school board may only serve schools in areas with a poverty rate of

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<sup>39</sup> Section 1011.62, F.S.; Florida Department of Education, *2022-23 Funding for Florida School Districts*, (2022), available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>, at 4.

<sup>40</sup> *Id.*

<sup>41</sup> Section 1002.33(17), F.S.

<sup>42</sup> Section 1011.60(2), F.S.

<sup>43</sup> Section 1011.60(2), F.S.

<sup>44</sup> Section 1011.60(2), F.S.

<sup>45</sup> Pub. L. No. 89-10, 79 Stat. 27 (Apr. 11, 1965).

<sup>46</sup> Pub. L. 114-95, 129 Stat 1802 (Dec. 10, 2015).

<sup>47</sup> 20 U.S.C. s. 6301.

<sup>48</sup> Florida Department of Education, *Finance Data Base: Fiscal Year 2022-2023*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/StateTotalBUD2223.pdf>, at 8.

<sup>49</sup> 20 U.S.C. s. 6311, et. seq. Local educational agencies are public boards of education and include district school boards. 34 C.F.R. s. 303.23.

<sup>50</sup> 20 U.S.C. s. 6313(a)(3).



less than 35 percent if the per student allocation of state and local funds is 125 percent greater than the per student amount received under Title I-A.<sup>51</sup>

Florida law limits the threshold for identifying eligible schools to the threshold established by a district school board for the 2016-2017 school year or the statewide percentage of economically disadvantaged students, as determined annually, which was 56.6 percent<sup>52</sup> in 2021.<sup>53</sup>

Prior to the allocation of Title I funds to eligible schools, Florida law authorizes a district school board to withhold funds only as follows:<sup>54</sup>

- One percent for parent involvement, in addition to the one percent the district must reserve under federal law for allocations to eligible schools for parent involvement;
- A necessary and reasonable amount for administration which includes the district's indirect cost rate, not to exceed a total of ten percent;
- A reasonable and necessary amount to provide:
  - Homeless programs;
  - Delinquent and neglected programs;
  - Prekindergarten programs and activities;
  - Private school equitable services; and
  - Transportation for foster care children to their school of origin or choice programs; and
- A necessary and reasonable amount, not to exceed one percent, for eligible schools to provide educational services in accordance with the approved Title I plan.

Title I also authorizes district school boards to provide up to five percent of the Title I-A allocation to provide financial incentives and rewards to teachers who serve in eligible schools that are identified for comprehensive support and improvement activities or targeted support and improvement activities for the purpose of attracting and retaining qualified and effective teachers.<sup>55</sup> The DOE requires all recruitment, retention, and reward incentives under the ESEA, including Title I-A and Title II<sup>56</sup>, to be based on the state value-added model or an alternative state-approved student growth model.<sup>57</sup>

The grades and subject areas for which value added student growth models are available are limited by available student growth measurements.<sup>58</sup> Any alternative state-approved student growth model is required to identify the student assessment tool used to calculate the growth model and assure that it measures at least a one year snapshot of student growth. For example,

<sup>51</sup> 34 C.F.R. s. 200.78(b).

<sup>52</sup> FLHealthCharts, *Elementary School Students Eligible for Free/Reduced Lunch*, <https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=NonVitalIndNoGrp.Dataviewer&cid=497> (last visited Nov. 8, 2023).

<sup>53</sup> Section 1011.69(4), F.S.

<sup>54</sup> Section 1011.69(4)(a), F.S.

<sup>55</sup> 20 U.S.C. s. 6313(c)(4).

<sup>56</sup> Florida's Title II allocation was approximately \$103.6 million for the 2022-2023 fiscal year. Florida Department of Education, *Finance Data Base: Fiscal Year 2022-2023*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/StateTotalBUD2223.pdf>, at 8.

<sup>57</sup> Florida Department of Education, K12 ESEA Federal Programs, *2023-24 Elementary and Secondary Education Act (ESEA) Federal Programs Application Companion Guide*, available at <https://www.floridacims.org/downloads>, at 61.

<sup>58</sup> Florida VAM Course List 6A-5.0411, *incorporated by reference in Rule 6A-5.0411, F.A.C.*, available at <https://www.flrules.org/gateway/reference.asp?No=Ref-14061>.

the pre- and post-measurement should be at least seven months apart and should demonstrate an average of at least a year's worth of growth. These requirements limit the subjects and grades in which these measurements are available.

Under the ESEA, the state education agency must liquidate all obligations incurred under the Federal award not later than 120 calendar days after the end date of the period of availability. Under section 412(b) of the General Education Provisions Act<sup>59</sup>, also known as the Tydings Amendment, grants issued for a fiscal year may be made available for obligation on the basis of an academic or school basis.<sup>60</sup> As a result of these requirements, many Federal programs – including the Title I, Title II,<sup>61</sup> and Title III<sup>62</sup> programs – have a total period of availability of 27 months (from July 1st of the award year to September 30th of the carryover year) and a subsequent liquidation period of 120 days (October 1st through approximately January 28).<sup>63</sup> In addition, a state educational agency is required to award each subgrant for school improvement for a period of not more than 4 years, which may include a planning year.<sup>64</sup>

### School District Fiscal Transparency

District school boards are required to post on their websites a plain language version of each proposed, tentative, and official budget which describes each budget item in terms that are easily understandable to the public and includes a link to the web-based fiscal transparency tool developed by the DOE to enable taxpayers to evaluate the financial efficiency of the school district and compare the financial efficiency of the school district with other similarly situated school districts.<sup>65</sup> The plain language version must also include graphical representations of:<sup>66</sup>

- Summary financial efficiency data.
- Fiscal trend information for the previous 3 years on:
  - The ratio of full-time equivalent students to full-time equivalent instructional personnel.
  - The ratio of full-time equivalent students to full-time equivalent administrative personnel.
  - The total operating expenditures per full-time equivalent student.
  - The total instructional expenditures per full-time equivalent student.
  - The general administrative expenditures as a percentage of total budget.
  - The rate of change in the general fund's ending fund balance not classified as restricted.

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<sup>59</sup> Pub. L. No. 90-247.

<sup>60</sup> 20 U.S.C. s. 1225b.

<sup>61</sup> Title II of the ESEA provides grants to state educational agencies and subgrants to local educational agencies to increase student achievement consistent with the challenging State academic standards; improve the quality and effectiveness of teachers, principals, and other school leaders; increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement in schools; and provide low-income and minority students greater access to effective teachers, principals, and other school leaders. 20 U.S.C. s. 6601.

<sup>62</sup> Title III of the ESEA is the English Language Acquisition, Language Enhancement, and Academic Achievement Act. 20 U.S.C. s. 6811.

<sup>63</sup> US Department of Education, *Florida Consolidated Performance Review Report FY 2023*, available at <https://oese.ed.gov/files/2023/04/FDOE-2023-Performance-Report.pdf>, at 11.

<sup>64</sup> 20 U.S.C. s. 6303(c).

<sup>65</sup> Section 1011.035(2), F.S.

<sup>66</sup> Section 1011.035(2)(a), F.S.

The district school board website should contain links to:<sup>67</sup>

- Help explain or provide background information on various budget items that are required by state or federal law.
- Allow users to navigate to related sites to view supporting details.
- Enable taxpayers, parents, and education advocates to send e-mails asking questions about the budget and enable others to view the questions and responses.

Charter schools are exempt from these requirements.<sup>68</sup>

#### Financial Accounting and Expenditures

All funds accruing to a school district must be received, accounted for, and expended in compliance with state laws and rules of the SBE.<sup>69</sup> For example, district school boards are prohibited from using funds to purchase transportation equipment and supplies at prices which exceed those determined by the DOE to be the lowest which can be obtained.<sup>70</sup> At least monthly, school district superintendents are required to submit a financial statement to the DOE in a format specified by the school board.<sup>71</sup>

Charter schools are exempt from this requirement.<sup>72</sup>

#### Cost Accounting and Reporting

Each school district must account for expenditures of all state, local, and federal funds on a school-by-school and a district-aggregate basis in accordance with the manual developed by the DOE or as provided by law.<sup>73</sup> Each district must report on a district-aggregate basis expenditures for inservice training and categorical programs; and on a school-by-school basis and aggregate district basis for each program funded by the state for the operation of schools, total operating costs, and expenditures for classroom instruction.<sup>74</sup> The DOE is required to categorize all public schools and districts into appropriate groups based primarily on average FTE student enrollment, calculate specified expenditure information for each public school, school district, and the state; and develop a web-based fiscal transparency tool that identifies public schools and districts that produce high academic achievement based on the ratio of classroom instruction expenditures to total expenditures.<sup>75</sup> Generally, the DOE will communicate with the school district with monitoring questions or concerns regarding the cost reports, including questions regarding charter school expenditures. The commissioner must present to the Legislature a district-by-district report of the expenditures reported.<sup>76</sup>

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<sup>67</sup> Section 1011.035(4), F.S.

<sup>68</sup> Section 1002.33(16), F.S.

<sup>69</sup> Section 1010.02, F.S.

<sup>70</sup> Section 1011.68(4), F.S.

<sup>71</sup> Rules 6A-1.008, F.A.C.

<sup>72</sup> Section 1002.33(16), F.S.

<sup>73</sup> Section 1010.20(1), F.S. Florida Department of Education, *Financial & Program Cost Accounting & Reporting For Florida Schools*, <https://www.fldoe.org/finance/fl-edu-finance-program-fefp/financial-program-cost-accounting-repo.html> (last visited Nov. 08, 2023).

<sup>74</sup> Section 1010.20(2)(a)-(b), F.S.

<sup>75</sup> Section 1010.20(c), F.S.

<sup>76</sup> Section 1010.20(d), F.S.

All district school boards are required to conduct an annual financial audit of their accounts and records.<sup>77</sup> School districts receiving annual federal, state, and local funds in excess of \$500 million are required to employ an internal financial auditor.<sup>78</sup>

### ***Effect of Proposed Changes***

#### **Emergency Make-up Days**

The bill modifies s. 1011.60, F.S., to remove the required threshold of infeasibility that a district school board must demonstrate in order to be released from making up days lost because of a bona fide emergency. This may provide more flexibility to district school boards in determining whether the additional days are necessary for students to learn the required academic standards.

#### **Equity in School-Level Funding**

The bill modifies s. 1011.69, F.S., to remove the provision that prohibits a school district from exceeding the poverty threshold established by a school district for the 2016-2017 school year, or the statewide percentage of economically disadvantaged students determined annually. This may afford discretion to the district school board to focus services on the schools with the highest needs.

The bill also removes the cap of one percent of Title I funds that a district may withhold to provide district educational services to Title I schools. This may provide flexibility for a district school board to leverage district resources to provide programs across all eligible schools, including eligible charter schools.

The bill authorizes district school boards to utilize up to 5 percent of its Title I allocation to provide financial incentives and rewards to teachers who serve students in Title I schools identified for comprehensive support and improvement activities or targeted support and improvement activities, for the purpose of attracting and retaining qualified and effective teachers, including teachers of any subject or grade level for whom a state-approved measurement of student performance is unavailable.

The bill clarifies that the DOE must make funds from Title I, Title II, and Title III programs available to local education agencies for the full period of availability provided in federal law. This may provide stability for district school boards in the implementation of Title I services.

#### **School District Fiscal Transparency**

The bill modifies s. 1011.035, F.S., to remove the requirement that the plain language of the school board budget posted on its website include graphical representations of the budget. The bill also removes the requirement that the links on the school board website:

- Help explain or provide background information on various budget items that are required by state or federal law.
- Allow users to navigate to related sites to view supporting details.

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<sup>77</sup> Section 218.39(1), F.S.

<sup>78</sup> Section 1001.42(12)(l), F.S.

### Financial Accounting and Expenditures

The bill amends s. 1010.02, F.S., by requiring the SBE to adopt rules to establish criteria for determining the financial status of school districts for financial reporting. The bill specifies that a school district identified in SBE rule as having a financial concern would be required to submit monthly financial reports. Additionally, the bill specifies that a school district not identified in SBE rule as having a financial concern may be required to submit financial reports no more often than once every quarter.

### Cost Accounting and Reporting

The bill amends s. 1010.20, F.S., by requiring charter schools to receive and respond to monitoring questions from the DOE regarding the charter school's cost report. This amendment allows charter schools to communicate directly with the DOE and relieves school districts from being an intermediary between the DOE and charter schools.

The bill modifies s. 1011.68, F.S., to remove the restriction on district school boards purchasing transportation supplies at a cost lower than the cost established by the DOE.

The bill modifies s. 1001.42, F.S., to remove the requirement that school districts receiving annual federal, state, and local funds in excess of \$500 million employ an internal financial auditor. All school districts are required to have an annual financial audit.

## **Facilities Planning**

### *Present Situation*

#### District School Board Educational Facilities Plans

Annually, prior to the adoption of the district school budget, each district school board is required to prepare a tentative district educational facilities plan that includes long-range planning for facilities needs over 5-year, 10-year, and 20-year periods. Florida law enumerates specific requirements that the district school board must evaluate at over the course of the plan, including for 5-year, 10-year, and 20-year periods.<sup>79</sup>

The plan is required to include a financially feasible district facilities work program for a 5-year period. The work program is required to include:<sup>80</sup>

- A schedule of major repair and renovation projects necessary to maintain the educational facilities and ancillary facilities of the district.
- A schedule of capital outlay projects necessary to ensure the availability of satisfactory student stations for the projected student enrollment in K-12 programs, with detailed specifications set forth in state law.
- The projected cost for each project identified in the district facilities work program, including a schedule of cost comparisons for the planned cost of each new student station compared with the low, average, and high cost of facilities constructed throughout the state.

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<sup>79</sup> Section 1013.35(2)(a), F.S.

<sup>80</sup> Section 1013.35(2)(b), F.S.

- A schedule of estimated capital outlay revenues from each currently approved source which is estimated to be available for expenditure on the projects included in the district facilities work program.
- A schedule indicating which projects included in the district facilities work program will be funded from current revenues.
- A schedule of options for the generation of additional revenues by the district for expenditure on projects identified in the district facilities work program which are not funded with currently approved revenue sources.
- Prototype construction and design to be used for the construction of two or more new schools for students in the same grade group and program, such as elementary, middle, or high school.<sup>81</sup>

To the extent available, the tentative district educational facilities plan is required to be based on information produced by the state demographic, revenue, and education estimating conferences.<sup>82</sup> Not less than once every 5 years, the district school board must have an audit conducted of the board's educational planning and construction activities. An operational audit conducted by the Auditor General satisfies this requirement.<sup>83</sup>

Annually, the district school board is required to consider and adopt the tentative district educational facilities plan. The adopted district educational facilities plan must:<sup>84</sup>

- Be a complete, balanced, and financially feasible capital outlay financial plan for the district.
- Set forth the proposed commitments and planned expenditures of the district to address the educational facilities needs of its students and to adequately provide for the maintenance of the educational plant and ancillary facilities, including safe access ways from neighborhoods to schools.

Charter schools share in district school board capital outlay funding but are not subject to any of the facilities plan requirements.<sup>85</sup>

### Educational Plant Survey

Florida law includes systemwide definitions related to educational facilities.<sup>86</sup> An “educational plant survey” is a systematic study of present educational and ancillary plants and the determination of future needs to provide an appropriate educational program and services for each student based on projected capital outlay FTE's approved by the DOE.<sup>87</sup> The “educational plant” comprises 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>88</sup>

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<sup>81</sup> Section 1013.45(4), F.S.

<sup>82</sup> Section 1013.35(2)(c), F.S.

<sup>83</sup> Section 1013.35(2)(f), F.S.

<sup>84</sup> Section 1013.35(4), F.S.

<sup>85</sup> Sections 1002.33(16)-(17) and 1013.62, F.S.

<sup>86</sup> See s. 1013.01, F.S.

<sup>87</sup> Section 1013.01, F.S.

<sup>88</sup> Section 1013.01(7), F.S.

“Educational facilities” are the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community.<sup>89</sup> “Auxiliary facilities” are the spaces located at educational plants which are not designed for student occupant stations.<sup>90</sup> The “ancillary plant” is comprised of the building, site, and site improvements necessary to provide such facilities as vehicle maintenance, warehouses, maintenance, or administrative buildings necessary to provide support services to an educational program.<sup>91</sup>

At least every 5 years, each board<sup>92</sup> is required to arrange for an educational plant survey to aid in formulating plans for housing the educational program and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus, including consideration of the local comprehensive plan.<sup>93</sup> The plant survey and the facilities work program are reviewed in the preparation of interlocal agreements between school boards and local governments.<sup>94</sup>

A survey recommendation is not required when a district uses local funds for educational, auxiliary, and ancillary plant capital outlay purposes.<sup>95</sup> Even though the recommendation may not be required, the school district’s survey must be submitted as a part of the district educational facilities plan.<sup>96</sup>

The DOE is required to conduct an onsite review of 5 percent of the facilities reported for each school district completing a new survey that year.<sup>97</sup> If the DOE’s review finds the data reported by a district is less than 95 percent accurate, within 1 year from the time of notification by the DOE the district must submit revised reports correcting its data. If a district fails to correct its reports, the commissioner may direct that future fixed capital outlay funds be withheld until such time as the district has corrected its reports so that they are not less than 95 percent accurate.<sup>98</sup>

The DOE is also annually required to perform an in-depth analysis of a representative sample of each survey of recommended needs for 5 districts selected by the commissioner from among districts with the largest need-to-revenue ratio. The need-to-revenue ratio is determined by dividing the total 5-year cost of projects listed on the district survey by the total 5-year fixed capital outlay revenue projections from state and local sources as determined by the DOE.<sup>99</sup> The commissioner is authorized to direct fixed capital outlay funds provided from general revenue or

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<sup>89</sup> Section 1013.01(6), F.S.

<sup>90</sup> Section 1013.01(2), F.S.

<sup>91</sup> Section 1013.01(1), F.S.

<sup>92</sup> “Board,” unless otherwise specified, means a district school board, a Florida College System institution board of trustees, a state university board of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind. Section 1013.01(3), F.S. It does not include charter school governing boards.

<sup>93</sup> Section 1013.31(1), F.S.

<sup>94</sup> Section 163.3177(2)(e)-(f) and (4), F.S.

<sup>95</sup> *Id.* at (a) and (d).

<sup>96</sup> Section 1013.31(1)(c)1., F.S.

<sup>97</sup> Section 1013.31(1)(c)1., F.S.

<sup>98</sup> Section 1013.31(1)(c)1., F.S.

<sup>99</sup> Section 1013.31(1)(d), F.S.

from state trust funds to be withheld from districts until such time as the survey accurately projects facilities needs.<sup>100</sup>

District school boards are required to periodically update their inventory of educational facilities as new capacity becomes available and as unsatisfactory space is eliminated.<sup>101</sup>

#### Unused District School Board Property

A district school board may dispose of any land or real property determined to be unnecessary for educational purposes as recommended in an educational plant survey. The board must take measures to dispose of such property in the best interests of the public.<sup>102</sup> Surplus tangible personal property classified as such by a district school board shall be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving such property cannot sell or dispose of it without the written permission of the school district.<sup>103</sup>

District school boards are required to annually provide the DOE with the number of vacant classrooms that they do not intend to use or project will not be needed for educational purposes in the following school year. This information is part of the school board's 5-year work plan. The DOE may then recommend that a district make such space available to an appropriate charter school.<sup>104</sup>

By January 1 each year, the DOE must provide district school boards with a list of all underused, vacant, or surplus facilities owned or operated by the school district, as reported in the Florida Inventory of School Houses.<sup>105</sup> School boards have 30 days to report any errors or omissions. By April 1, the Department updates and publishes a final list based on information provided by each school district. A "school of hope" may use an educational facility identified on this list at no cost or at a mutually agreeable cost not to exceed \$600 per student. If a "school of hope" uses such a facility, it cannot sell or dispose of it without the written permission of the school district.<sup>106</sup>

#### Cost Per Student Station Limitation

In Florida, construction costs for traditional K-12 public school facilities are reported based on the cost per student station.<sup>107</sup> In 2005, the DOE conducted a study on overall inflation of school construction costs, including the Consumer Price Index (CPI) and other factors. The cost per student station levels adopted in 2006 were based on the DOE's study recommendations and is adjusted to reflect increases and decreases in the CPI.<sup>108</sup> The DOE and the Office of Economic

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<sup>100</sup> Section 1013.31(1)(d), F.S.

<sup>101</sup> Section 1013.31(1)(e), F.S.

<sup>102</sup> Section 1013.28(1)(a), F.S.

<sup>103</sup> Section 1013.28(2)(a), F.S.

<sup>104</sup> Section 1002.33(18)(g), F.S.

<sup>105</sup> Section 1002.333(7)(d), F.S.

<sup>106</sup> Section 1002.333(7)(d), F.S.

<sup>107</sup> Section 1013.64(6), F.S.

<sup>108</sup> Office of Economic and Demographic Research, *Review of Florida's Cost Per Student Station* (January 2017), available at <http://edr.state.fl.us/content/special-research-projects/education/CostPerStudentStation.pdf>, at 6.



and Demographic Research (EDR)<sup>109</sup> are required to work together to calculate and disseminate new statutory caps.<sup>110</sup>

The forecast by EDR for the July 2023 cost per student station limits are:<sup>111</sup>

- \$27,455 for an elementary school.
- \$29,648 for a middle school.
- \$38,511 for a high school.

Except for certain educational facilities and sites subject to a lease-purchase agreement that may be paid for by a district school board levy,<sup>112</sup> or funded solely through local impact fees, a district school board may not use funds from any sources for new construction of educational plant space with a total cost per student station that exceeds these amounts.<sup>113</sup> The cost per student station includes, for example, contract costs, fees of architects and engineers, and the cost of furniture and equipment.<sup>114</sup> The cost per student station specifically does not include the cost of purchasing or leasing the site for the construction, legal and administrative costs, the cost of related site or offsite improvements, and costs for school safety and hardening items and other capital construction items approved by the school safety specialist to ensure building security for new educational, auxiliary, or ancillary facilities.<sup>115</sup>

An unfinished construction project for new construction of educational plant space that was started on or before July 1, 2026, is exempt from the total cost per student station requirements.<sup>116</sup>

#### State Requirements for Educational Facilities

Florida school construction is guided by three major authorities. The Florida Building Code governs all construction in the state and is administered by the Florida Building Commission at the Department of Business and Professional Regulation.<sup>117</sup> The Florida Building Code includes specifications for enhanced hurricane protection areas and electrical and standby emergency power systems.<sup>118</sup> The Florida Fire Prevention Code is administered by the Division of State Fire Marshal, Department of Financial Services. The third major authority governing school construction in the state is the State Requirements for Educational Facilities (SREF), which is

<sup>109</sup> The Office of Economic and Demographic Research is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations. Office of Economic and Demographic Research, *Welcome*, <http://edr.state.fl.us/Content/> (last visited January 26, 2023).

<sup>110</sup> Section 1013.64(6)(b)1., F.S.

<sup>111</sup> Office of Economic and Demographic Research, *Student Station Cost Factors* (July 2022), available at <http://edr.state.fl.us/Content/conferences/peco/studentstation.pdf>.

<sup>112</sup> Section 1011.71(2)(e), F.S., sets forth the guidelines for authorized district school board lease-purchase agreements.

<sup>113</sup> Section 1013.64(6)(b)3., F.S.

<sup>114</sup> Section 1013.64(6)(d), F.S.

<sup>115</sup> Section 1013.64(6)(d), F.S. Such safety improvements include the cost for securing entries, checkpoint construction, lighting specifically designed for entry point security, security cameras, automatic locks and locking devices, electronic security systems, fencing designed to prevent intruder entry into a building, or bullet-proof glass. *Id.*

<sup>116</sup> Section 1013.64(6)(e), F.S.

<sup>117</sup> Section 553.73, F.S. The Florida Building Code, 7<sup>th</sup> Edition (2020) has been adopted by the Florida Building Commission. Rule 61G20-1.001, F.A.C.

<sup>118</sup> Sections 453.25.1.1 and 453.25.5, Florida Building Code, 7<sup>th</sup> Edition (2020).

maintained by the DOE.<sup>119</sup> The requirements of the three authorities tend to increase the cost of construction in the state relative to national averages.<sup>120</sup> Charter schools are not required to comply with SREF.<sup>121</sup>

The SREF is the uniform statewide building code for the planning and construction of public educational facilities and ancillary plants.<sup>122</sup> District school boards must adhere to the SREF when planning and constructing new facilities. Generally, SREF standards are premised on providing enhanced safety for occupants and increasing the life span of the extensive, publicly funded infrastructure of Florida's public school districts.<sup>123</sup> Florida law provides school districts with the flexibility to adopt, through resolution, a number of exceptions to SREF requirements. Exceptions include, for example, specifications for site lighting or the use of wood studs in interior nonload-bearing walls.<sup>124</sup>

The DOE, in consultation with school boards and county and state emergency management offices, is required to develop public shelter design criteria that are incorporated as standards into the Florida Building Code. These criteria must be designed to ensure that appropriate new educational facilities can serve as public shelters for emergency management purposes.<sup>125</sup>

If a regional planning council in which the county is located does not have a hurricane evacuation shelter deficit as determined by the Division of Emergency Management, educational facilities within the planning council region are not required to incorporate the public shelter criteria.<sup>126</sup> By January 31 of each even-numbered year, the Division of Emergency Management must prepare and submit a statewide emergency shelter plan to the Governor and Cabinet for approval.<sup>127</sup>

In addition to the requirement to construct emergency shelters as needed, district school boards in an emergency area are required to provide facilities and necessary personnel to staff such facilities.<sup>128</sup>

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<sup>119</sup> Rule 6A-2.0010, F.A.C.

<sup>120</sup> Florida Department of Education, *Review and Adjustment for Florida's Cost per Student Station* (January 1, 2020), available at <http://www.fl DOE.org/core/fileparse.php/7738/urlt/2020AnnCSSR.pdf>, at 14.

<sup>121</sup> Section 1002.33(18), F.S.

<sup>122</sup> The State Requirements for Educational Facilities (SREF) is incorporated in Rule 6A-2.0010, F.A.C., is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-04664>. The SREF is applicable to all public educational facilities and plants: pre-kindergarten (pre-K) through grade 12, including conversion charter schools; area vocational educational schools; area vocational/technical centers; adult education; Florida colleges and universities; the Florida School for the Deaf and the Blind (FSDB), where referenced; ancillary plants; relocatables; factory-built structures, reconstructable facilities, modular buildings and manufactured buildings; lease and lease-purchase; and new construction, remodeling, renovation, improvements and site-development projects. *Id.* The SREF does not apply to charter schools. Section 1002.33(18), F.S.

<sup>123</sup> See, e.g., s. 1013.12, F.S. (casualty, safety, sanitation, and fire safety standards and inspection of property) and s. 1013.451, F.S. (life-cycle cost comparison).

<sup>124</sup> See s. 1013.385(2), F.S.

<sup>125</sup> Section 1013.372(1), F.S.

<sup>126</sup> *Id.*

<sup>127</sup> Section 1013.372(2), F.S.

<sup>128</sup> Section 252.38(1)(d), F.S.

### Educational Facilities Contracting and Construction Techniques

District school boards may employ procedures to contract for construction of new facilities, or for additions, remodeling, renovation, maintenance, or repairs to existing facilities, which include, but are not limited to, day-labor contracts not exceeding \$280,000 for construction, renovation, remodeling, or maintenance of existing facilities. This amount is adjusted annually based upon changes in the Consumer Price Index.<sup>129</sup> A "day-labor contract" means a project constructed using persons employed directly by a board or by contracted labor.<sup>130</sup>

District school boards are required to use the services of a registered architect for the development of plans for the erection, enlargement, or alteration of any educational facility.<sup>131</sup> The services of a registered architect are not required, however, for a minor renovation project for which the construction cost is less than \$50,000 or for the placement or hookup of relocatable educational facilities.<sup>132</sup>

District school boards may authorize the superintendent or president or other designated individual to approve change orders in the name of the board for preestablished amounts.<sup>133</sup> Approvals must be for the purpose of expediting the work in progress and be reported to the board and entered in its official minutes. The district school board is required to monitor and report the impact of change orders on its district educational facilities plan.<sup>134</sup>

District school boards are required to compare the following life-cycle costs of materials used by competing providers when constructing or expanding school capacity:<sup>135</sup>

- The anticipated annual energy consumption;
- The relative resistance to damage by wind loads and associated debris;
- The resistance to wood-destroying organisms;
- The perpetual maintenance costs;
- The resistance to fire; and
- A comparison of the annual insurance costs.

District school boards are authorized to purchase, own, convey, sell, lease, or encumber airspace or any other interests in property above the surface of the land, provided the lease of airspace for nonpublic use is for such reasonable rent, length of term, and conditions as the board in its discretion may determine.<sup>136</sup> Proceeds from the alienation of airspace are required to be used for the renovation of existing facilities or construction of new facilities.<sup>137</sup>

District school boards are required to reduce the use of relocatables, and the Office of Educational Facilities within the DOE is required to monitor school board facilities work

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<sup>129</sup> Section 1013.45(1)(e), F.S.

<sup>130</sup> Section 1013.45(2), F.S.

<sup>131</sup> Section 1013.45(4), F.S.

<sup>132</sup> Section 1013.45(4), F.S.

<sup>133</sup> Section 1013.48, F.S.

<sup>134</sup> Section 1013.48, F.S.

<sup>135</sup> Section 1013.451(1), F.S.

<sup>136</sup> Section 1013.19, F.S.

<sup>137</sup> Section 1013.19, F.S.

programs to measure the district commitment in reducing the use of relocatables.<sup>138</sup> District school boards are required to submit to state leadership annual progress reports on a plan for the use of existing relocatables.<sup>139</sup> Relocatables that fail to meet standards for relocatables after completion of the approved plan may not be used as classrooms.

School boards may rent or lease educational facilities for one year or less, which should be funded through the operations budget or millage proceeds.<sup>140</sup> Extensions or renewals of such leases become multiple-year leases and can also be funded through operational funds or millage proceeds.<sup>141</sup>

A district school board may construct or place educational facilities and ancillary facilities on land that is owned by any person after the board has acquired from the owner of the land a long-term lease for the use of this land for a period of not less than 40 years or the life expectancy of the permanent facilities constructed thereon, whichever is longer.<sup>142</sup> Construction of educational facilities funded through an educational facilities benefit district or community development district is also subject to the minimum lease term requirement.<sup>143</sup>

### ***Effect of Proposed Changes***

#### **District School Board Educational Facilities Plans**

The bill amends s. 1013.35, F.S. to replace the specifically enumerated requirements for school board educational facilities plans and work programs with the general requirement that each school board adopt a facilities plan to meet the needs of the district, with public participation. The bill maintains the required 5-year audit of the board's educational planning and construction activities, and maintains the requirements for the general balanced nature of the plans, developed through public participation and local cooperation.

The bill makes corresponding changes in ss. 1013.41 and 1013.68, F.S., to reflect the removal of the requirement for district school boards to include a specific 5-year work program in the school board educational facilities plan.

These changes may bring district school boards closer to the operational flexibility of charter schools, which typically have more autonomy in facility planning and management.

#### **Educational Plant Survey**

The bill modifies s. 1013.31, F.S., to remove the requirement for each district school board to complete an educational plant survey. Accordingly, the bill also removes the requirements for the DOE to review and analyze educational plant surveys submitted by district school boards. The bill makes conforming changes in s. 1013.64, F.S.

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<sup>138</sup> Section 1013.21, F.S.

<sup>139</sup> Section 1013.20(1), F.S.

<sup>140</sup> Section 1013.15(2)(a), F.S.

<sup>141</sup> Section 1013.15(2)(a), F.S.

<sup>142</sup> Section 1013.16, F.S.

<sup>143</sup> Section 1013.356, F.S.

To enable the distribution of state funds for fixed capital outlay purposes, the bill maintains the requirement for district school boards to periodically update their inventory of educational facilities as new capacity becomes available and as unsatisfactory space is eliminated. The bill authorizes the commissioner to condition state fixed capital outlay funds on a district school board's submission of an educational plant survey that accurately projects facilities needs as indicated by the Florida Inventory of School Houses, as compared with the district's capital outlay full-time equivalent enrollment.

#### Unused District School Board Property

The bill amends ss. 1002.33, 1002.333, and 1013.28, F.S., to remove the requirements that surplus school board property be provided for a charter school's use on the same basis as it is made available to other public schools in the district.

#### Cost Per Student Station Limitation

The bill modifies s. 1013.64, F.S., to make the cost per student station exemption permanent and remove cost per student station limitations on district school board construction projects. This may enable district school boards to construct facilities that better meet the needs of its students. The bill makes a conforming change in s. 1013.356, F.S., to remove the cost per student station limitation for facilities projects funded by an educational facilities benefit district or community development district.

#### State Requirements for Educational Facilities

The bill amends s. 1013.385, F.S., to clarify the authority of district school boards to adopt exceptions to SREF, provided that any exceptions to requirements for public shelter design criteria, when applicable, remain subject to the concurrence of the applicable local emergency management agency or the Florida Division of Emergency Management.

The bill also modifies s. 252.38, F.S., to replace the requirement for district school boards to staff emergency facilities with the requirement to provide staff to access such facilities.

#### Educational Facilities Contracting and Construction Techniques

The bill modifies s. 1013.45, F.S., to authorize district school boards to employ day-labor contracts without limits on the amount of the contract. The bill also removes the requirement for school boards to employ an architect for the erection, enlargement, or alteration of any educational facility in which the cost of construction is at least \$50,000. District school boards would follow requirements for the use of architects as specified in applicable building codes.

To align with the flexibility provided for district school board educational facilities plans, the bill modifies s. 1013.48, F.S., to remove the requirement for the school board to monitor and report the impact of change orders on its district educational facilities plan.

The bill repeals s. 1013.451, F.S., to remove the requirement for school boards to compare specific life-cycle costs of materials used by competing providers when constructing or expanding school capacity.

The bill modifies s. 1013.19, F.S., to remove the requirement that proceeds from the sale or lease of airspace by school boards must be used for fixed capital outlay.

The bill modifies ss. 1013.20 and 1013.21, F.S., to remove outdated requirements regarding the reduction in relocatables and the annual progress report on relocatables.

The bill also modifies s. 1013.15, F.S., to broaden the scope of properties that can be leased or lease-purchased to include educational plants, ancillary plants, and auxiliary facilities instead of only educational facilities. This allows district school boards to engage in lease or lease-purchase agreements for a wider range of properties related to educational services.

The bill modifies ss. 1013.16 and 1013.356, F.S., to remove the requirement that a school board must acquire a lease of at least 40 years to construct or place a facility, and retain the requirement that the lease be as long as the lifespan of the facility.

## **Capital Outlay Funding for Education**

### ***Present Situation***

#### **Public Education Capital Outlay**

The Florida Constitution authorizes certain revenues to be used by district school boards for capital outlay purposes. Article XII, s. 9(d) of the Florida Constitution guarantees a stated amount for each district annually from proceeds of licensing motor vehicles, referred to as Capital Outlay and Debt Service (CO&DS) funds.<sup>144</sup> Additionally, Article XII, s. 9(a)(2) of the Florida Constitution provides that school districts may share in the proceeds from gross receipts taxes, referred to as Public Education Capital Outlay (PECO) funds, as provided by legislative appropriation.<sup>145</sup>

PECO consists of revenues derived from the collection of the gross receipts tax on utilities, including transfers from the Communications Services Tax, and through the issuance of bonds supported by these revenues.<sup>146</sup> School districts, Florida colleges, state universities and other education agencies receive PECO funds to construct new facilities or to perform maintenance, renovation or repairs on existing facilities. These funds are also used for site acquisitions and improvements.<sup>147</sup>

Allocations to district school boards from PECO for funds for remodeling, renovation, maintenance, repairs, and site improvement for existing satisfactory facilities are given priority and distributed according to a specific statutory formula.<sup>148</sup> District school boards may not use PECO funds to supplant funds in the current fiscal year approved operating budget.<sup>149</sup> At least

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<sup>144</sup> Florida Department of Education, *2022-2023 Funding for Florida School Districts*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/feftpdist.pdf>, at 6.

<sup>145</sup> *Id.*

<sup>146</sup> Florida Department of Education, *2022-2023 Funding for Florida School Districts*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/feftpdist.pdf>, at 29.

<sup>147</sup> Florida Department of Education, *2022-2023 Funding for Florida School Districts*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/feftpdist.pdf>, at 29.

<sup>148</sup> Section 1013.64(1)(a), F.S.

<sup>149</sup> Section 1013.64(1)(b), F.S.

one-tenth of a board's annual allocation must be spent to correct unsafe, unhealthy, or unsanitary conditions in its educational facilities, or a lesser amount sufficient to correct all deficiencies cited in its annual comprehensive safety inspection reports.<sup>150</sup>

After priority projects are funded, remaining PECO allocations are required to be calculated by computing the capital outlay full time membership as determined by the DOE pursuant to a statutory formula.<sup>151</sup>

For the 2022-2023 fiscal year, approximately \$196 million from PECO was appropriated to charter schools, and approximately \$11 million was appropriated to district schools.<sup>152</sup>

The DOE operates the “Special Facility Construction Account” as a part of the PECO.<sup>153</sup> The Special Facility Construction Account is used to provide necessary construction funds to school districts which have urgent construction needs but which lack sufficient resources at present, and cannot reasonably anticipate sufficient resources within the period of the next 3 years. A district school board requesting funding from the Special Facility Construction Account may only submit one specific construction project to the Special Facility Construction Committee in any 3-year period or while any portion of the district's participation requirement is outstanding.<sup>154</sup>

The construction project must be recommended in the most recent educational plant survey cooperatively prepared by the district school board and the DOE.<sup>155</sup> A project funded through the Special Facility Construction Account must be deemed a critical need and must be recommended for funding by the Special Facility Construction Committee.<sup>156</sup> The committee is required to consider certain factors set forth in law, including the district’s existing satisfactory student stations.<sup>157</sup>

Upon request for release of PECO funds for planning purposes, the district school superintendent must certify to the DOE that the need for and location of the facility are in compliance with the board-approved survey recommendations, that the project meets the definition of a PECO project and the limiting criteria for expenditures of PECO funding, and that the plan is consistent with the local government comprehensive plan.<sup>158</sup> Upon request for release of construction funds, the superintendent must additionally certify to the DOE that the construction documents meet the requirements of SREF or other applicable codes.<sup>159</sup>

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<sup>150</sup> Section 1013.64(1)(f), F.S.

<sup>151</sup> Section 1013.64(3), F.S. The capital outlay full-time equivalent membership shall be determined by counting the reported unweighted full-time equivalent student membership for the second and third surveys with each survey limited to 0.5 full-time equivalent student membership per student and comparing the results on a school-by-school basis with the Florida Inventory of School Houses.

<sup>152</sup> Florida Department of Education, *2022-2023 Funding for Florida School Districts*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/feftpdist.pdf>, at 29.

<sup>153</sup> Section 1013.64(2)(a), F.S.

<sup>154</sup> Section 1013.64(2)(a), F.S.

<sup>155</sup> Section 1013.64(2)(a)2., F.S.

<sup>156</sup> Section 1013.64(2)(a)1., F.S.

<sup>157</sup> Section 1013.64(2)(a)1., F.S.

<sup>158</sup> Section 1013.31(2)(a), F.S.

<sup>159</sup> Section 1013.31(2)(b), F.S.

For the 2022-23 fiscal year, \$64,445,244<sup>160</sup> was appropriated for Special Facilities projects for six district school boards.<sup>161</sup>

#### School Board Discretionary Millage Levy

Each district school board is authorized to levy 1.5 mills against the taxable value for public school purposes to fund specific needs as identified in law, including, for example:<sup>162</sup>

- New construction, remodeling projects, sites and site improvement or expansion to new sites, existing sites, auxiliary facilities, athletic facilities, or ancillary facilities.
- Payments for educational facilities and sites due under a lease-purchase agreement.
- Payment of costs of leasing relocatable educational facilities, of renting or leasing educational facilities and sites, or of renting or leasing buildings or space within existing buildings.

In addition, a district school board may expend up to \$175 per unweighted FTE student from the revenue generated by the millage levy to fund expenses for:<sup>163</sup>

- The purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.
- Payment of the cost of premiums property and casualty insurance necessary to insure school district educational and ancillary plants.

District school boards raised \$3,453,738,766.07 in revenues through 1.5-mill levies in the 2021-2022 fiscal year.<sup>164</sup>

To raise funds for capital outlay purposes, district school boards are also authorized to:

- Sell bonds for capital outlay projects to be repaid from local property taxes.<sup>165</sup>
- Levy a sales surtax of up to 0.5 percent for fixed capital outlay purposes if approval is obtained by referendum.<sup>166</sup>
- Levy up to 0.25 mills for fixed capital outlay in lieu of levying an equivalent amount of the 0.748 discretionary operating millage for operations.<sup>167</sup>

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<sup>160</sup> This amount was contingent upon the state's award from the federal Coronavirus State Fiscal Recovery Fund.

<sup>161</sup> Florida Department of Education, *2022-2023 Funding for Florida School Districts*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf>, at 30.

<sup>162</sup> Section 1011.71(2), F.S.

<sup>163</sup> Section 1011.71(6), F.S.

<sup>164</sup> Florida Department of Education, *Finance Data Base: Fiscal Year 2022-2023*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/StateTotalBUD2223.pdf>, at 45.

<sup>165</sup> Florida Department of Education, *2022-2023 Funding for Florida School Districts*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf>, at 9. See Art. VII, s. 12, Fla. Const., s. 200.001(3)(e), F.S., and ss. 1010.40 through 1010.55, F.S.

<sup>166</sup> Florida Department of Education, *2022-2023 Funding for Florida School Districts*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf>, at 11. See s. 212.055(6), F.S.

<sup>167</sup> Florida Department of Education, *2022-2023 Funding for Florida School Districts*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf>, at 9. See s. 1011.71(1), F.S.



### Short-Term Loans for Education Capital Outlay

District school boards may create obligations by way of anticipation of budgeted revenues accruing on a current basis without pledging the credit of the district or requiring future levy of taxes for certain purposes for a period of 1 year; however, such obligations may be extended from year to year with the consent of the lender for a period not to exceed 4 years, or for a total of 5 years including the initial year of the loan.<sup>168</sup> The purposes for which such obligations may be incurred may include only the purchase of school buses, land, and equipment for educational purposes; the erection of, alteration to, or addition to educational facilities; and the adjustment of insurance on educational property on a 5-year plan, as provided by rules of the SBE.<sup>169</sup> District school boards may only borrow money through this process if:

- The proposed obligation does not exceed one-fourth of the revenue received during the preceding year for the district school fund for operating expenses.
- The school board adopts and includes in its minutes a resolution giving the nature of the obligations to be incurred, stating the plan of payment, and providing that such funds will be budgeted during the period of the loan from the current revenue to retire the obligations maturing during the year.
- The school board issues interest-bearing notes for the obligations that do not exceed the maximum rate for government bonds.

### *Effect of Proposed Changes*

#### Public Education Capital Outlay

The bill amends s. 1013.64, F.S., to modify requirements for projects funded through PECO. The bill removes the requirement that at least one-tenth of a district school board's PECO allocation be spent to correct unsafe, unhealthy, or unsanitary conditions in its educational facilities. The bill also modifies the determination of critical need for funding under the Special Facility Construction Account, to limit the review of available student stations to those student stations that are available in the vicinity of the proposed project.

#### School Board Discretionary Millage Levy

The bill modifies s. 1011.71, F.S., to provide flexibility for the use of funds the district school board receives through the authorized 1.5-mill levy. The bill expands the authorized use of funds received to include payments for any educational plant space, ancillary plants, and auxiliary facilities, due under a lease purchase agreement or lease.

The bill also removes the cap of \$175 per unweighted FTE student for the purchase, lease-purchase, or lease of certain district school board vehicles and property and casualty insurance on school district educational and ancillary plants.

### Short-Term Loans for Education Capital Outlay

The bill modifies s. 1011.14, F.S., to expand the scope of capital outlay that district school boards are permitted to fund through the issuance of short-term debt instruments.

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<sup>168</sup> Section 1011.14, F.S.

<sup>169</sup> Section 1011.14(1), F.S.

This bill authorizes district school boards to incur obligations not only for the construction and renovation of educational facilities but also for the development and enhancement of support and supplemental structures associated with the educational process, which include the entire educational plant, ancillary plants, and auxiliary facilities.

By broadening the permissible use of anticipated revenue for these additional categories of capital projects, the bill allows for a more comprehensive development of the educational environment, acknowledging the role of various facilities in delivering a full spectrum of educational services. The district school boards would remain bound by the existing fiscal constraints—namely, the limitation of indebtedness to no more than one-fourth of the district ad valorem tax revenue for operations for the preceding year and the requirement for a detailed resolution outlining the nature and plan of repayment for the obligations.

## **District School Board Communications**

### ***Present Situation***

#### Meeting Notices

Each district school board is required to publicly notice regular and special board meetings in a county newspaper of general circulation at least two days prior to the meeting, or on a radio station if no such newspaper exists.<sup>170</sup>

Local governmental agencies, including district school boards, have the option to publish legal notices on a publicly accessible website owned or designated by the county instead of in a print newspaper under specified conditions.<sup>171</sup> A governmental agency located in a county that has a population of fewer than 160,000 must first hold a public hearing and determine that its residents have sufficient access to the internet by broadband service before publishing legally required advertisements and public notices on the county website.<sup>172</sup>

Before a district school board levies any millage, it must advertise its intent to adopt a tentative budget in a newspaper of general circulation. Not less than 2 days or more than 5 days thereafter, the district must hold a public hearing on the tentative budget.<sup>173</sup> The district school superintendent is required to submit two copies of the adopted budget to the DOE.<sup>174</sup>

The US Census Bureau and the Pew Research Center have reported that adults are more likely to receive information through digital media than through print media.<sup>175</sup>

#### District School Board Notifications

Dropout prevention and academic intervention programs are programs that may differ from traditional educational programs and schools in scheduling, administrative structure, philosophy,

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<sup>170</sup> Section 1001.372, F.S.

<sup>171</sup> Section 50.0311, F.S.

<sup>172</sup> Section 50.0311(4), F.S.

<sup>173</sup> Section 200.065(2)(f)1., F.S.

<sup>174</sup> Section 1011.03(3), F.S.

<sup>175</sup> Florida Department of Education, *Recommendations to Reduce Regulation in Public Schools* (Nov. 1, 2023), available at [https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/5953/10483\\_MeetingPacket\\_5953\\_2.pdf](https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/5953/10483_MeetingPacket_5953_2.pdf), at 10.

curriculum, or setting and employ alternative teaching methodologies, curricula, learning activities, and diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students.<sup>176</sup>

A student is eligible to receive services through the dropout prevention and academic intervention program if the student:<sup>177</sup>

- Is academically unsuccessful.
- Has a pattern of excessive absenteeism or has been identified as a habitual truant.
- Has a history of disruptive behavior in school or has committed an offense that warrants out-of-school suspension or expulsion from school.

Prior to placement in a dropout prevention and academic intervention program or the provision of an academic service, the school principal or designee is required to notify the student's parent by certified mail.<sup>178</sup> The parent of the student must then sign an acknowledgment of the notice of placement or service and return the signed acknowledgment to the principal within 3 days after receipt of the notice.<sup>179</sup> The parents of a student assigned to such a dropout prevention and academic intervention program are entitled to an administrative review by an informal hearing officer or an administrative law judge for a formal hearing regarding any action by school personnel relating to such placement.<sup>180</sup>

The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board.<sup>181</sup> The principal or the principal's designee must make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension.<sup>182</sup> Each suspension and the reasons for the suspension must be reported in writing within 24 hours to the student's parent by United States mail.<sup>183</sup>

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.<sup>184</sup> School grades are also used to determine whether a school must select or implement a turnaround option<sup>185</sup> or whether a school is eligible for school recognition funds as appropriated by the Legislature.<sup>186</sup>

Parents of public school students have the right to an easy-to-read report card about the school's grade designation or, if applicable, the school's improvement rating, and the school's accountability report, including the school financial report.<sup>187</sup> The school financial report must be

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<sup>176</sup> Section 1003.53(1)(a), F.S.

<sup>177</sup> Section 1003.53(1)(c), F.S.

<sup>178</sup> Section 1003.53(5), F.S.

<sup>179</sup> Section 1003.53(5), F.S.

<sup>180</sup> Section 1003.53(5), F.S.

<sup>181</sup> Section 1006.09(1)(b), F.S.

<sup>182</sup> Section 1006.09(1)(b), F.S.

<sup>183</sup> Section 1006.09(1)(b), F.S.

<sup>184</sup> Section 1008.34(1), F.S.

<sup>185</sup> See s. 1008.33(4), F.S.

<sup>186</sup> See s. 1008.36, F.S.

<sup>187</sup> Section 1002.20(16), F.S.

provided to the parents and indicate the average amount of money expended per student in the school, which must also be included in the student handbook or a similar publication.<sup>188</sup>

Each middle school and high school student or the student's parent prior to registration is required to be provided a two-page summary of the Department of Economic Opportunity's (DEO's) economic security report of employment and earning outcomes and electronic access to the report.<sup>189</sup> The information concerning the Economic Security Report is available to all parents through the DOE's Xello web portal, Florida's official K-12 career planning and work-based learning coordination tool.<sup>190</sup>

### Student Health Self-Care

Florida law outlines specific requirements for students to carry certain controlled substances and medical materials on public school campuses. Specifically:

- Asthmatic students may carry a metered dose inhaler at school if both their parent and physician approve and provide written authorization to the school principal.<sup>191</sup>
- Students at risk of life-threatening allergic reactions are allowed to carry and self-administer epinephrine auto-injectors at school, during school-sponsored activities, and while commuting to and from these locations, if the school has received authorization from both the student's parent and physician.<sup>192</sup>
- Diabetic students may carry diabetic supplies and equipment, and manage their diabetes at school, during school-sponsored activities, and in transit, with written authorization from their parent and physician. This written authorization should specify the supplies and equipment the student is allowed to carry and describe the diabetes care activities the student can perform independently.<sup>193</sup>
- Students who have, or are at risk for, pancreatic insufficiency or cystic fibrosis can carry and self-administer prescribed pancreatic enzyme supplements. Authorization from the student's parent and prescribing practitioner is required, and the school must be informed.<sup>194</sup>

### *Effect of Proposed Changes*

#### Meeting Notices

The bill modifies s. 1001.372, F.S., to replace the requirement to notice district school board meetings in the newspaper or a radio station with the requirement to notice the meetings on the official district school board website or another publicly accessible website pursuant to statutory requirements.

The bill amends s. 200.065, F.S., to authorize a district school board to advertise its proposed budget, and levy millage, by advertising its intent to adopt a tentative budget on the district school board website, so long as the district school board complies with the requirements to

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<sup>188</sup> Section 1002.20(16), F.S.

<sup>189</sup> Section 1002.20(24), F.S.

<sup>190</sup> Florida Department of Education, *Recommendations to Reduce Regulation in Public Schools* (Nov. 1, 2023), available at [https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/5953/10483\\_MeetingPacket\\_5953\\_2.pdf](https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/5953/10483_MeetingPacket_5953_2.pdf), at 13.

<sup>191</sup> Section 1002.20(3)(h), F.S.

<sup>192</sup> Section 1002.20(3)(i), F.S.

<sup>193</sup> Section 1002.20(3)(j), F.S.

<sup>194</sup> Section 1002.20(3)(k), F.S.

ensure that the public has reasonable access to the website, and that the website would provide reasonable notice.

The bill makes a conforming modification in s. 1011.03, F.S., to specify that district school boards may advertise their budgets on the official district school board website instead of the newspaper. The bill also removes the requirement for the district school superintendent to transmit two copies of the adopted budget to the DOE.

#### District School Board Notifications

The bill modifies ss. 1003.53 and 1006.09, F.S., to remove the requirements that written notice to a parent about a student's placement in a dropout prevention program must be made by certified mail, or US mail in the case of a suspended student. The bill authorizes the principal or the principal's designee to provide written notice by United States mail or by electronic transmission if the school board adopts a policy to provide notice by electronic transmission if authorized by district school board policy as reasonably calculated to notify the parent. The bill includes conforming modifications in s. 1002.20, F.S.

The bill modifies s. 1002.20, F.S., to remove the requirement that the school financial report be included in the student handbook or similar publication. The bill requires the DOE to produce the easy-to-read report card about the school's grade designation or improvement rating, the school's accountability report, and the school financial report and make the reports for each school available on the DOE's website in a prominent location. The bill requires each district school board to provide a link to these reports for parent access. The bill also removes the requirement that each middle and high school student be provided with a two-page summary of the DEO economic security report, as this information is available by other means.

#### Student Health Self-Care

The bill modifies s. 1002.20, F.S., to remove the necessity for students to obtain authorization to use the prescribed substance or material at school. Instead of requiring both parental and physician approval to use the substances and materials at school, the bill allows students to carry necessary medical materials with:

- Parental approval, demonstrated through a written consent; and
- A valid prescription or receipt of a prescription issued by a pharmacist; or
- A physician's written authorization to use the substance or material at school.

This modification may reduce bureaucratic hurdles and ensure that students with medical conditions have easier and immediate access to their necessary medical materials while at school.

## Maximum Class Size Requirements

### *Present Situation*

Each year, on or before the October student membership survey, the following class size maximum number of students assigned to each teacher who is teaching a core-curricula course<sup>195</sup> in a public school classroom may not exceed:<sup>196</sup>

- 18 students in prekindergarten through grade 3;
- 22 students in grades 4 through 8; and
- 25 students in grades 9 through 12.

These class size maximums must be maintained after the October student membership survey. District school boards have the flexibility to determine whether it is warranted to assign a student enrolled after the October student membership survey to a class that will exceed the maximum size. If determined by the district school board to exceed the class size maximums after the October membership survey, the district school board is required to develop a plan to ensure that the school will be in full compliance with the maximum class size limits by the next October student membership survey. This plan is not required to be submitted to the Department of Education (DOE).<sup>197</sup>

The DOE must calculate compliance with class size maximums for traditional schools, charter schools, and district-operated schools of choice using data from the October student membership survey.<sup>198</sup> A memorandum is sent from the DOE to notify school districts and charter schools of their class size compliance and the details of the process and timeline for appeals and submission of compliance plans.<sup>199</sup> In 2023, the Legislature repealed the class size reduction penalty calculation for schools exceeding the class size limits.<sup>200</sup> The certified compliance plan school districts and charter schools found out of compliance are required to submit to the DOE are used to reduce their class size reduction penalty.<sup>201</sup>

### *Effect of Proposed Changes*

The bill modifies s. 1003.03, F.S., by removing the requirement that school districts exceeding the maximum class size limits must submit a certified compliance plan to the DOE. The bill maintains the requirement for school districts over the class size limits after the October student membership survey to develop a plan to be in full compliance with the class size limits by the following October student membership survey.

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<sup>195</sup> Section 1003.01(5), F.S.

<sup>196</sup> Section 1003.03(1), F.S.

<sup>197</sup> Section 1003.03(1)-(2)

<sup>198</sup> Section 1003.03 (2).

<sup>199</sup> Florida Department of Education, *Class Size Reduction Memorandums*, <https://www.fldoe.org/finance/budget/class-size/class-size-reduction-memorums.shtml> (last visited Nov. 7, 2023).

<sup>200</sup> Ch. 2023-104, s. 1, Laws of Fla.

<sup>201</sup> Florida Department of Education, *Memorandum, Reallocation and Restoration Calculations for 2022-2023 Class Size Operation Categorical Program* (June 26, 2023), available at <https://www.fldoe.org/core/fileparse.php/7603/urlt/2022-23-Class-Size-Operating-Categorical-Reallocation-and-Restoration-Calculations.pdf>.

## **Electronic Transactions**

### ***Present Situation***

Each district school board is required to adopt written policies prescribing the accounting and control procedures under which any funds under their control are allowed to be moved by electronic transaction for any purpose including direct deposit, wire transfer, investment, or payment.<sup>202</sup> All district school board electronic transactions must comply with electronic commerce state laws.<sup>203</sup> The Department of Management Services (DMS), in consultation with governmental agencies (i.e. district school boards), is authorized to make certain specifications for the use of electronic records and electronic signatures by governmental agencies.<sup>204</sup>

### ***Effect of Proposed Changes***

The bill modifies s.1010.11, F.S., by excluding district school boards from consulting with the DMS when establishing acceptance and usage standards for electronic records and electronic signatures. This modification clarifies that district school boards are authorized to establish their own acceptance and usage standards for electronic records and electronic signatures without necessitating consultation with the DMS.

The bill takes effect July 1, 2024.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

None.

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<sup>202</sup> Section 1010.11, F.S.

<sup>203</sup> Regulations for electronic commerce can be found in chapter. 668, Florida Statutes.

<sup>204</sup> Section 668.50(18)(b), F.S.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

There are no anticipated cost increases to the state or to school districts. However, schools districts may realize cost savings for efficiencies created in the bill, reduced reporting requirements, and for additional authority over the construction and renovation of facilities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 120.81, 163.31777, 163.3180, 200.065, 252.38, 316.173, 1001.02, 1001.23, 1001.372, 1001.42, 1001.49, 1002.20, 1002.31, 1002.33, 1002.333, 1003.03, 1003.53, 1003.621, 1003.631, 1006.09, 1006.1494, 1010.02, 1010.11, 1010.20, 1011.03, 1011.035, 1011.14, 1011.60, 1011.6202, 1011.68, 1011.69, 1011.71, 1011.73, 1012.555, 1013.15, 1013.16, 1013.19, 1013.20, 1013.28, 1013.31, 1013.35, 1013.356, 1013.385, 1013.41, 1013.45, 1013.48, 1013.62, 1013.64, and 1013.68.

This bill repeals the following sections of the Florida Statutes: 1006.025, 1013.21, and 1013.451

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.