

# FSBA

# BOARDER-LINE

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The 2008 Legislative Session formally convened on Tuesday with House Speaker Marco Rubio and Senate President Ken Pruitt welcoming their members and laying groundwork for the priorities that each hopes to pursue during the 60 days of the session. Priorities for Speaker Rubio center on establishing additional limits on property taxes, placing stringent revenue caps on state and local government, encouraging growth of private property insurance companies, and providing tax credits to support economic development in rural and distressed areas. Meanwhile, President Pruitt urged to avoid adding to the fiscal stress with major new policies or reform initiatives. Instead, Senator Pruitt wishes to pursue priorities that include reinstating the elected Cabinet post of education commissioner, clarifying the role of university governing boards – particularly with respect to the authority to set tuition – and promoting economic development through road and school construction projects.

### ***Education Budget***

As expected, the House and Senate went to work immediately on bills to cut about \$500 million from the state's 2007-2008 budget, with more than half of the cuts to be taken from Pre-K-12 appropriations. On Thursday afternoon, the education budget conference committee met to resolve the differences between their budget reduction bills and implementing bills. As we have reported earlier, the two chambers were in agreement from the outset on specific cuts to the FEFP and categorical programs totaling about \$224 million, or 1.18%. Both chambers also planned to cut about \$30 million from non-FEFP programs, but there were some differences in the amounts to be cut in specific areas. In conference committee negotiations, the Senate agreed to the House position to make deeper cuts in funding for Education Innovation and Education Partnerships, and agreed to not make any further cut to the Excellent Teacher Program.

One positive outcome from this round of budget reduction is an agreement to expand district 2 mill flexibility. As you will recall, during Special Session C, the Legislature authorized school districts to use a portion of their 2 mill revenue on the purchase, lease purchase, or lease of certain vehicles and/or for property and casualty insurance premiums. Thanks to an amendment by Senators Garcia, Wise, Siplin, and others, the implementing bill for the budget reductions approved this week increases, from \$25 to \$65 per FTE, the amount that school districts may expend from their 2007-2008 2 mill revenue for these purposes. School districts must still meet the criteria that were established in Special Session C to be eligible for this flexibility, and these provisions expire July 1, 2008.

For more information on these budget reductions and 2-mill flexibility:

- Please click [HERE](#) to view our spreadsheet that compares the main education appropriations in the original 2007-2008 education budget, the results of the first round of reductions from Special Session C last October, and the results of these additional reductions.
- Please click [HERE](#) to access the FEFP runs that show county-by-county FEFP and categorical program calculations from this round of budget reductions.
- Please click [HERE](#) to view the specific language regarding the expanded 2 mill flexibility.

### ***Proposed Class Size Reduction Bill***

As we have reported to you, the House 21<sup>st</sup> Century Competitiveness Committee, chaired by Representative David Simmons, has been working on a proposed committee bill (PCB) that revises the statutory requirements for implementation of the constitutional class size provisions. FSBA has been working with FADSS, FEA, district lobbyists, and House staff to provide input on this bill. The bill was “workshopped” this week in committee and will be formally considered on March 10.

The PCB revises the school district’s implementation schedule and amends the methodology and implementation schedule by which class size compliance is calculated for FYs 2008 through 2011. Calculation for compliance remains at the school level for FYs 2008-2009 and 2009-2010. For FY 2008-2009, each individual classroom should have no more than four students over the constitutional class size maximums based on the October student membership survey and for FY 2009-2010, each individual classroom should have no more than two students over the class size maximums. The bill requires districts to use 100% of their class size allocation for reducing class sizes if any classroom in the district is over the constitutional maximums by four students in 2008-2009 and by two students in 2009-2010. DOE must annually calculate the number of students in each individual classroom based on the October student membership survey and annually report to the Legislature those districts that are in excess of the maximums. The SBE may exercise its enforcement authority under s. 1008.32, F.S., to ensure that districts comply with the statutory implementation schedule. Beginning with the October student membership survey of the 2010-2011 school year and at the October student membership survey each year thereafter, each individual classroom must be in compliance with the constitutional class size maximums unless a flexibility exception determination has been made by a district school board.

The PCB provides that unexpected student enrollment growth at the district level is student enrollment in excess of the projections used by the Legislature in establishing the General Appropriations Act. At the kindergarten through grade 8 level is student enrollment in excess of the school’s official staffing plan and capacity. At the grades 9 through 12 level is student enrollment in excess of the school’s official staffing plan and capacity or in excess of the official staffing plan and capacity for a restricted course offering.

In the event of unexpected student enrollment growth, the PCB requires school districts to first consider and implement, as deemed practical, alternative methods to meet the constitutional class size maximums. However, if these alternative methods are deemed to be either impractical or educationally unsound and disruptive to students, the PCB authorizes the district school board to determine that there is a need for a flexibility exception to allow additional students to be assigned to a classroom. The district school board’s flexibility exception determination must be made at a noticed, public meeting and is not subject to challenge under the Administrative Procedure Act. Under the flexibility exception, a teacher in prekindergarten through grade 3 may not be assigned more than three students over the constitutional class size maximum of 18 students, a teacher in grades 4 through 8 may not be assigned more than five students over the maximum of 22 students, and a teacher in grades 9 through 12 may not be assigned more than five students over the maximum of 25 students. The flexibility exception expires at the end of the school year and the district school board is required to develop a plan that ensures each school within the district will be in compliance with the constitutional class size maximums by the next October student membership survey. A school district is considered to be in compliance with the constitutional class size maximums when utilizing a flexibility exception.

The PCB revises the accountability provision for noncompliance with class size reduction so that beginning with the October student membership survey of the 2010-2011 school year and at the October student membership survey each year thereafter, if the DOE determines that any individual classroom exceeds the constitutional class size maximums and a flexibility exception determination has not been made by a district school board, the department is required to reduce the school

district's class size reduction operating categorical funds. The bill provides methodology for the calculation in determining the amount to reduce. The PCB removes the transfer penalty provision that the Executive Office of the Governor transfer the district's class size reduction operating categorical to an approved fixed capital outlay appropriation. The PCB also removes the eligibility limitation requiring school districts to meet certain requirements relating to class size reduction in order to administer the school-year VPK program. For more information please click [HERE](#) to view the proposed bill.

### ***School Concurrency***

As we have reported to you, there have been persistent rumors that the development community is pursuing a delay in the implementation of school concurrency. While we have not seen a bill to this effect, we have seen proposed language that would prohibit a local government from implementing or enforcing the provisions of s. 163.3177(12) or s. 163.3180(13) prior to January 1, 2010. In this era of budget cuts and the pursuit of development as an economic stimulus, FSBA believes that this proposal is likely to gain support in the Legislature. With that in mind, we have been working to develop a response and recommendations if this proposal gains momentum.

FSBA has been involved in a steady dialogue with several school district planners, with DOE's Office of Educational Facilities, with the Department of Community Affairs, and with the development community discussing this issue and others. From the school district perspective, we have learned that there are several districts that are unhappy with the prospect of a delay while other districts would welcome it, so FSBA's focus has been on providing flexibility to accommodate these differing needs. In particular, we recommend:

- Any district and its partner local governments that have already proposed their plans to implement school concurrency to the Department of Community Affairs and/or are already operating under their concurrency plan should be allowed to proceed if they desire to do so;
- Any district that had a concurrency plan in place prior to the enactment of SB 360 (i.e. Palm Beach County and Orange County) should be held harmless from any implementation delay if they so desire;
- The local option provision in place prior to the enactment of SB 360 should be restored to allow communities that wish to proceed with the implementation of concurrency to do so with the joint agreement of the school board and local governments;
- Any delay should apply ONLY to implementation and enforcement and should NOT effect the requirements for coordinated school planning and interlocal agreements; and
- The Department of Education and the Department of Community Affairs should be directed to work with stakeholders to identify, and recommend solutions to, the impediments, inconsistencies, and other discrepancies in law and policy that interfere with the successful implementation of school concurrency. This must include consideration of school infrastructure responsibility and cost.

### ***Bill Action This Week***

#### **SB 242 – Single Gender Schools/Classes/Programs by Wise** *(Similar to HB 213 by Legg)*

This bill authorizes district school boards to establish and maintain a single-gender school, class, or program when the school district also makes available a coeducational school, class, or program that has equal academic standards and a school, class, or program for pupils of the other gender that has equal standards. Student participation at a single-gender school, class, or program is voluntary. Each district school board that establishes single-gender schools, classes, or programs must evaluate them every two years in order to ensure compliance with federal requirements.

**Status:** Favorable in Judiciary as a CS *(HB 213 favorable in Education Innovation as amended)*

**HB 251 – School Access/ROTC by Jordan** *(Similar to SB 574 by Baker)*

The bill prohibits a school district from banning the establishment, maintenance, or operation of a Junior Reserve Officers' Training Corps (JROTC) program at a public high school within the district. Additionally, it allows a student to enroll in a JROTC unit at another public high school if one is not available at the student's school. The bill affords military recruiters the same access to secondary education students as that provided to recruiters from postsecondary educational institutions and prospective employers. The bill also includes similar provisions for Senior Reserve Officers' Training Corps programs in community colleges and state universities.

**Status:** Favorable in K-12 as amended

**SB 316 – Biodiesel and Ethanol Fuels/Green Schools by Constantine**

The bill creates the Lead by Example Initiative to help state and local governments save on energy costs, and the Green Schools Pilot Project to incorporate energy-efficient building standards into school construction. In addition, the bill mandates that state agencies and school districts use biofuels as a certain percentage of their fuel usage. By January 1, 2009, school districts must purchase biodiesel as 20 percent of their total diesel fuel purchases, and contractors providing transportation services to districts for its pupils must also meet the biodiesel requirements, for contracts entered into after July 1, 2008.

**Status:** Favorable in Government Operations as a CS

**HB 445 – Intergovernmental Cooperation by Proctor** *(Identical to SB 1070 by King)*

The bill authorizes public agencies, including district school boards, to provide for the use or maintenance of facilities or equipment by interlocal agreement. Compensation for such activities may be provided on a cost reimbursement basis or on the basis of educational benefits received by the employees of a party or students of the public agency. The bill specifically authorizes a district school board to provide transportation of students, rent buildings, and provide maintenance to school plants by interlocal agreement. School districts may enter into agreements to use school buses for public transportation or for other public purposes. In addition, the bill provides for reimbursement to school boards based upon maintenance costs or other activities attributable to the use of the buses under the agreement. The bill requires a public agency receiving such services to indemnify and hold the school board harmless from all liability stemming from such use of its school buses.

**Status:** Favorable in Education Innovation as amended

**HB 491 – ESOL / In-service Requirements by Carroll** *(Similar to SB 286 by Wise)*

The bill establishes in-service requirements for teachers of English for Speakers of Other Languages (ESOL). The bill specifies the following in-service requirements:

- Primary English instructor (Basic ESOL) who is an English/Language Arts teacher: 300 in-service hours or the equivalent, or, if the teacher demonstrates mastery of subject area knowledge of ESOL through achievement of passing scores on subject area examinations required by state board rule, 120 in-service hours or the equivalent;
- Instructor teaching the basic subject areas of reading, mathematics, science, social studies or computer literacy: 60 in-service hours or the equivalent;
- Instructor teaching subject areas other than basic ESOL or the above basic subject areas: 18 in-service hours or the equivalent; and
- School administrator or guidance counselor: 60 in-service hours or the equivalent.

**Status:** Favorable in Schools & Learning Council as a CS *(SB 286 on Calendar, 2<sup>nd</sup> Reading)*

**HB 505 – Instruction / Conflict Resolution by Thompson** *(Identical to SB 1068 by Siplin)*

The bill revises existing requirements for character development curricula by including instruction in conflict resolution management and peer mediation to the required instruction components.

**Status:** Favorable in Education Innovation & Career Preparation

**HB 519 – Public School Utilization by Jordan** *(Similar to SB 1172 by Wise)*

The bill creates the Increased Utilization Program that authorizes the Commissioner to allocate up to 15% of the school district funds in the Public Education Capital Outlay (PECO) and Debt Service Trust Fund to provide incentive funding for schools to adopt alternative, nontraditional school calendars in order to maximize utilization of educational facilities. A school district is eligible to receive incentive funding for one or more eligible schools that increase their facility capacities, over the prior year's capacities, by at least 20 percent as a result of using an alternative, nontraditional calendar. Incentive funding is limited to \$250 per FTE added to each eligible school's capacity, and a school district may receive incentive funding for an eligible school for no more than 5 years. In addition, the bill prohibits a school district from receiving the incentive funding for a school that increases its capacity through overcrowding, implementing double sessions, or assigning students to instructional spaces that do not comply with SREF.

**Status:** Favorable in K-12

**HB 653 – Corporate Tax Credit Scholarships by Traviesa** *(Identical to SB 1440 by Gaetz)*

The bill makes several revisions to the Corporate Income Tax Credit Scholarship Program (CITC Program). The bill revises first-time scholarship eligibility criteria for the sibling of a renewing scholarship recipient. The bill increases the \$88 million maximum tax credit by \$30 million annually for five years and deletes provisions that reserve at least one percent of the maximum tax credit for small businesses. The bill would revise requirements for Scholarship Funding Organizations (SFO) by requiring the SFO to annually expend at least 75%, rather than obligate 100%, of the eligible contributions received in that fiscal year. The SFO may also retain up to 3% of contributions for administrative expenses. The bill increases the maximum scholarship award amount from \$3,750 to \$4,500 for the 2008-2009 school year and requires the State Board of Education (SBE) to annually adjust the maximum scholarship award amount to reflect 62% of the unweighted FEFPP per student funding amount. Further, the allowable uses of scholarship funds are revised by deleting the requirement that at least 75% of scholarship funding be used for tuition. The bill also creates a \$200 premium payment for scholarship students who take the FCAT and attend a private school where 95% of scholarship students take the FCAT. The premium payment may be used for transportation, test preparation, or other school fees. DOE is required to determine if 95% of a private school's scholarship students take the FCAT and to provide private schools with FCAT-test preparation materials.

**Status:** Favorable in Schools & Learning Council as a CS

**SB 1652 – Charter School Accountability by Education Pre-K - 12** *(Similar to HB 1301 by Legg)*

The bill amends statutes relating to charter school accountability in several areas.

**Financial Management** – Prior to filing an application, applicants for charter schools and charter technical career centers must participate in the training provided by DOE that involves financial planning, estimating costs and income, projecting enrollment, and identifying state and federal funding sources. The bill establishes indicators of risk for financial difficulty and provides a corrective action plan to assist these schools. The bill makes charter technical career centers subject to the Financial Emergencies Act, which currently only applies to local governments, district school boards, and charter schools. The bill provides additional grounds for non-renewal or termination of a charter to include when a charter school fails to correct the deficiencies in a corrective action plan within one year or exhibits one or more financial emergency conditions for two consecutive years.

**Class Size** – The bill provides that the number of students eligible for funding in a charter school is no more than the number of students provided for in the class size caps in the state constitution. Charter schools will not be funded for students who exceed these caps.

**Standards of Conduct** – Personnel in charter schools or charter technical career centers that are operated by a private entity may not employ or promote a relative if he or she exercises jurisdiction or control over the individual. This prohibition also applies to governing board members and their relatives and to charter school personnel in schools operated by municipalities or other public entities. In addition, members of the governing board of a charter school or charter technical career center, including those operated by private entities, are subject to the same requirements that apply to public employees for the solicitation and acceptance of gifts, business transactions, and conflicting employment or contractual relationships. The bill also subjects board members to the voting conflict requirements. Board members of charter schools or centers operated by public entities are explicitly subject to statutory requirements for public disclosure of financial interests.

**School Grades and Improvement Ratings** – The bill provides reporting requirements for the DOE and each charter school that does not receive a school grade or a school improvement rating to the extent that the information does not compromise a student’s privacy. Charter schools must report information to the parents of a student at the charter school and others. The bill requires charter schools to post this information on their website and provide for other notice to the public, as provided for in SBE rule. The Florida Schools of Excellence Commission must include a link on its website to this information.

**Governance** – The bill provides that a district school board that is granted the exclusive authority to authorize charter schools in the district retains this status unless it fails to meet the requirements in s. 1002.335, F.S. The board will no longer be required to annually re-submit a written resolution to the State Board of Education. A party may still challenge a school board’s exclusivity status, in accordance with the procedures in law.

### **SB 1712 – Ethics in Education Act by Education Pre-K - 12**

The bill establishes comprehensive changes at the state and local level regarding the screening, hiring, and termination policies for educators and the reporting procedures related to allegations of educator misconduct.

**Educator Certification** – The bill establishes a list of crimes or delinquent acts that would serve as an absolute bar against any individual, if convicted, from obtaining or retaining a teaching certificate or employment involving direct contact with students and requires each school district to adopt a list of crimes to include at minimum, those at the state level.

**Educator Employment and Screening Policies** – Requires school districts to adopt stringent and effective policies for screening potential employees and terminating existing employees for misconduct. The superintendent would be held responsible for communicating to all employees the expected ethical standards and the procedures for reporting allegations of teacher misconduct. Every school district would be required to notify DOE of the termination of any employee, regardless of cause, and the DOE must include this information on a secured website accessible by the districts. The bill prohibits school districts from entering into any form of confidentiality agreement when terminating an employee, requires the district to contact the previous employer of every candidate for employment, and to access the DOE certification website. The bill contains provisions for significant financial penalties and certification sanctions for noncompliance.

**Schools of Choice** – The Florida School for the Deaf and Blind and private school providers that accept students under state-supported scholarship programs would be held to the same standards as those required in the bill of local school districts. Private providers that fail to comply with the provisions of the bill would be prohibited from accepting students or any state funding for the period of one calendar year.

**Education Practices Commission** – The bill revises the membership of the Education Practices Commission to include sworn law enforcement officers and parents of public school students. The authority of the Commission is also expanded to allow for discipline of an educator who knowingly fails to report suspected or actual misconduct by an educator or any violation of the Principles of Professional Conduct for the Education Profession.

**Retirement Benefits** – The bill requires that any public officer or employee convicted of certain crimes involving minors would forfeit their right to any state retirement benefits.

**Status:** Favorable in Education Pre-K - 12 as a CS

**SB 1742 – Educator Ethics by Carlton**

The bill urges the U.S. Congress to support the passage of laws that would establish ethical standards for professional educators and develop a national clearinghouse to strengthen state efforts in the reporting, screening, and sharing of critical information relative to educator misconduct.

**Status:** On Calendar, 2<sup>nd</sup> Reading

**SJR 2308 – Commissioner & State Board of Education by Carlton** *(Similar to SLC 2)*

This bill proposes constitutional amendments that would restore education governance to its 1998 structure by reinstating the Commissioner of Education as an statewide elected position that serves as a member of the Florida Cabinet. The bill would also replace the currently appointed State Board of Education with the elected members of the cabinet. The proposal would retain the Board of Governors (BOG) but with duties limited to administering the State University System, rather than attempting to govern individual universities. In addition, the membership and term of office on the BOG would be revised from 14 members serving 7-year terms, to 5 members serving 4-year terms. The proposal would retain the authority of the university boards of trustees to administer their universities, but members of the board of trustees would be appointed by the Governor only.

**Status:** Favorable in Education Pre-K - 12 as a CS *(SLC 2 favorable in Schools & Learning)*  
*[NOTE: One substantial difference between SLC 2 and SJR 2308 is that SLC 2 also establishes the Florida College System (FCS) for 2-year and 4-year public postsecondary institutions that grant undergraduate degrees and establishes the Florida College Board to oversee and coordinate the FCS]*

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