

## Committee Substitute for Senate Bill No. 6-C

An act relating to adjustments to education appropriations; amending s. 1003.03, F.S.; authorizing the Commissioner of Education to recommend a reduction in the amount transferred to a school district's fixed capital outlay fund; amending s. 1011.62, F.S.; providing for a district school board to transfer certain categorical funds for academic classroom instruction; requiring the Department of Education to report to the Legislature the amounts transferred and the activities for which the funds were expended; requiring a district school board to report to the department if the board transfers funds from its allocation for research-based reading instruction; requiring that the Legislature determine the percent of decline in funding for unweighted full-time equivalent students if funds are reduced during a fiscal year; providing for future expiration of certain provisions; amending s. 1011.71, F.S.; revising requirements for a school district with respect to expending revenue generated by the district school tax millage; providing for future expiration of such provisions; amending s. 1012.225, F.S.; providing for the release of funds appropriated for the Merit Award Program for Instructional Personnel and School-Based Administrators; revising the date for school districts to provide documentation to the department and refund undisbursed appropriations; amending s. 1012.72, F.S., relating to the Dale Hickam Excellent Teaching Program; providing for funds for mentoring and related services to be prorated among eligible recipients if funds are insufficient in any fiscal year to pay such bonuses in full; incorporating by reference certain calculations used by the Legislature for the 2007-2008 fiscal year; providing legislative intent with respect to reductions in expenditures made by district school boards; providing an effective date.

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

Section 1. Paragraph (a) of subsection (4) of section 1003.03, Florida Statutes, is amended to read:

1003.03 Maximum class size.—

(4) ACCOUNTABILITY.—

(a)1. Beginning in the 2003-2004 fiscal year, if the department determines for any year that a school district has not reduced average class size as required in subsection (2) at the time of the third FEFP calculation, the department shall calculate an amount from the class size reduction operating categorical which is proportionate to the amount of class size reduction not accomplished. Upon verification of the department's calculation by the Florida Education Finance Program Appropriation Allocation Conference and not later than March 1 of each year, the Executive Office of the Governor shall transfer undistributed funds equivalent to the calculated amount from the district's class size reduction operating categorical to an approved fixed

capital outlay appropriation for class size reduction in the affected district pursuant to s. 216.292(2)(d). The amount of funds transferred shall be the lesser of the amount verified by the Florida Education Finance Program Appropriation Allocation Conference or the undistributed balance of the district's class size reduction operating categorical.

2. In lieu of the transfer required by subparagraph 1., the Commissioner of Education may recommend a budget amendment, subject to approval by the Legislative Budget Commission, to transfer an alternative amount of funds from the district's class size reduction operating categorical to its approved fixed capital outlay account for class size reduction if the commissioner finds that the State Board of Education has reviewed evidence indicating that a district has been unable to meet class size reduction requirements despite appropriate effort to do so. The commissioner's budget amendment must be submitted to the Legislative Budget Commission by February 15 of each year.

3. For the 2007-2008 fiscal year and thereafter, if in any fiscal year funds from a district's class size operating categorical are required to be transferred to its fixed capital outlay fund and the district's class size operating categorical allocation in the General Appropriations Act for that fiscal year has been reduced by a subsequent appropriation, the Commissioner of Education may recommend a 10-percent reduction in the amount of the transfer.

Section 2. Subsections (6) and (8) 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:

(6) CATEGORICAL FUNDS.—

(a) In addition to the basic amount for current operations for the FEFP as determined in subsection (1), the Legislature may appropriate categorical funding for specified programs, activities, or purposes.

(b) If a district school board finds and declares in a resolution adopted at a regular meeting of the school board that the funds received for any of the following categorical appropriations are urgently needed to maintain school board specified academic classroom instruction, the school board may consider and approve an amendment to the school district operating budget transferring the identified amount of the categorical funds to the appropriate account for expenditure:

1. Funds for student transportation.
2. Funds for safe schools.
3. Funds for supplemental academic instruction.

4. Funds for research-based reading instruction.

5. Funds for instructional materials if all instructional material purchases have been completed for that fiscal year, but no sooner than March 1, 2008.

(c) Each district school board shall include in its annual financial report to the Department of Education the amount of funds the school board transferred from each of the categorical funds identified in this subsection and the specific academic classroom instruction for which the transferred funds were expended. The Department of Education shall provide instructions and specify the format to be used in submitting this required information as a part of the district annual financial report. The department shall provide to the Legislature a report that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were expended.

(d) If a district school board transfers funds from its research-based reading instruction allocation, the board must also submit to the Department of Education an amendment describing the changes that the district is making to its reading plan approved pursuant to paragraph (9)(d).

(8) DECLINE IN FULL-TIME EQUIVALENT STUDENTS.—In those districts where there is a decline between prior year and current year unweighted FTE students, 50 percent of the decline in the unweighted FTE students shall be multiplied by the prior year calculated FEFP per unweighted FTE student and shall be added to the allocation for that district. For this purpose, the calculated FEFP shall be computed by multiplying the weighted FTE students by the base student allocation and then by the district cost differential. If a district transfers a program to another institution not under the authority of the district's school board, including a charter technical career center, the decline is to be multiplied by a factor of 0.15. However, if the funds provided for the Florida Education Finance Program in the General Appropriations Act for any fiscal year are reduced by a subsequent appropriation for that fiscal year, the percent of the decline in the unweighted FTE students to be funded shall be determined by the Legislature and designated in the subsequent appropriation.

Section 3. The amendments to s. 1011.62(6), Florida Statutes, made by this act shall expire July 1, 2008, and the text of that section shall revert to that in existence on the day before the effective date of this act, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to this section.

Section 4. Subsection (3) of section 1011.71, Florida Statutes, is amended to read:

1011.71 District school tax.—

(3) A school district that has met the reduction requirements regarding class size for the 2007-2008 fiscal ~~current~~ year pursuant to s. 1003.03 ~~for~~

K-12 students for whom the school district provides the educational facilities, has received an unqualified opinion on its financial statements for the preceding 3 years, has no material weaknesses or instances of material noncompliance noted in an audit for the preceding 3 years, and certifies to the Commissioner of Education that the district does not need all of its discretionary 2-mill capital improvement revenue for capital outlay purposes and all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive during the next 5 years from local revenues and from currently appropriated state facilities funding or from alternative scheduling or construction, leasing, rezoning, or technological methodologies that exhibit sound management may expend, subject to the provisions of s. 200.065, up to \$25 per unweighted full-time equivalent student from the revenue generated by the 2007-2008 millage levy authorized by subsection (2) to fund, in addition to expenditures authorized in paragraphs (2)(a)-(j), 2007-2008 expenses for the following:

(a) 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.

(b) Payment of the cost of premiums for property and casualty insurance necessary to insure school district educational and ancillary plants. Operating revenues that are made available through the payment of property and casualty insurance premiums from revenues generated under this subsection may be expended only for nonrecurring operational expenditures of the school district.

Section 5. The amendments to s. 1011.71(3), Florida Statutes, made by this act shall expire July 1, 2008, and the text of that section shall revert to that in existence on the day before the effective date of this act, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to this section.

Section 6. Subsections (1) and (2) of section 1012.225, Florida Statutes, are amended to read:

1012.225 Merit Award Program for Instructional Personnel and School-Based Administrators.—

(1) ELIGIBILITY.—

(a) In order to be eligible for funding under this section, a district school board must adopt a Merit Award Program plan that provides for an assessment and a merit award based on the performance of students assigned to the employee's classroom or school pursuant to paragraph (3)(a) or paragraph (3)(b). Charter schools may participate in the program by using the district's Merit Award Program plan or may adopt an alternative Merit Award Program plan as provided in paragraph (5)(b). All instructional personnel, as defined in s. 1012.01(2)(a)-(d), and school-based administrators,

as defined in s. 1012.01(3)(c), are eligible as individuals or as instructional teams to receive merit awards, with the exception of substitute teachers. In order to receive a merit award as an instructional team under this section, team members must be assessed on the performance of students assigned to the team members' classrooms or within the members' academic sphere of responsibility. The district school board may not require instructional personnel or school-based administrators to apply for an award, or make any presentation, in order to be assessed for or receive a merit award. A plan is subject to negotiation as provided in chapter 447. The Department of Education may not distribute any portion of pro rata funding to a district, or to a district for a charter school within the district, if the district or charter school chooses not to adopt a Merit Award Program plan under this section. Undistributed funds shall be considered unobligated and shall revert to the fund from which the appropriation was made in accordance with s. 216.301.

(b) Funds appropriated for the Merit Award Program shall be released and distributed to eligible school districts on or before July 31 for distribution to eligible recipients by October 1 pursuant to paragraph (2)(a).

(2) PAY SUPPLEMENTS STRUCTURE.—Merit Award Program plans shall provide for the annual disbursement of merit-based pay supplements to high-performing employees in the manner described in this subsection.

(a) Each Merit Award Program plan must designate the top instructional personnel and school-based administrators to be outstanding performers and pay to each such employee who remains employed by a Florida public school or who retired after qualifying for the award, by ~~October~~ September 1 of the following school year, a merit-based pay supplement of at least 5 percent of the average teacher's salary for that school district not to exceed 10 percent of the average teacher's salary for that school district. The amount of a merit award may not be based on length of service or base salary. Pay supplements shall be funded from moneys appropriated by the Legislature under this section and from any additional funds that are designated by the district for the Merit Award Program. School districts are not required to implement this section unless the program is specifically funded by the Legislature. By ~~November~~ October 1 of each year, each school district shall provide documentation to the Department of Education concerning the expenditure of legislative appropriations for merit-based pay, and shall refund undisbursed appropriations to the department. If such undisbursed funds are not remitted to the department by November 1, the department shall withhold an equivalent amount from the district's allocation of appropriations made under s. 1011.62.

(b) A Merit Award Program plan may include additional pay supplements under this section for employees who manifest exemplary work attendance.

(c) Merit-based pay supplements shall be awarded in addition to any general increase or other adjustments to salaries which are made by a school district. An employee's eligibility for or receipt of merit-based pay supplements shall not adversely affect that employee's opportunity to qualify for or to receive any other compensation that is made generally available to other similarly situated district school board employees.

Section 7. Subsection (5) is added to section 1012.72, Florida Statutes, to read:

1012.72 Dale Hickam Excellent Teaching Program.—

(5) If the funds available in any fiscal year are insufficient to pay in full the annual bonuses for certification and for providing mentoring and related services, payments for providing mentoring and related services shall be prorated among the eligible recipients.

Section 8. In order to implement Specific Appropriations 3, 4, and 34-37A of the 2007-2008 Special Appropriations Act, the calculations of the Florida Education Finance Program for the 2007-2008 fiscal year in the document entitled “Public School Funding - The Florida Education Finance Program,” dated October 9, 2007, and filed with the Secretary of the Senate are incorporated by reference for the purpose of displaying the calculations used by the Legislature, consistent with requirements of the Florida Statutes, in making appropriations and reductions in appropriations for the Florida Education Finance Program.

Section 9. The 2007-2008 appropriations for the Florida Education Finance Program and categorical funds provide each school district an increase in total potential funds per full-time equivalent student which is greater than the amount provided for the 2006-2007 fiscal year. Therefore, it is the intent of the Legislature that any reductions in expenditures by school districts in response to any of the appropriation reductions for the 2007-2008 fiscal year be made in functions other than classroom instruction. This section expires July 1, 2008.

Section 10. This act shall take effect upon becoming a law.

Approved by the Governor October 26, 2007.

Filed in Office Secretary of State October 26, 2007.