

Committee Substitute for Senate Bill No. 388

An act relating to education funding; amending s. 212.055, F.S., relating to the school capital outlay surtax; providing that a required freeze on certain taxes does not apply to taxes authorized in the General Appropriations Act; amending s. 411.01, F.S.; authorizing certain specified counties or school districts to operate early learning coalitions, notwithstanding other provisions of law; amending s. 1001.451, F.S.; authorizing developmental research schools and the Florida School for the Deaf and the Blind to enter into agreements to form a regional consortium service organization; revising the amount of the award of an incentive grant to a regional consortium service organization; amending s. 1002.71, F.S.; providing for the initial allocation of student funding for the Voluntary Prekindergarten Education Program to be based on estimated student enrollment; amending ss. 1009.50, 1009.51, and 1009.52, F.S.; authorizing the deposit of funds appropriated by the Legislature for student financial assistance into the State Student Financial Assistance Trust Fund; amending s. 1009.89, F.S.; eliminating a requirement that funds appropriated for the William L. Boyd, IV, Florida Resident Access Grant Program be deposited into such trust fund; amending s. 1010.72, F.S.; authorizing funds to be credited to the Dale Hickam Excellent Teaching Program Trust Fund; amending s. 1011.62, F.S., relating to funds for the operation of schools; revising provisions relating to the manner in which each school district's allocation of sparsity supplement funds shall be adjusted; amending s. 1011.94, F.S.; authorizing funds to be deposited in the Trust Fund for University Major Gifts; amending s. 1013.79, F.S.; authorizing the appropriation of funds to be transferred to the Alec P. Courtelis Capital Facilities Matching Trust Fund; repealing ss. 1008.31(2) and 1012.231, F.S., relating to performance-based funding and the BEST Florida Teaching salary career ladder program; providing an effective date.

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

Section 1. Subsection (6) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(6) SCHOOL CAPITAL OUTLAY SURTAX.—

(a) The school board in each county may levy, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(b) The resolution shall include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax. The statement shall conform to the requirements of s. 101.161 and shall be placed on the ballot by the governing body of the county. The following question shall be placed on the ballot:

....FOR THECENTS TAX
....AGAINST THECENTS TAX

(c) The resolution providing for the imposition of the surtax shall set forth a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto. Additionally, the plan shall include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects authorized by this subsection, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses.

(d) Any school board imposing the surtax shall implement a freeze on noncapital local school property taxes, at the millage rate imposed in the year prior to the implementation of the surtax, for a period of at least 3 years from the date of imposition of the surtax. This provision shall not apply to existing debt service or ~~required state taxes~~ authorized in the General Appropriations Act.

(e) Surtax revenues collected by the Department of Revenue pursuant to this subsection shall be distributed to the school board imposing the surtax in accordance with law.

Section 2. Paragraph (a) of subsection (5) of section 411.01, Florida Statutes, as amended by section 2 of chapter 2004-484, Laws of Florida, is amended to read:

411.01 School readiness programs; early learning coalitions.—

(5) CREATION OF EARLY LEARNING COALITIONS.—

(a) Early learning coalitions.—

1. The Agency for Workforce Innovation shall establish the minimum number of children to be served by each early learning coalition through the coalition's school readiness program. The Agency for Workforce Innovation

may only approve school readiness plans in accordance with this minimum number. The minimum number must be uniform for every early learning coalition and must:

- a. Permit 30 or fewer coalitions to be established; and
- b. Require each coalition to serve at least 2,000 children based upon the average number of all children served per month through the coalition's school readiness program during the previous 12 months.

The Agency for Workforce Innovation shall adopt procedures for merging early learning coalitions, including procedures for the consolidation of merging coalitions, and for the early termination of the terms of coalition members which are necessary to accomplish the mergers. Each early learning coalition must comply with the merger procedures and shall be organized in accordance with this subparagraph by April 1, 2005. By June 30, 2005, each coalition must complete the transfer of powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds to the successor coalition, if applicable.

2. If an early learning coalition would serve fewer children than the minimum number established under subparagraph 1., the coalition must merge with another county to form a multicounty coalition. However, the Agency for Workforce Innovation may authorize an early learning coalition to serve fewer children than the minimum number established under subparagraph 1., if:

- a. The coalition demonstrates to the Agency for Workforce Innovation that merging with another county or multicounty region contiguous to the coalition would cause an extreme hardship on the coalition;
- b. The Agency for Workforce Innovation has determined during the most recent annual review of the coalition's school readiness plan, or through monitoring and performance evaluations conducted under paragraph (4)(1), that the coalition has substantially implemented its plan and substantially met the performance standards and outcome measures adopted by the agency; and
- c. The coalition demonstrates to the Agency for Workforce Innovation the coalition's ability to effectively and efficiently implement the Voluntary Pre-kindergarten Education Program.

If an early learning coalition fails or refuses to merge as required by this subparagraph, the Agency for Workforce Innovation may dissolve the coalition and temporarily contract with a qualified entity to continue school readiness and prekindergarten services in the coalition's county or multicounty region until the coalition is reestablished through resubmission of a school readiness plan and approval by the agency.

3. Notwithstanding the provisions of subparagraphs 1. and 2., the early learning coalitions in Sarasota, Osceola, and Santa Rosa Counties which were in operation on January 1, 2005, are established and authorized to

continue operation as independent coalitions, and shall not be counted within the limit of 30 coalitions established in subparagraph 1.

~~4.3.~~ Each early learning coalition shall be composed of at least 18 members but not more than 35 members. The Agency for Workforce Innovation shall adopt standards establishing within this range the minimum and maximum number of members that may be appointed to an early learning coalition. These standards must include variations for a coalition serving a multicounty region. Each early learning coalition must comply with these standards.

~~5.4.~~ The Governor shall appoint the chair and two other members of each early learning coalition, who must each meet the same qualifications as private-sector business members appointed by the coalition under subparagraph ~~7.~~ 6.

~~6.5.~~ Each early learning coalition must include the following members:

a. A Department of Children and Family Services district administrator or his or her designee who is authorized to make decisions on behalf of the department.

b. A district superintendent of schools or his or her designee who is authorized to make decisions on behalf of the district, who shall be a nonvoting member.

c. A regional workforce board executive director or his or her designee.

d. A county health department director or his or her designee.

e. A children's services council or juvenile welfare board chair or executive director, if applicable, who shall be a nonvoting member if the council or board is the fiscal agent of the coalition or if the council or board contracts with and receives funds from the coalition.

f. An agency head of a local licensing agency as defined in s. 402.302, where applicable.

g. A president of a community college or his or her designee.

h. One member appointed by a board of county commissioners.

i. A central agency administrator, where applicable, who shall be a nonvoting member.

j. A Head Start director, who shall be a nonvoting member.

k. A representative of private child care providers, including family day care homes, who shall be a nonvoting member.

l. A representative of faith-based child care providers, who shall be a nonvoting member.

m. A representative of programs for children with disabilities under the federal Individuals with Disabilities Education Act, who shall be a nonvoting member.

7.6. Including the members appointed by the Governor under subparagraph 5. 4., more than one-third of the members of each early learning coalition must be private-sector business members who do not have, and none of whose relatives as defined in s. 112.3143 has, a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program created under part V of chapter 1002 or the coalition's school readiness program. To meet this requirement an early learning coalition must appoint additional members from a list of nominees submitted to the coalition by a chamber of commerce or economic development council within the geographic region served by the coalition. The Agency for Workforce Innovation shall establish criteria for appointing private-sector business members. These criteria must include standards for determining whether a member or relative has a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program or the coalition's school readiness program.

8.7. A majority of the voting membership of an early learning coalition constitutes a quorum required to conduct the business of the coalition.

9.8. A voting member of an early learning coalition may not appoint a designee to act in his or her place, except as otherwise provided in this paragraph. A voting member may send a representative to coalition meetings, but that representative does not have voting privileges. When a district administrator for the Department of Children and Family Services appoints a designee to an early learning coalition, the designee is the voting member of the coalition, and any individual attending in the designee's place, including the district administrator, does not have voting privileges.

10.9. Each member of an early learning coalition is subject to ss. 112.313, 112.3135, and 112.3143. For purposes of s. 112.3143(3)(a), each voting member is a local public officer who must abstain from voting when a voting conflict exists.

11.10. For purposes of tort liability, each member or employee of an early learning coalition shall be governed by s. 768.28.

12.11. An early learning coalition serving a multicounty region must include representation from each county.

13.12. Each early learning coalition shall establish terms for all appointed members of the coalition. The terms must be staggered and must be a uniform length that does not exceed 4 years per term. Appointed members may serve a maximum of two consecutive terms. When a vacancy occurs in an appointed position, the coalition must advertise the vacancy.

Section 3. Subsection (1) and paragraph (a) of subsection (2) of section 1001.451, Florida Statutes, are amended to read:

1001.451 Regional consortium service organizations.—In order to provide a full range of programs to larger numbers of students, minimize duplication of services, and encourage the development of new programs and services:

(1) School districts with 20,000 or fewer unweighted full-time equivalent students, developmental research (laboratory) schools established pursuant to s. 1002.32, and the Florida School for the Deaf and the Blind may enter into cooperative agreements to form a regional consortium service organization. Each regional consortium service organization shall provide, at a minimum, three of the following services: exceptional student education; teacher education centers; environmental education; federal grant procurement and coordination; data processing; health insurance; risk management insurance; staff development; purchasing; or planning and accountability.

(2)(a) Each regional consortium service organization that consists of four or more school districts is eligible to receive, through the Department of Education, an incentive grant of \$50,000 ~~\$25,000~~ per school district and eligible member to be used for the delivery of services within the participating school districts.

Section 4. Subsection (3) of section 1002.71, Florida Statutes, as created by section 1 of chapter 2004-484, Laws of Florida, is amended to read:

1002.71 Funding; financial and attendance reporting.—

(3)(a) The base student allocation per full-time equivalent student in the Voluntary Prekindergarten Education Program shall be provided in the General Appropriations Act and shall be equal for each student, regardless of whether the student is enrolled in a school-year prekindergarten program delivered by a private prekindergarten provider, a summer prekindergarten program delivered by a public school or private prekindergarten provider, or a school-year prekindergarten program delivered by a public school.

(b) Each county's allocation per full-time equivalent student in the Voluntary Prekindergarten Education Program shall be calculated annually by multiplying the base student allocation provided in the General Appropriations Act by the county's district cost differential provided in s. 1011.62(2). Each private prekindergarten provider and public school shall be paid in accordance with the county's allocation per full-time equivalent student.

(c) The initial allocation shall be based on estimated student enrollment in each coalition service area. The Agency for Workforce Innovation shall reallocate funds among the coalitions based on actual full-time equivalent student enrollment in each coalition service area.

Section 5. Subsection (5) of section 1009.50, Florida Statutes, is amended to read:

1009.50 Florida Public Student Assistance Grant Program; eligibility for grants.—

(5) Funds appropriated by the Legislature for state student assistance grants may ~~shall~~ be deposited in the State Student Financial Assistance Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year which ~~that~~ has been allocated to the Florida Public Student Assistance Grant Program shall remain therein and shall be available for carrying out the purposes of this section.

Section 6. Subsection (5) of section 1009.51, Florida Statutes, is amended to read:

1009.51 Florida Private Student Assistance Grant Program; eligibility for grants.—

(5) Funds appropriated by the Legislature for Florida private student assistance grants may ~~shall~~ be deposited in the State Student Financial Assistance Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year which ~~that~~ has been allocated to the Florida Private Student Assistance Grant Program shall remain therein and shall be available for carrying out the purposes of this section and as otherwise provided by law.

Section 7. Subsection (6) of section 1009.52, Florida Statutes, is amended to read:

1009.52 Florida Postsecondary Student Assistance Grant Program; eligibility for grants.—

(6) Funds appropriated by the Legislature for Florida postsecondary student assistance grants may ~~shall~~ be deposited in the State Student Financial Assistance Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year which ~~that~~ has been allocated to the Florida Postsecondary Student Assistance Grant Program shall remain therein and shall be available for carrying out the purposes of this section and as otherwise provided by law.

Section 8. Subsection (6) of section 1009.89, Florida Statutes, is amended to read:

1009.89 The William L. Boyd, IV, Florida resident access grants.—

~~(6) Funds appropriated by the Legislature for the William L. Boyd, IV, Florida Resident Access Grant Program shall be deposited in the State Student Financial Assistance Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year which has been allocated to the William L. Boyd, IV, Florida Resident Access Grant Program shall remain therein and shall be available for carrying out the purposes of this section. If the number of eligible students exceeds the total authorized in the General Appropriations Act, an institution may use its own resources to assure that each eligible student receives the full benefit of the grant amount authorized.~~

Section 9. Section 1010.72, Florida Statutes, is amended to read:

1010.72 Dale Hickam Excellent Teaching Program Trust Fund.—The Dale Hickam Excellent Teaching Program Trust Fund is created to be administered by the Department of Education. Funds may ~~must~~ be credited to the trust fund as provided in chapter 98-309, Laws of Florida, to be used for the purposes set forth therein.

Section 10. Paragraph (c) of subsection (6) of section 1011.62, Florida Statutes, is 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:

(6) DETERMINATION OF SPARSITY SUPPLEMENT.—

(c) Each district's allocation of sparsity supplement funds shall be adjusted in the following manner:

1. A maximum discretionary levy per FTE value for each district shall be calculated by dividing the value of each district's maximum discretionary levy by its FTE student count.;

2. A state average discretionary levy value per FTE shall be calculated by dividing the total maximum discretionary levy value for all districts by the state total FTE student count.;

3. A total potential funds per FTE for each district shall be calculated by dividing the total potential funds, not including Florida School Recognition Program funds and the minimum guarantee, for each district by its FTE student count.

4. A state average total potential funds per FTE shall be calculated by dividing the total potential funds, not including Florida School Recognition Program funds and the minimum guarantee, for all districts by the state total FTE student count.

5.3. For districts that have a levy value per FTE as calculated in subparagraph 1. higher than the state average calculated in subparagraph 2., a sparsity wealth adjustment shall be calculated as the product of the difference between the state average levy value per FTE calculated in subparagraph 2. and the district's levy value per FTE calculated in subparagraph 1. and the district's FTE student count and -1. However, no district shall have a sparsity wealth adjustment that, when applied to the total potential funds calculated in subparagraph 3., would cause the district's total potential funds per FTE to be less than the state average calculated in subparagraph 4.;

6.4. Each district's sparsity supplement allocation shall be calculated by adding the amount calculated as specified in paragraphs (a) and (b) and the wealth adjustment amount calculated in this paragraph.

Section 11. Subsection (1) of section 1011.94, Florida Statutes, is amended to read:

1011.94 Trust Fund for University Major Gifts.—

(1) There is established a Trust Fund for University Major Gifts. The purpose of the trust fund is to enable each university and New College to provide donors with an incentive in the form of matching grants for donations for the establishment of permanent endowments and sales tax exemption matching funds received pursuant to s. 212.08(5)(j), which must be

invested, with the proceeds of the investment used to support libraries and instruction and research programs, as defined by the State Board of Education. All funds appropriated for the challenge grants, new donors, major gifts, sales tax exemption matching funds pursuant to s. 212.08(5)(j), or eminent scholars program ~~may must~~ be deposited into the trust fund and invested pursuant to s. 17.61 until the State Board of Education allocates the funds to universities to match private donations. Notwithstanding s. 216.301 and pursuant to s. 216.351, any undisbursed balance remaining in the trust fund and interest income accruing to the portion of the trust fund which is not matched and distributed to universities must remain in the trust fund and be used to increase the total funds available for challenge grants. Funds deposited in the trust fund for the sales tax exemption matching program authorized in s. 212.08(5)(j), and interest earnings thereon, shall be maintained in a separate account within the Trust Fund for University Major Gifts, and may be used only to match qualified sales tax exemptions that a certified business designates for use by state universities and community colleges to support research and development projects requested by the certified business. The State Board of Education may authorize any university to encumber the state matching portion of a challenge grant from funds available under s. 1011.45.

Section 12. Subsections (1) and (3) of section 1013.79, Florida Statutes, are amended to read:

1013.79 University Facility Enhancement Challenge Grant Program.—

(1) The Legislature recognizes that the universities do not have sufficient physical facilities to meet the current demands of their instructional and research programs. It further recognizes that, to strengthen and enhance universities, it is necessary to provide facilities in addition to those currently available from existing revenue sources. It further recognizes that there are sources of private support that, if matched with state support, can assist in constructing much-needed facilities and strengthen the commitment of citizens and organizations in promoting excellence throughout the state universities. Therefore, it is the intent of the Legislature to establish a trust fund to provide the opportunity for each university to receive support for ~~and match~~ challenge grants for instructional and research-related capital facilities within the university.

(3) There is established the Alec P. Courtelis Capital Facilities Matching Trust Fund for the purpose of providing matching funds from private contributions for the development of high priority instructional and research-related capital facilities, including common areas connecting such facilities, within a university. The Legislature may shall appropriate funds to be transferred to the trust fund. The Public Education Capital Outlay and Debt Service Trust Fund, Capital Improvement Trust Fund, Division of Sponsored Research Trust Fund, and Contracts and Grants Trust Fund shall not be used as the source of the state match for private contributions. All appropriated funds deposited into the trust fund shall be invested pursuant to the provisions of s. 17.61. Interest income accruing to that portion of the trust fund shall increase the total funds available for the challenge grant program. Interest income accruing from the private donations shall be returned

to the participating foundation upon completion of the project. The State Board of Education shall administer the trust fund and all related construction activities.

Section 13. Subsection (2) of section 1008.31 and section 1012.231, Florida Statutes, are repealed.

Section 14. This act shall take effect July 1, 2005.

Approved by the Governor May 26, 2005.

Filed in Office Secretary of State May 26, 2005.