

Committee Substitute for  
Committee Substitute for Senate Bill No. 6-A

An act relating to education funding; amending s. 1001.395, F.S.; providing for district school members to reduce their salary rate on a voluntary basis; amending ss. 1001.42 and 1001.50, F.S.; prohibiting a district school board from entering into an employment contract that provides for payment of an amount greater than 1 year of an employee's or superintendent's annual salary for termination, buy-out, or other type of settlement; amending s. 1002.53, F.S., relating to the Voluntary Prekindergarten Education Program; conforming provisions to changes made by the act; amending s. 1002.61, F.S.; increasing the number of students authorized for a summer prekindergarten class; conforming cross-references; amending s. 1002.63, F.S.; eliminating certain eligibility requirements for delivering a prekindergarten program during the school year; amending s. 1002.71, F.S.; providing for separate base student allocations for school-year and summer prekindergarten programs; revising the formula for calculating and reporting full-time equivalent student enrollment; providing certain restrictions with respect to a child who reenrolls in a prekindergarten program; requiring that certain administrative procedures be automated; requiring that actions be taken to reduce paperwork, eliminate the duplication of reports, and eliminate other duplicative activities; decreasing the amount that an early learning coalition may expend for administrative purposes; amending s. 1002.73, F.S.; revising duties of the Department of Education, to conform; amending s. 1003.03, F.S.; authorizing the Commissioner of Education to recommend a greater reduction in the amount allocated for transfer to a district's fixed capital outlay fund; amending s. 1006.40, F.S.; waiving, for the adoption cycle of the 2008-2009 academic year, the requirement that district school boards purchase instructional materials in core courses; creating s. 1011.051, F.S.; requiring that district school boards maintain an unreserved general fund balance sufficient to address contingencies; specifying procedures for the district to follow if the operating budget falls below a specified percentage of projected general fund revenues; amending s. 1011.71, F.S.; authorizing the purchase of certain enterprise resource software applications with proceeds of the district school tax; eliminating certain restrictions on the expenditure of revenues from the district school tax levy; increasing the amount that school districts may expend per unweighted full-time equivalent student from the revenue generated by the levy; repealing s. 11 of chapter 2008-142 and s. 2 of chapter 2008-213, Laws of Florida, relating to the future expiration of certain provisions relating to school district expenditure of capital outlay millage; amending s. 1013.64, F.S., relating to funds for constructing educational plant space; conforming provisions; providing for awards for instructional personnel and school-based administrators under the Merit Award Program to be paid only to the extent funded in the

2009-2010 fiscal year; authorizing the Commissioner of Education to waive the equal-dollar reduction requirement for expenditures made during a specified time for property and casualty insurance and for the audit findings for a specified fiscal year related to the purchase of software, if the commissioner determines that a school district acted in good faith; providing that such authorization is contingent upon dismissal of a specified lawsuit; incorporating by reference certain calculations of the Florida Education Finance Program for the 2008-2009 fiscal year; providing for retroactive application of specified provisions of the act; providing an effective date.

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

Section 1. Section 1001.395, Florida Statutes, is amended to read:

1001.395 District school board members; compensation.—

(1) Each member of the district school board shall receive a base salary, the amounts indicated in this section, based on the population of the county the district school board member serves. In addition, compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate. The product of such calculation shall be added to the base salary to determine the adjusted base salary. The adjusted base salaries of district school board members shall be increased annually as provided for in s. 145.19.

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	9,999	\$5,000	\$0.08330
II	10,000	49,999	5,833	0.020830
III	50,000	99,999	6,666	0.016680
IV	100,000	199,999	7,500	0.008330
V	200,000	399,999	8,333	0.004165
VI	400,000	999,999	9,166	0.001390
VII	1,000,000		10,000	0.000000

District school board member salaries negotiated on or after November of 2006 shall remain in effect up to the date of the 2007-2008 calculation provided pursuant to s. 145.19.

(2) Notwithstanding the provisions of this section or s. 145.19, Florida Statutes, district school board members may reduce their salary rate on a voluntary basis.

Section 2. Present subsection (25) of section 1001.42, Florida Statutes, is renumbered as subsection (26), and a new subsection (25) is added to that section, to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(25) EMPLOYMENT CONTRACTS.—On or after February 1, 2009, a district school board may not enter into an employment contract that is funded from state funds and that requires the district to pay an employee an amount in excess of 1 year of the employee’s annual salary for termination, buy-out, or any other type of contract settlement.

Section 3. Subsection (2) of section 1001.50, Florida Statutes, is amended to read:

1001.50 Superintendents employed under Art. IX of the State Constitution.—

(2) The district school board of each of such districts shall enter into contracts of employment with the district school superintendent and shall adopt rules relating to his or her appointment; however, on or after February 1, 2009, the district school board may not enter into an employment contract that is funded from state funds and that requires the district to pay a superintendent an amount in excess of 1 year of the superintendent’s annual salary for termination, buy-out, or any other type of contract settlement.

Section 4. Paragraph (c) of subsection (3) of section 1002.53, Florida Statutes, is amended to read:

1002.53 Voluntary Prekindergarten Education Program; eligibility and enrollment.—

(3) The parent of each child eligible under subsection (2) may enroll the child in one of the following programs:

(c) A school-year prekindergarten program delivered by a public school, ~~if offered by a school district that is eligible under s. 1002.63.~~

Except as provided in s. 1002.71(4), a child may not enroll in more than one of these programs.

Section 5. Subsections (4) and (7) of section 1002.61, Florida Statutes, are amended to read:

1002.61 Summer prekindergarten program delivered by public schools and private prekindergarten providers.—

(4) Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4) ~~1002.63(5)~~, each public school and private prekindergarten provider must have, for each prekindergarten class, at least one prekindergarten instructor who:

- (a) Is a certified teacher; or
- (b) Holds one of the educational credentials specified in s. 1002.55(4)(a) or (b).

As used in this subsection, the term “certified teacher” means a teacher holding a valid Florida educator certificate under s. 1012.56 who has the qualifications required by the district school board to instruct students in

the summer prekindergarten program. In selecting instructional staff for the summer prekindergarten program, each school district shall give priority to teachers who have experience or coursework in early childhood education.

(7) Notwithstanding ss. 1002.55(3)(f) and 1002.63(7) 1002.63(8), each prekindergarten class in the summer prekindergarten program, regardless of whether the class is a public school's or private prekindergarten provider's class, must be composed of at least 4 students but may not exceed 12 10 students beginning with the 2009 summer session. In order to protect the health and safety of students, each public school or private prekindergarten provider must also provide appropriate adult supervision for students at all times. This subsection does not supersede any requirement imposed on a provider under ss. 402.301-402.319.

Section 6. Section 1002.63, Florida Statutes, is amended to read:

1002.63 School-year prekindergarten program delivered by public schools.—

(1) Each school district ~~eligible under subsection (4)~~ may administer the Voluntary Prekindergarten Education Program at the district level for students enrolled under s. 1002.53(3)(c) in a school-year prekindergarten program delivered by a public school.

(2) Each school-year prekindergarten program delivered by a public school must comprise at least 540 instructional hours.

(3) The district school board of each school district ~~eligible under subsection (4)~~ shall determine which public schools in the district may be eligible to deliver the prekindergarten program during the school year.

~~(4) To be eligible to deliver the prekindergarten program during the school year, each school district must meet both of the following requirements:~~

~~(a) The district school board must certify to the State Board of Education that the school district:~~

~~1. Has reduced the average class size in each classroom in accordance with s. 1003.03 and the schedule in s. 1(a), Art. IX of the State Constitution; and~~

~~2. Has sufficient satisfactory educational facilities and capital outlay funds to continue reducing the average class size in each classroom in the district's elementary schools for each year in accordance with the schedule for class size reduction and to achieve full compliance with the maximum class sizes in s. 1(a), Art. IX of the State Constitution by the beginning of the 2010-2011 school year.~~

~~(b) The Commissioner of Education must certify to the State Board of Education that the department has reviewed the school district's educational facilities, capital outlay funds, and projected student enrollment and concurs with the district school board's certification under paragraph (a).~~

(4)(5) Each public school must have, for each prekindergarten class, at least one prekindergarten instructor who meets each requirement in s. 1002.55(3)(c) for a prekindergarten instructor of a private prekindergarten provider.

(5)(6) Each prekindergarten instructor employed by a public school delivering the school-year prekindergarten program must be of good moral character, must be screened using the level 2 screening standards in s. 435.04 before employment and rescreened at least once every 5 years, must be denied employment or terminated if required under s. 435.06, and must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked. This subsection does not supersede employment requirements for instructional personnel in public schools which are more stringent than the requirements of this subsection.

(6)(7) A public school prekindergarten provider may assign a substitute instructor to temporarily replace a credentialed instructor if the credentialed instructor assigned to a prekindergarten class is absent, as long as the substitute instructor is of good moral character and has been screened before employment in accordance with level 2 background screening requirements in chapter 435. This subsection does not supersede employment requirements for instructional personnel in public schools which are more stringent than the requirements of this subsection. The Agency for Workforce Innovation shall adopt rules to implement this subsection which shall include required qualifications of substitute instructors and the circumstances and time limits for which a public school prekindergarten provider may assign a substitute instructor.

(7)(8) Each prekindergarten class in a public school delivering the school-year prekindergarten program must be composed of at least 4 students but may not exceed 18 students. In order to protect the health and safety of students, each school must also provide appropriate adult supervision for students at all times and, for each prekindergarten class composed of 11 or more students, must have, in addition to a prekindergarten instructor who meets the requirements of s. 1002.55(3)(c), at least one adult prekindergarten instructor who is not required to meet those requirements but who must meet each requirement of subsection (5) (6).

(8)(9) Each public school delivering the school-year prekindergarten program must:

(a) Register with the early learning coalition on forms prescribed by the Agency for Workforce Innovation; and

(b) Deliver the Voluntary Prekindergarten Education Program in accordance with this part.

Section 7. Subsections (3) and (4), paragraph (d) of subsection (6), and subsection (7) of section 1002.71, Florida Statutes, are amended to read:

1002.71 Funding; financial and attendance reporting.—

(3)(a) A separate ~~The~~ base student allocation per full-time equivalent student in the Voluntary Prekindergarten Education Program shall be pro-

vided in the General Appropriations Act for a school-year prekindergarten program and for a summer prekindergarten program. The base student allocation for a school-year program and shall be equal for each student, regardless of whether the student is enrolled in a school-year prekindergarten program delivered by a public school or a private prekindergarten provider. The base student allocation for, a summer prekindergarten program shall be equal for each student, regardless of whether the student is enrolled in 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.

(d) For programs offered by school districts pursuant to s. 1002.61 and beginning with the 2009 summer program, each district's funding shall be based on a full-time equivalent student enrollment that is evenly divisible by 12 ~~10~~. If the result of dividing a district's full-time equivalent student enrollment by 12 ~~10~~ is not a whole number, the district's enrollment calculation shall be adjusted by adding the minimum number of full-time equivalent students to produce a full-time equivalent student enrollment calculation that is evenly divisible by 12 ~~10~~.

(4) Notwithstanding s. 1002.53(3) and subsection (2):

(a) A child who, for any of the prekindergarten programs listed in s. 1002.53(3), has not completed more than 10 percent of the hours authorized to be reported for funding under subsection (2) may withdraw from the program for good cause, reenroll in one of the programs, and be reported for funding purposes as a full-time equivalent student in the program for which the child is reenrolled. The total funding for a child who reenrolls in one of the programs shall not exceed one full-time equivalent student.

(b) A child who has not substantially completed any of the prekindergarten programs listed in s. 1002.53(3) may withdraw from the program due to an extreme hardship that is beyond the child's or parent's control, reenroll in one of the summer programs, and be reported for funding purposes as a full-time equivalent student in the summer program for which the child is reenrolled.

A child may reenroll only once in a prekindergarten program under this section. A child who reenrolls in a prekindergarten program under this subsection may not subsequently withdraw from the program and reenroll.

The Agency for Workforce Innovation shall establish criteria specifying whether a good cause exists for a child to withdraw from a program under paragraph (a), whether a child has substantially completed a program under paragraph (b), and whether an extreme hardship exists which is beyond the child's or parent's control under paragraph (b).

(6)

(d) The Agency for Workforce Innovation shall adopt, for funding purposes, a uniform attendance policy for the Voluntary Prekindergarten Education Program. The attendance policy must apply statewide and apply equally to all private prekindergarten providers and public schools. The attendance policy must establish a minimum requirement for student attendance and include the following provisions:

1. Beginning with the 2009-2010 fiscal year for school-year programs and the 2009 summer program, a student who meets the minimum requirement of 80 percent of the total number of hours for the program may be reported as a full-time equivalent student for funding purposes.

2. A student who does not meet the minimum requirement may be reported only as a fractional part of a full-time equivalent student, reduced pro rata based on the student's attendance.

3. A student who does not meet the minimum requirement may be reported as a full-time equivalent student if the student is absent for good cause in accordance with exceptions specified in the uniform attendance policy.

The uniform attendance policy shall be used only for funding purposes and does not prohibit a private prekindergarten provider or public school from adopting and enforcing its attendance policy under paragraphs (a) and (c).

(7) The Agency for Workforce Innovation shall require that administrative expenditures be kept to the minimum necessary for efficient and effective administration of the Voluntary Prekindergarten Education Program. Administrative policies and procedures shall be revised, to the maximum extent practicable, to incorporate the use of automation and electronic submission of forms, including those required for child eligibility and enrollment, provider and class registration, and monthly certification of attendance for payment. A school district may use its automated daily attendance reporting system for the purpose of transmitting attendance records to the early learning coalition in a mutually agreed-upon format. In addition, actions shall be taken to reduce paperwork, eliminate the duplication of reports, and eliminate other duplicative activities. Beginning with the 2008-2009 fiscal year, each early learning coalition may retain and expend no more than 4.85 5 percent of the funds paid by the coalition to private prekindergarten providers and public schools under paragraph (5)(b). Funds retained by an early learning coalition under this subsection may be used only for administering the Voluntary Prekindergarten Education Program and may not be used for the school readiness program or other programs.

Section 8. Paragraphs (c) and (d) of subsection (2) of section 1002.73, Florida Statutes, are amended to read:

1002.73 Department of Education; powers and duties; accountability requirements.—

(2) The department shall adopt procedures for the department's:

~~(c) Certification of school districts that are eligible to deliver the school-year prekindergarten program under s. 1002.63.~~

~~(c)~~(d) Administration of the statewide kindergarten screening and calculation of kindergarten readiness rates under s. 1002.69.

Section 9. 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 Edu-



ation may recommend a 50 percent ~~10-percent~~ reduction in the amount of the transfer.

Section 10. Paragraph (a) of subsection (2) of section 1006.40, Florida Statutes, is amended to read:

1006.40 Use of instructional materials allocation; instructional materials, library books, and reference books; repair of books.—

(2)(a) Each district school board must purchase current instructional materials to provide each student with a textbook or other instructional materials as a major tool of instruction in core courses of the appropriate subject areas of mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12. Such purchase must be made within the first 2 years after ~~of~~ the effective date of the adoption cycle; however, this requirement is waived for the adoption cycle occurring in the 2008-2009 academic year. Unless specifically provided for in the General Appropriations Act, the cost of instructional materials purchases required by this paragraph shall not exceed the amount of the district's allocation for instructional materials, pursuant to s. 1011.67, for the previous 2 years.

Section 11. Section 1011.051, Florida Statutes, is created to read:

1011.051 Guidelines for general funds.—The district school board shall maintain an unreserved general fund balance that is sufficient to address normal contingencies.

(1) If at any time the unreserved general fund balance in the district's approved operating budget is projected to fall during the current fiscal year below 3 percent of projected general fund revenues, the superintendent shall provide written notification to the district school board and the Commissioner of Education.

(2) If the unreserved general fund balance in the district's approved operating budget is projected to fall during the current fiscal year below 2 percent of projected general fund revenues, the superintendent shall provide written notification to the district school board and the Commissioner of Education. Within 14 days after receiving such notification, if the commissioner determines that the district does not have a plan that is reasonably anticipated to avoid a financial emergency as determined pursuant to 218.503, the commissioner shall appoint a financial emergency board that shall operate consistent with the requirements, powers, and duties specified in s. 218.503(3)(g).

Section 12. Paragraph (d) of subsection (2) and subsection (4) of section 1011.71, Florida Statutes, are amended to read:

1011.71 District school tax.—

(2) In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than 1.75 mills against the taxable value for school purposes for district schools, including charter schools at the discretion of the school board, to fund:

(d) Effective July 1, 2008, the purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support district-wide administration or state-mandated reporting requirements.

~~(4) Effective July 1, 2008, and through June 30, 2010, a school district that has met the reduction requirements regarding class size for the 2008-2009 fiscal year pursuant to s. 1003.03 for K-12 students for whom the school district provides the educational facilities and governs operations and certifies to the Commissioner of Education that the district does not need all of its discretionary 1.75-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 \$100 \$65 per unweighted full-time equivalent student from the revenue generated by the 2008-2009 millage levy authorized by subsection (2) to fund, in addition to expenditures authorized in paragraphs (2)(a)-(j), 2008-2009 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 13. Section 11 of chapter 2008-142 and section 2 of chapter 2008-213, Laws of Florida, are repealed.

Section 14. Paragraph (b) of subsection (6) of section 1013.64, Florida Statutes, is amended to read:

1013.64 Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(6)

(b)1. A district school board, including a district school board of an academic performance-based charter school district, must not use funds from the following sources: Public Education Capital Outlay and Debt Service Trust Fund; School District and Community College District Capital Outlay

and Debt Service Trust Fund; Classrooms First Program funds provided in s. 1013.68; effort index grant funds provided in s. 1013.73; nonvoted ~~1.75-mill~~ 2-mill levy of ad valorem property taxes provided in s. 1011.71(2); Classrooms for Kids Program funds provided in s. 1013.735; District Effort Recognition Program funds provided in s. 1013.736; or High Growth District Capital Outlay Assistance Grant Program funds provided in s. 1013.738 for any new construction of educational plant space with a total cost per student station, including change orders, that equals more than:

- a. \$17,952 for an elementary school,
- b. \$19,386 for a middle school, or
- c. \$25,181 for a high school,

(January 2006) as adjusted annually to reflect increases or decreases in the Consumer Price Index.

2. A district school board must not use funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any new construction of an ancillary plant that exceeds 70 percent of the average cost per square foot of new construction for all schools.

Section 15. Merit awards for instructional personnel and school-based administrators selected for the Merit Award Program in 2008-2009 shall be paid in the 2009-2010 fiscal year only to the extent that funds are available and specifically appropriated in the 2009-2010 fiscal year.

Section 16. (1) If the Commissioner of Education determines that a school district acted in good faith, he or she may waive the equal-dollar reduction required in s. 1011.71(5), Florida Statutes, for expenditures for property and casualty insurance made between May 1 and December 31, 2007, and for the audit findings for the 2006-2007 fiscal year related to the purchase of software.

(2) This section shall take effect upon this act becoming a law, but only if the School Board of Miami-Dade County dismisses the lawsuit entitled "School Board of Miami-Dade County v. State of Florida Board of Education," case number 09-00507CA20, which is pending in the Circuit Court of the Eleventh Judicial Circuit.

Section 17. In order to implement Specific Appropriations 2, 3, and 42 through 45 of the Special Appropriations Act for the 2008-2009 fiscal year, the calculations of the Florida Education Finance Program for the 2008-2009 fiscal year in the document entitled "Public School Funding – The Florida Education Finance Program," dated January 11, 2009, 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 18. Except as otherwise expressly provided in this act, this act shall take effect February 1, 2009, or upon becoming a law, whichever occurs later; however, the provisions of s. 1011.71, Florida Statutes, as amended by this act, shall operate retroactively to July 1, 2008, and, if this act becomes a law after February 1, 2009, the provisions of s. 1002.71, Florida Statutes, as amended by this act, shall operate retroactively to February 1, 2009.

Approved by the Governor January 27, 2009.

Filed in Office Secretary of State January 27, 2009.