

## House Bill No. 1867

An act relating to education funding; amending s. 24.121, F.S.; requiring school districts to establish certain policies and procedures relating to lottery fund enhancements; providing a tax credit cap with respect to contributions to nonprofit scholarship-funding organizations; amending s. 1000.21, F.S.; redesignating specified community colleges as colleges; amending s. 1002.32, F.S.; exempting lab schools from the payment of overhead or indirect costs; amending s. 1008.22, F.S.; authorizing outsourcing of statewide assessment program activities; allowing for contracts extending into two fiscal years; amending s. 1009.23, F.S.; requiring identical fees for certain community college students taking a specific course; amending s. 1011.57, F.S.; prohibiting out-of-state fee waivers by the Florida School for the Deaf and the Blind; amending s. 1011.62, F.S.; revising eligibility requirement for use of the small, isolated high school multiplier; revising provisions relating to adjustments of allocations; creating s. 1011.63, F.S.; prohibiting reporting for state funding for purposes of the Florida Education Finance Program of courses or programs fully funded externally; amending s. 1011.66, F.S.; setting forth the method and timing of distributing Florida Education Finance Program funds; amending s. 1011.67, F.S.; setting forth the method and timing of distributing funds for instructional materials; amending s. 1011.80, F.S.; prohibiting reporting for state funding of courses or programs fully funded externally; amending s. 1011.84, F.S.; providing reporting requirements with respect to inmate education provided by community colleges; directing that inmates not be included in FTE student enrollment for funding through the Community College Program Fund; prohibiting reporting for state funding of courses or programs fully funded externally; amending s. 1012.05, F.S.; authorizing the Department of Education to collect registration and booth fees for a job fair; authorizing certain uses for such funds; amending s. 1012.72, F.S.; authorizing the use of Dale Hickam Excellent Teaching Program funds for certain purposes; authorizing Florida State University to construct a classroom building; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (a) and (c) of subsection (5) of section 24.121, Florida Statutes, are amended to read:

24.121 Allocation of revenues and expenditure of funds for public education.—

(5)(a) Public educational programs and purposes funded by the Educational Enhancement Trust Fund may include, but are not limited to, endowment, scholarship, matching funds, direct grants, research and economic development related to education, salary enhancement, contracts with

independent institutions to conduct programs consistent with the state master plan for postsecondary education, or any other educational program or purpose deemed desirable by the Legislature. Prior to the expenditure of these funds, each school district shall establish policies and procedures that define enhancement and the types of expenditures consistent with that definition.

(c) A portion of such net revenues, as determined annually by the Legislature, shall be distributed to each school district and shall be made available to each public school in the district for enhancing school performance through development and implementation of a school improvement plan pursuant to s. 1001.42(16). A portion of these moneys, as determined annually in the General Appropriations Act, must be allocated to each school in an equal amount for each student enrolled. These moneys may be expended only on programs or projects selected by the school advisory council or by a parent advisory committee created pursuant to this paragraph. If a school does not have a school advisory council, the district advisory council must appoint a parent advisory committee composed of parents of students enrolled in that school, which committee is representative of the ethnic, racial, and economic community served by the school, to advise the school's principal on the programs or projects to be funded. Neither school district staff nor principals ~~A principal~~ may not override the recommendations of the school advisory council or the parent advisory committee. These moneys may not be used for capital improvements, nor may they be used for any project or program that has a duration of more than 1 year; however, a school advisory council or parent advisory committee may independently determine that a program or project formerly funded under this paragraph should receive funds in a subsequent year.

Section 2. Notwithstanding the provisions of s. 220.187, Florida Statutes, the total amount of tax credits and carryforward tax credits that may be granted for the 2004-2005 fiscal year under that section for contributions to nonprofit scholarship-funding organizations is \$50 million.

Section 3. Paragraphs (d), (f), (o), and (q) of subsection (3) of section 1000.21, Florida Statutes, are amended to read:

1000.21 Systemwide definitions.—As used in the Florida K-20 Education Code:

(3) “Community college,” except as otherwise specifically provided, includes the following institutions and any branch campuses, centers, or other affiliates of the institution:

- (d) Chipola ~~Junior~~ College.
- (f) Edison ~~Community~~ College.
- (o) Miami Dade ~~Miami-Dade Community~~ College.
- (q) Okaloosa-Walton ~~Community~~ College.

Section 4. Paragraph (c) of subsection (9) of section 1002.32, Florida Statutes, is amended to read:

1002.32 Developmental research (laboratory) schools.—

(9) FUNDING.—Funding for a lab school, including a charter lab school, shall be provided as follows:

(c) All operating funds provided under this section shall be deposited in a Lab School Trust Fund and shall be expended for the purposes of this section. The university assigned a lab school shall be the fiscal agent for these funds, and all rules of the university governing the budgeting and expenditure of state funds shall apply to these funds unless otherwise provided by law or rule of the State Board of Education. The university board of trustees shall be the public employer of lab school personnel for collective bargaining purposes for lab schools in operation prior to the 2002-2003 fiscal year. Employees of charter lab schools authorized prior to June 1, 2003, but not in operation prior to the 2002-2003 fiscal year shall be employees of the entity holding the charter and must comply with the provisions of s. 1002.33(12). Lab schools are not subject to the payment of overhead or indirect costs as described in s. 216.346.

Section 5. Subsection (3) of section 1008.22, Florida Statutes, is amended to read:

1008.22 Student assessment program for public schools.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, testing, and evaluation programs authorized and funded by the Legislature. Contracts may be initiated in one fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years. The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

(a) Submit to the State Board of Education a list that specifies student skills and competencies to which the goals for education specified in the state plan apply, including, but not limited to, reading, writing, science, and mathematics. The skills and competencies must include problem-solving and higher-order skills as appropriate and shall be known as the Sunshine State Standards as defined in s. 1000.21. The commissioner shall select such skills and competencies after receiving recommendations from educators, citizens, and members of the business community. The commissioner shall submit to the State Board of Education revisions to the list of student skills and competencies in order to maintain continuous progress toward improvements in student proficiency.

(b) Develop and implement a uniform system of indicators to describe the performance of public school students and the characteristics of the public

school districts and the public schools. These indicators must include, without limitation, information gathered by the comprehensive management information system created pursuant to s. 1008.385 and student achievement information obtained pursuant to this section.

(c) Develop and implement a student achievement testing program known as the Florida Comprehensive Assessment Test (FCAT) as part of the statewide assessment program, to be administered annually in grades 3 through 10 to measure reading, writing, science, and mathematics. Other content areas may be included as directed by the commissioner. The testing program must be designed so that:

1. The tests measure student skills and competencies adopted by the State Board of Education as specified in paragraph (a). The tests must measure and report student proficiency levels in reading, writing, mathematics, and science. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators and the public.

2. The testing program will include a combination of norm-referenced and criterion-referenced tests and include, to the extent determined by the commissioner, questions that require the student to produce information or perform tasks in such a way that the skills and competencies he or she uses can be measured.

3. Each testing program, whether at the elementary, middle, or high school level, includes a test of writing in which students are required to produce writings that are then scored by appropriate methods.

4. A score is designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. Except as provided in s. 1003.43(11)(b), students must earn a passing score on the grade 10 assessment test described in this paragraph or on an alternate assessment as described in subsection (9) in reading, writing, and mathematics to qualify for a regular high school diploma. The State Board of Education shall designate a passing score for each part of the grade 10 assessment test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students. All students who took the grade 10 FCAT during the 2000-2001 school year shall be required to earn the passing scores in reading and mathematics established by the State Board of Education for the March 2001 test administration. Such students who did not earn the established passing scores and must repeat the grade 10 FCAT are required to earn the passing scores established for the March 2001 test administration. All students who take the grade 10 FCAT for the first time in March 2002 and thereafter shall be required to earn the passing scores in reading and mathematics established by the State Board of Education for the March 2002 test administration. The

State Board of Education shall adopt rules which specify the passing scores for the grade 10 FCAT. Any such rules, which have the effect of raising the required passing scores, shall only apply to students taking the grade 10 FCAT after such rules are adopted by the State Board of Education.

6. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. If a student does not participate in the statewide assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. If modifications are made in the student's instruction to provide accommodations that would not be permitted on the statewide assessment tests, the district must notify the student's parent of the implications of such instructional modifications. A parent must provide signed consent for a student to receive instructional modifications that would not be permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such accommodations. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of test accommodations and modifications of procedures as necessary for students in exceptional education programs and for students who have limited English proficiency. Accommodations that negate the validity of a statewide assessment are not allowable.

7. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

8. District school boards must provide instruction to prepare students to demonstrate proficiency in the skills and competencies necessary for successful grade-to-grade progression and high school graduation. If a student is provided with accommodations or modifications that are not allowable in the statewide assessment program, as described in the test manuals, the district must inform the parent in writing and must provide the parent with information regarding the impact on the student's ability to meet expected proficiency levels in reading, writing, and math. The commissioner shall conduct studies as necessary to verify that the required skills and competencies are part of the district instructional programs.

9. The Department of Education must develop, or select, and implement a common battery of assessment tools that will be used in all juvenile justice programs in the state. These tools must accurately measure the skills and competencies established in the Florida Sunshine State Standards.

The commissioner may design and implement student testing programs, for any grade level and subject area, necessary to effectively monitor educational achievement in the state.

(d) Conduct ongoing research to develop improved methods of assessing student performance, including, without limitation, the use of technology to administer tests, score, or report the results of, the use of electronic transfer of data, the development of work-product assessments, and the development of process assessments.

(e) Conduct ongoing research and analysis of student achievement data, including, without limitation, monitoring trends in student achievement, identifying school programs that are successful, and analyzing correlates of school achievement.

(f) Provide technical assistance to school districts in the implementation of state and district testing programs and the use of the data produced pursuant to such programs.

Section 6. Subsection (2) of section 1009.23, Florida Statutes, is amended to read:

1009.23 Community college student fees.—

(2) All students shall be charged fees except students who are exempt from fees or students whose fees are waived. Identical fees shall be required for all community college resident students within a college who take a specific course, regardless of the program in which they are enrolled.

Section 7. Subsection (5) is added to section 1011.57, Florida Statutes, to read:

1011.57 Florida School for the Deaf and the Blind; board of trustees; management flexibility.—

(5) The board of trustees and administration of the Florida School for the Deaf and the Blind shall not authorize fee waivers for out-of-state students.

Section 8. Paragraph (h) of subsection (1) and paragraph (b) of subsection (9) of section 1011.62, Florida Statutes, are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(h) Small, isolated high schools.—Districts which levy the maximum nonvoted discretionary millage, exclusive of millage for capital outlay purposes levied pursuant to s. 1011.71(2), may calculate full-time equivalent students for small, isolated high schools by multiplying the number of unweighted full-time equivalent students times 2.75; provided the school attained a state accountability performance grade of “C” or better for the previous school year percentage of students at such school passing both parts of the high school competency test, as defined by law and rule, has been equal to or higher than such percentage for the state or district, whichever is greater. For the purpose of this section, the term “small, isolated high school” means any high school which is located no less than 28 miles by the shortest route from another high school; which has been serving students

primarily in basic studies provided by sub-subparagraphs (c)1.b. and c. and may include subparagraph (c)4.; and which has a membership of no more than 100 students, but no fewer than 28 students, in grades 9 through 12.

(9) TOTAL ALLOCATION OF STATE FUNDS TO EACH DISTRICT FOR CURRENT OPERATION.—The total annual state allocation to each district for current operation for the FEFP shall be distributed periodically in the manner prescribed in the General Appropriations Act.

(b) The amount thus obtained shall be the net annual allocation to each school district. However, if it is determined that any school district received an underallocation or overallocation for any prior year because of an arithmetical error, assessment roll change, full-time equivalent student membership error, or any allocation error revealed in an audit report, the allocation to that district shall be appropriately adjusted. Beginning with audits for the 2001-2002 fiscal year, if the adjustment is the result of an audit finding in which group 2 FTE are reclassified to the basic program and the district weighted FTE are over the weighted enrollment ceiling for group 2 programs, the adjustment shall not result in a gain of state funds to the district. If the Department of Education audit adjustment recommendation is based upon controverted findings of fact, the Commissioner of Education is authorized to establish the amount of the adjustment based on the best interests of the state.

Section 9. Section 1011.63, Florida Statutes, is created to read:

1011.63 Reporting for state funding; prohibition.—When a public educational institution has been fully funded by an external agency for direct instructional costs of any course or program, the FTE generated shall not be reported for state funding for purposes of the Florida Education Finance Program.

Section 10. Section 1011.66, Florida Statutes, is amended to read:

1011.66 Distribution of FEFP funds in first quarter.—The distribution of FEFP funds shall be made in payments on or about the 10th and 26th of each month. Upon the request of any school district whose net state FEFP funding is less than 60 percent of its gross state and local FEFP funding, the Department of Education shall distribute to that school district in the first quarter of the fiscal year an amount from the funds appropriated for the FEFP in the General Appropriations Act up to a maximum of 15 percent of that school district's gross state and local FEFP funding or that school district's net state FEFP funding, whichever is less.

Section 11. Section 1011.67, Florida Statutes, is amended to read:

1011.67 Funds for instructional materials.—The department is authorized to allocate and distribute to each district an amount as prescribed annually by the Legislature for instructional materials for student membership in basic and special programs in grades K-12, which will provide for growth and maintenance needs. For purposes of this section, unweighted full-time equivalent students enrolled in the lab schools in state universities are to be included as school district students and reported as such to the

department. These funds shall be distributed to school districts as follows: 50 percent on or about July 10; 35 percent on or about October 10; 10 percent on or about January 10; and 5 percent on or about June 10. The annual allocation shall be determined as follows:

(1) The growth allocation for each school district shall be calculated as follows:

(a) Subtract from that district's projected full-time equivalent membership of students in basic and special programs in grades K-12 used in determining the initial allocation of the Florida Education Finance Program, the prior year's full-time equivalent membership of students in basic and special programs in grades K-12 for that district.

(b) Multiply any such increase in full-time equivalent student membership by the allocation for a set of instructional materials, as determined by the department, or as provided for in the General Appropriations Act.

(c) The amount thus determined shall be that district's initial allocation for growth for the school year. However, the department shall recompute and adjust the initial allocation based on actual full-time equivalent student membership data for that year.

(2) The maintenance of the instructional materials allocation for each school district shall be calculated by multiplying each district's prior year full-time equivalent membership of students in basic and special programs in grades K-12 by the allocation for maintenance of a set of instructional materials as provided for in the General Appropriations Act. The amount thus determined shall be that district's initial allocation for maintenance for the school year; however, the department shall recompute and adjust the initial allocation based on such actual full-time equivalent student membership data for that year.

(3) In the event the funds appropriated are not sufficient for the purpose of implementing this section in full, the department shall prorate the funds available for instructional materials after first funding in full each district's growth allocation.

Section 12. Subsection (5) of section 1011.80, Florida Statutes, is amended to read:

1011.80 Funds for operation of adult technical education programs.—

(5) State funding and student fees for workforce development instruction funded through the Workforce Development Education Fund shall be established as follows:

(a) For a continuing workforce education course, state funding shall equal 50 percent of the cost of instruction, with student fees, business support, quick-response training funds, or other means making up the remaining 50 percent.

(b) For all other workforce development education funded through the Workforce Development Education Fund, state funding shall equal 75 per-



cent of the average cost of instruction with the remaining 25 percent made up from student fees. Fees for courses within a program shall not vary according to the cost of the individual program, but instead shall be based on a uniform fee calculated and set at the state level, as adopted by the State Board of Education, unless otherwise specified in the General Appropriations Act.

(c) For fee-exempt students pursuant to s. 1009.25, unless otherwise provided for in law, state funding shall equal 100 percent of the average cost of instruction.

(d) For a public educational institution that has been fully funded by an external agency for direct instructional costs of any course or program, the FTE generated shall not be reported for state funding.

Section 13. Paragraph (e) of subsection (1) of section 1011.84, Florida Statutes, is redesignated as paragraph (g) and new paragraphs (e) and (f) are added to said subsection to read:

1011.84 Procedure for determining state financial support and annual apportionment of state funds to each community college district.—The procedure for determining state financial support and the annual apportionment to each community college district authorized to operate a community college under the provisions of s. 1001.61 shall be as follows:

(1) DETERMINING THE AMOUNT TO BE INCLUDED IN THE COMMUNITY COLLEGE PROGRAM FUND FOR THE CURRENT OPERATING PROGRAM.—

(e) All state inmate education provided by community colleges shall be reported by program, FTE expenditure, and revenue source. These enrollments, expenditures, and revenues shall be reported and projected separately. Instruction of state inmates shall not be included in the full-time equivalent student enrollment for funding through the Community College Program Fund.

(f) When a public educational institution has been fully funded by an external agency for direct instructional costs of any course or program, the FTE generated shall not be reported for state funding.

Section 14. Subsection (3) of section 1012.05, Florida Statutes, is amended to read:

1012.05 Teacher recruitment and retention.—

(3) The Department of Education, in cooperation with district personnel offices, shall sponsor a job fair in a central part of the state to match in-state educators and potential educators and out-of-state educators and potential educators with teaching opportunities in this state. The Department of Education is authorized to collect a job fair registration fee not to exceed \$20 per person and a booth fee not to exceed \$250 per school district or other interested participating organization. The revenue from the fees shall be used to promote and operate the job fair. Funds may be used to purchase promotional items such as mementos, awards, and plaques.

Section 15. Paragraph (e) is added to subsection (2) of section 1012.72, Florida Statutes, to read:

1012.72 Dale Hickam Excellent Teaching Program.—

(2) The Dale Hickam Excellent Teaching Program is created to provide categorical funding for monetary incentives and bonuses for teaching excellence. The Department of Education shall distribute to each school district or to the NBPTS an amount as prescribed annually by the Legislature for the Dale Hickam Excellent Teaching Program. For purposes of this section, the Florida School for the Deaf and the Blind shall be considered a school district. Unless otherwise provided in the General Appropriations Act, each distribution shall be the sum of the amounts earned for the following incentives and bonuses:

(e) The employer's share of social security and Medicare taxes and Florida Retirement System contributions for those teachers who qualify for NBPTS certification and receive bonus amounts.

A teacher for whom the state pays the certification fee and who does not complete the certification program or does not teach in a public school of this state for at least 1 year after completing the certification program must repay the amount of the certification fee to the state. However, a teacher who completes the certification program but fails to be awarded NBPTS certification is not required to repay the amount of the certification fee if the teacher meets the 1-year teaching requirement. Repayment is not required of a teacher who does not complete the certification program or fails to fulfill the teaching requirement because of the teacher's death or disability or because of other extenuating circumstances as determined by the State Board of Education.

Section 16. Notwithstanding the provisions of s. 216.292(5)(d), Florida Statutes, and in order to implement Specific Appropriation 156 and section 9 of the 2004-2005 General Appropriations Act, Florida State University is authorized to construct a classroom building from the funding received pursuant to the 2004-2005 General Appropriations Act.

Section 17. This act shall take effect July 1, 2004.

Became a law without the Governor's approval May 28, 2004.

Filed in Office Secretary of State May 28, 2004.