

FSBA

BOARDER-LINE

Official Legislative Bulletin of the
Florida School Boards Association

March 15, 2010

Volume 2010, Number 3

Education Budget Update

Both the House and Senate PreK-12 Appropriations Committees have received their allocations that will guide the development of each chamber's education budget. The total allocations are similar and increase state spending on education, but there are differences in the amount of general revenue, trust fund, and federal stabilization funds earmarked by each chamber. Neither chamber has proposed an increase in the Required Local Effort millage rate and both chambers have increased state funding to bridge the decrease in revenue that is expected from these school district property tax collections. However, both chambers have acknowledged that there will be cuts to nearly every element of the FEFP, including a reduction in the base student allocation due to enrollment increases. In addition, both chambers have released outlines of the issues that will be addressed in their proposed budget proviso language and budget conforming bills. The Appropriations Committees are expected to finalize their budget, proviso, and conforming bill proposals this week. As always, we will provide a side-by-side comparison of these bills as soon as they are finalized.

Detailed Summary of Key Education Related Bills

SB 2126 – Florida Tax Credit Scholarships by Negron (*Identical to HB 1009 by Weatherford*)

The bill transfers and renumbers s. 220.187, F.S. to create s. 1002.395, F.S. and amends several provisions.

Scholarship Program

The bill amends provisions for scholarship eligibility to provide that eligibility for the program (rather than *continued* eligibility) is contingent upon available funds, that a student's household income level does not exceed 230 percent (rather than 200 percent) of the federal poverty level, and that a sibling of a student who is continuing in the program and who resides in the same household as the student is eligible as a first-time tax credit scholarship recipient if the sibling meets one or more of the existing eligibility criteria and the student's and sibling's household income level does not exceed 230 percent of the federal poverty level.

The bill also phases in increases in the scholarship amount by providing that, for the FY 2010-2011 state fiscal year, the scholarship limit will be 60 percent of the unweighted FTE funding amount for that year. For FY 2011-2012 and thereafter, the limit will be determined by multiplying the unweighted FTE funding amount in that year by the percentage used to determine the limit in the prior state fiscal year. However, in each fiscal year that the tax credit cap amount increases, the prior year percentage must be increased by 4 percentage points and the increased percentage must be used to determine the limit for that state fiscal year. If the percentage so calculated reaches 80 percent in a state fiscal year, no further increase in the percentage is allowed and the limit shall be 80 percent of the unweighted FTE funding amount for that state fiscal year and thereafter. The annual limit for a scholarship must be reduced by 25 percent if the student's household income level is equal to or greater than 200 percent, but less than 215 percent, of the federal poverty level and reduced by 50 percent if the student's household income level is equal to or greater than 215 percent, but equal to or less than 230 percent, of the federal poverty level.

The bill amends the existing private school eligibility and obligations to provide that the requirement to annually administer, or make provision for students take, one of the nationally norm-referenced test identified by DOE applies to scholarship students in grades 3-10 (rather than all scholarship students). An independent research organization selected by DOE must annually report the year-to-year learning gains of participating students. The report must provide information on a statewide basis and for each participating private school in which there are at least 30 participating students who have scores for tests administered during or after the 2009-2010 school year for 2 consecutive years at that school. The statewide report must include a comparison of scholarship student learning gains to the statewide learning gains of public school students with similar socioeconomic backgrounds. The annual report must not disaggregate data to a level that will identify individual participating schools, except for the private schools that meet the criteria above, and must not disclose the academic level of individual students. The annual report must be published on the DOE website.

The bill grants the Commissioner authority to deny, suspend, or revoke a private school's participation in the scholarship program if the Commissioner determines that an owner or operator of the private school is operating or has operated an educational institution in a manner contrary to the health, safety, or welfare of the public. In making this determination, the commissioner may consider factors that include, but are not limited to, acts or omissions by an owner or operator that led to a previous denial or revocation of participation in an education scholarship program, an owner's or operator's failure to reimburse DOE for scholarship funds improperly received or retained by a school, imposition of a prior criminal or civil administrative sanction related to an owner's or operator's management or operation of an educational institution, or other types of criminal proceedings in which the owner or operator was found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense involving fraud, deceit, dishonesty, or moral turpitude.

The bill adds to the obligations of an eligible nonprofit scholarship funding organization (SFO) to require the SFO to participate in the joint development of agreed-upon procedures to be performed by an independent certified public accountant if the SFO provided more than \$250,000 in scholarship funds to an eligible private school during the 2009-2010 state fiscal year. The agreed-upon procedures must uniformly apply to all private schools and must determine, at a minimum, whether the private school has been verified as eligible by DOE, has an adequate accounting system, a system of financial controls, a process for deposit and classification of scholarship funds, and has properly expended scholarship funds for education-related expenses. Participating SFOs must specify guidelines governing the materiality of exceptions that may be found during the accountant's performance of the procedures. The procedures and guidelines must be provided to private schools and the Commissioner by March 15, 2011. The SFO must also participate in a joint review of the agreed-upon procedures and guidelines. If the procedures and guidelines are revised, the revisions must be provided to private schools and the Commissioner by March 15, 2013, and biennially thereafter. An SFO must also seek input from the accrediting associations that are members of the Florida Association of Academic Nonpublic Schools when jointly developing the agreed-upon procedures and guidelines and conducting a review of those procedures and guidelines.

The bill also provides that a participating private school must annually contract with an independent certified public accountant to preform the agreed-upon procedures and produce a report of the results if the private school receives more than \$250,000 from scholarships awarded through this program in the 2010-2011 state fiscal year or any year thereafter. A private school must submit the report by September 15, 2011, and annually thereafter to the SFO that awarded the majority of the school's scholarship funds. The SFO must monitor the private school's compliance with these provisions and, for each private school subject to these provisions, the appropriate SFO must notify the Commissioner by October 30, 2011, and annually thereafter of a private school's failure to submit a required report or any material exceptions set forth in the report.

Tax Credits

The bill amends provisions that cap the total tax credits available in any given year by providing that, in FY 2010-2011 the tax credit cap will be raised from \$118 million to \$140 million and, beginning in FY 2011-2012 and each year thereafter, the annual tax credit cap amount is the tax credit amount in the prior year. However, in any fiscal year when the annual tax credit amount for the prior state fiscal year is equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount will increase by 25 percent. The Department of Revenue (DOR) must publish on its website information identifying the tax credit cap amount when it is increased.

The bill adds to the list of taxes that are eligible for a 100 percent credit against the taxes due to the state if a contribution is made to an eligible non-profit SFO – these credits are currently limited to contributions to an SFO that are made in lieu of corporate income taxes and insurance premium taxes that would, otherwise, be paid into state coffers.

- The bill creates s. 211.0251 to provide that, effective January 1, 2011, a 100 percent credit will be allowed for a contribution to an SFO against any tax due under s. 211.02 relating to the oil production tax or s. 211.025 relating to the gas production tax. However, the credit may not exceed 50 percent of the tax due and DOR must ensure any reduction in tax revenue attributable to this credit is applied only to the General Revenue Fund and not to other entities or trust funds that benefit from the collection of this tax.
- The bill creates s. 212.1831 to provide that, effective January 1, 2011, a 100 percent credit will be allowed for a contribution to an SFO against any tax imposed by the state and due from a direct pay permit holder as a result of the direct pay permit held pursuant to s. 212.183 relating to self accrual of sales tax. DOR must ensure any reduction in tax revenue attributable to this credit is applied only to the General Revenue Fund and not to other entities or trust funds that benefit from the collection of this tax.
- The bill creates s. 561.1211 to provide that a 100 percent credit is allowed for a contribution to an SFO against any tax due under s. 563.05 relating to excise taxes on malt beverages, 564.06 relating to excise taxes on wine and beverages, and s. 565.12 relating to liquor and beverages. The Division of Alcoholic Beverages and Tobacco and DOR must ensure any reduction in tax revenue attributable to this credit is applied only to the General Revenue Fund and not to other entities or trust funds that benefit from the collection of this tax.

The bill also creates s. 220.1875 to reinstate some of the provisions of s. 220.187 that would be lost as a result of the transfer, renumbering, and amendment of s. 220.187 to be s. 1002.395. In effect, this newly created section restores the existing provisions in s. 220.187 that allow a 100 percent credit against any tax due under Chapter 220 relating to corporate income tax. The bill also makes conforming amendments to s. 624.51055 relating to the existing 100 percent credit against any tax due under s. 624.509(1) relating to insurance premium taxes.

The bill provides that a taxpayer may submit an application to DOR for a tax credit or credits and must specify in the application each tax for which the taxpayer requests a credit and the applicable taxable year (for a credit under s. 220.1875 or s. 624.51055) or the applicable state fiscal year (for a credit under s. 211.0251, s. 212.1831, or s. 561.1211). DOR must approve tax credits on a first come, first-served basis. If an approved tax credit is not fully used within the state fiscal year or taxable year, as applicable, because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 3 years. However, any taxpayer that seeks to carry forward an unused amount of tax credit must submit an application to DOR for approval of the carryforward in the year that the taxpayer intends to use the carryforward. A taxpayer may not convey, assign, or transfer an approved tax credit or a carryforward to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction. The bill repeals the provisions that a taxpayer who is eligible to receive the credit provided for in s. 624.51055 is not eligible to receive the credit provided for in s. 220.187.

Definitions

The bill adds to the existing definitions for this program. “Annual tax credit amount” means, for any state fiscal year, the sum of the amount of approved tax credits which are approved for a taxpayer whose taxable year begins on or after January 1 of the calendar year preceding the start of the applicable state fiscal year. “Division” means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation. “Tax credit cap amount” means the maximum annual tax credit amount that DOR may approve in a state fiscal year. “Unweighted FTE funding amount” means the statewide average total funds per unweighted full-time equivalent funding amount that is incorporated by reference in the General Appropriations Act, or any subsequent special appropriations act, for the applicable state fiscal year.

Status: On 3/16/10 agenda for Senate Finance & Tax

Proposed Constitutional Amendments

At this time, there are six proposed constitutional amendments that have been approved for the November 2010 General Election ballot. Below is a brief summary of each of these amendments with a link to the full text of each proposal. Please note that more proposed amendment may be added during this legislative session – such as a proposed amendment to class size requirements – we will keep you informed of any new proposals that are added.

Amendment 1: Repeal of Public Campaign Financing Requirement

This amendment would repeal of the provision in the State Constitution that requires public financing of campaigns of candidates for elective statewide office who agree to campaign spending limits. This would apply to campaign financing for the office of Governor, Attorney General, Chief Finance Officer, and Commissioner of Agriculture & Consumer Services.

Amendment 2: Homestead Ad Valorem Tax Credit for Deployed Military Personnel

This amendment would require the Legislature to provide an additional homestead property tax exemption by law for members of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard who receive a homestead exemption and were deployed in the previous year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The exempt amount will be based upon the number of days in the previous calendar year that the person was deployed on active duty. The amendment is scheduled to take effect January 1, 2011.

Amendment 3: Property Tax Limit for Nonhomestead Property; Additional Homestead Exemption for New Homestead Owners

This amendment would reduce the maximum annual increase in the assessed values of nonhomestead properties from 10 percent to 5 percent annually. This amendment would also require the Legislature to provide an additional homestead exemption for persons who have not owned a principal residence during the preceding 8 years. Under the exemption, 25 percent of the just value of a first-time homestead, up to \$100,000, will be exempt from property taxes. The amount of the additional exemption will decrease in each succeeding year for 5 years by the greater of 20 percent of the initial additional exemption or the difference between the just value and the assessed value of the property. The additional exemption will not be available in the 6th and subsequent years.

Amendment 4: Referenda Required for Adoption and Amendment of Local Government Comprehensive Land Use Plans

This amendment would require that, before a local government may adopt a new comprehensive land use plan or amend a comprehensive land use plan, such proposed plan or plan amendment must be subject to vote of the electors of the local government by referendum. The amendment would become effective immediately upon approval by the electors of Florida.

(NOTE: FSBA is opposed to this proposed amendment.)

Amendment 5: Standards for the Legislature to Follow in Legislative Redistricting

This amendment would provide that legislative districts or districting plans may not be drawn to favor or disfavor an incumbent or political party. Districts must not be drawn to deny racial or language minorities the equal opportunity to participate in the political process and elect representatives of their choice. Districts must be contiguous. Unless otherwise required, districts must be compact, as equal in population as feasible, and, where feasible, must make use of existing city, county and geographical boundaries.

Amendment 6: Standards for the Legislature to Follow in Congressional Redistricting

This amendment would provide that congressional districts or districting plans may not be drawn to favor or disfavor an incumbent or political party. Districts must not be drawn to deny racial or language minorities the equal opportunity to participate in the political process and elect representatives of their choice. Districts must be contiguous. Unless otherwise required, districts must be compact, as equal in population as feasible, and where feasible must make use of existing city, county and geographical boundaries.

Update on Reauthorization of ESEA

In his weekly address on Saturday, March 13, President Obama announced that his administration will send to Congress the blueprint for the reauthorization of the Elementary and Secondary Education Act that will overhaul No Child Left Behind. The plan will set the ambitious goal of ensuring that all students graduate from high school prepared for college and a career, and it will provide states, districts and schools with the flexibility and resources to reach that goal. The President said that, under the guidelines he will be proposing, “schools that achieve excellence or show real progress will be rewarded, and local districts will be encouraged to commit to change in schools that are clearly letting their students down. For the majority of schools that fall in between – schools that do well but could do better – we will encourage continuous improvement . . . [and] we will better prepare teachers, support teachers, and encourage teachers to stay in the field.” (The entire text of the President’s weekly address is available on the FSBA website at: <http://www.fsba.org/briefsupdates.asp#federalissues>.)

Recent Action on Other Bills of Interest

HB 55 – School Board Policies/Academic Achievement by Reed (Similar to SB 206 by Hill)

The bill encourages district school boards to adopt policies for designating the third Tuesday in April each year as “Academic Scholarship Signing Day.” The purpose of Academic Scholarship Signing Day is to recognize high school seniors who have been awarded postsecondary academic scholarships. School boards may authorize assemblies or other events for this purpose. Students may sign actual or ceremonial documents signifying acceptance of the scholarship. A school board may encourage holding these events for the entire student body to reinforce the importance of academic success.

Status: Passed PreK-12 Policy as a CS (*SB 206 on Education PreK-12 agenda 3/17/10*)

HB 129 – Leave of Absence / Military Training by Renuart (Similar to SB 464 by Fasano)

Current law provides up to 30 days of leave for state or local government officers and employees when they are engaged in state active duty as a member of the National Guard. However, current law only authorizes 17 days of leave for employees engaged in national training as a reserve officer or reserve enlisted personnel. The leave provided by law protects the employee from any loss of vacation leave, pay, time, or efficiency rating. The bill revises the way leave is reflected from days to hours and increases the amount of leave to 240 hours. The bill also authorizes the Adjutant General of the Florida National Guard to appoint a federally recognized officer to a second position of Assistant Adjutant General Army.

Status: Passed Military & Local Affairs Policy as a CS (*SB 464 on 2nd Reading*)

HB 623 – Instructional Materials by Burgin

The bill authorizes a district school board to purchase computer hardware with the portion of the funds used to purchase materials not on the state-adopted list when the hardware is provided for the sole purpose of delivering instructional materials content in an electronic format. The bill also amends the definition of “adequate instructional materials” to include computer hardware and amends the definition of “other instructional materials” to include the provision of technology.

Status: Passed PreK-12 Policy as a CS

HB 819 – **Sexual Misconduct With Students by Stargel** (*Identical to SB 1334 by Lynn*)

The bill creates s. 775.0862, F.S., to require the reclassification of the felony degree of a sexual offense listed in the sexual predator or sexual offender statutes if the offense is committed by an authority figure of any educational institution against a student of any educational institution. The term “authority figure” is defined to mean “a school officer, teacher or other instructional person, an administrator or other school administrative person, school volunteer, an educational support employee, or an education service provider, who is employed by, under contract with, working at, or providing volunteer services to an educational institution.” The bill requires that, in the case of a felony of the third degree, the offense is reclassified to a felony of the second degree, in the case of a felony of the second degree, the offense is reclassified to a felony of the first degree, and in the case of a felony of the first degree, the offense is reclassified to a life felony. Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The bill does not change the elements of any criminal offense or change the age of consent for sexual activity where the victim is a student.

Status: Passed Public Safety & Domestic Security Policy

SB 880 – **Elections by Alexander** (*Similar to HB 1207 by McKeel*)

The bill reenacts and amends provisions related to electioneering communications and electioneering communication organizations (“ECOs”). The bill redefines “electioneering communication” by removing references to issue elections and the number of persons in a geographic area who must be “targeted.” The bill also redefines “electioneering communications organization” to clarify that it includes only those organizations with “election-related activities” that are limited to electioneering communications and that its activities would not require the group to register as a political party, political committee, or committee of continuous existence. The bill requires an organization to register as an ECO upon receipt or expenditure of an aggregate amount exceeding \$5,000, rather than when it “anticipates receipt or expenditure of money” without regard to amount. The bill increases the amount an individual can expend before being subject to electioneering and independent expenditure disclosure requirements from \$100 to \$5,000. The bill also removes prohibitions against an ECO accepting contributions from certain 527 and 501(c)(4) organizations and restrictions against ECOs using contributions received proximate to an election.

In addition, the bill authorizes the leader of each political party conference of the state Senate and House of Representatives to establish a separate, affiliated party committee (“APC”) to support the election of candidates of the leader’s political party. “Leader” is defined as President of the Senate, Speaker of the House of Representatives, and the minority leader of either house of the Legislature, until a person is designated by a political party conference of members of either house to succeed to the position, at which time the designee becomes the leader for purposes of the APC. The appropriate APC receives the two-percent party assessment for its candidates for state senator and member of the House of Representatives who pay the qualifying fee to run for office. The bill provides that specified requirements and exemptions for political parties and state executive committees apply to an APC. Finally, the bill removes the 28-day time limitation prior to a general election for contributions from political parties and APCs to candidates.

Status: Passed Ethics & Elections as a CS (*HB 1207 placed on Special Order Calendar*)

HB 1061 – Suicide Prevention Education by Heller

The bill amends the district school board duties relating to student discipline and school safety to require each board, beginning with the 2010-2011 school year, to provide access to suicide prevention educational resources to all instructional and administrative personnel, as part of the school district's professional development system. District school boards must use resources approved by the Statewide Office of Suicide Prevention.

Status: Passed PreK-12 Policy as a CS

HB 1065 – Biodiesel Fuel by Precourt (Similar to SB 1730 by Olerich)

The bill provides two exemptions to a public or private secondary school that manufactures less than 1000 gallons of biodiesel fuel for its sole use or the sole use of its employees or students. The first exemption accords tax-free status to a limited production of biodiesel by the school and, thus, relieves the school from payment of monthly motor fuel taxes on its production of biodiesel and from the recordkeeping and filing of forms necessarily required for the payment of taxes or the claiming of tax refunds or credits. The second exemption relieves the secondary school from having to register with the Florida Department of Revenue, pay the fees for the initial application and annual renewals, or secure a bond and file it with the department.

Status: Passed the House Policy Council (*SB 1730 passed Higher Education as a CS*)

SB 1074 – Fire Safety by Wise (Identical to HB 531 by Weinstein)

The bill requires the State Fire Marshal, in consultation with the Department of Education, to develop firesafety standards for public schools and colleges. It further requires that the State Fire Marshal conduct inspections of public schools in areas of the state where the local government does not employ or contract with a certified firesafety inspector. The bill clarifies the responsibilities for school fire code and facility inspections so that there will no longer be varying interpretations of the law. The bill deletes the requirement for an annual statewide firesafety report. In addition, the bill adds a requirement for schools to submit to their local fire control district a site plan for each new facility or facility addition that exceeds 2,500 square feet.

Status: Passed Banking and Insurance

* * * * *

FLORIDA SCHOOL BOARDS ASSOCIATION

Maureen Dinnen, Chair
Dee Dee Rasmussen, Vice Chairman
FSBA Legislative Committee

Dr. Wayne Blanton, Executive Director
blanton@fsba.org

Ruth Melton, Director of Legislative Relations
melton@fsba.org

203 South Monroe Street
Tallahassee, FL 32301
Phone 850/414-2578 Fax 850/414-2585
www.fsba.org