

M E M O R A N D U M

February 14, 2006

TO: The Honorable Chair and Members of The School Board of Miami-Dade County, Florida

FROM: Rudolph F. Crew, Superintendent of Schools

SUBJECT: FLORIDA ASSOCIATION OF DISTRICT SCHOOL SUPERINTENDENTS (FADSS) UPDATE – WEEK OF FEBRUARY 6-10, 2006

Attached please find a copy of the legislative update prepared by Ms. Joy Frank, Legal Counsel for the Florida Association of District School Superintendents (FADSS), covering Interim Committee Week of February 6-10, 2006.

Should you have any questions, please contact Mr. Alberto M. Carvalho, Associate Superintendent, Office of Intergovernmental Affairs, Grants Administration, and Community Services at 305 995-2532.

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Attachment

cc: Superintendent's Cabinet
School Board Attorney
Dr. Magaly C. Abrahante
Ms. Iraida R. Mendez-Cartaya
Dr. Linda D. Brown

February 10, 2006

MEMORANDUM

TO: District School Superintendents

FROM: Joy Frank

RE: Interim Committee Week – February 6 – 10, 2006

General Information

The House and Senate substantive and appropriations committees held interim committee meetings this week. Next week (February 13 – 17), in the House only appropriations committees will meet. The Senate will hold meetings of both substantive and appropriations committees. During the week of February 20 – 25, the House will hold meetings of both substantive and appropriations committees. The Senate will not meet at all.

The Senate Education Committee has filed PCB 7088 which is their version of the A++ legislation. Attached are both the bill (119 pages) and a section by section analysis of the bill. The proposed bill will be heard at the next Senate Education Committee scheduled for February 14.

Below is a summary of the pertinent bills that were considered during the February 6 – 10 interim committee week.

Senate Education Committee

SB 266 by Senator Fasano relates to athletic trainers/licensure. This bill was heard in the Senate Health Care Committee last month. The bill revises the licensure and license renewal requirements for athletic trainers. The existing exemption from the athletic training practice act for a person employed as a teacher apprentice trainer I, a teacher apprentice trainer II, or a teacher athletic trainer under s. 1012.46, F.S., is deleted.

The bill revises provisions that authorize a school district to establish and implement an athletic injuries prevention and treatment program to delete the employment classification and advancement schemes for a “first responder” and a “teacher athletic trainer”. To qualify as an “athletic trainer,” a person must be licensed as an athletic trainer and may possess a professional, temporary, part-time, adjunct, or substitute teaching certificate.

The bill passed the committee favorably and is now on the Senate Calendar.

SB 370 by Senator Peaden relates to Speech-language Pathology/Audiology. This bill was heard in the Senate Health Care committee previously. This bill revises the requirements for the Department of Health (DOH) to issue a provisional license in the fields of speech-language pathology and audiology. The bill specifies course objectives that should be included in the educational curriculum that applicants must complete.

Beginning in 2008, an applicant for licensure as an audiologist must have earned a doctoral degree in audiology. The bill expands the list of accrediting agencies under whose standards a program may be approved, to allow for a potential name change of a current accrediting body and to permit a program to meet U.S. Department of Education standards.

The Board of Speech-Language Pathology and Audiology (board) is authorized to waive specific licensure requirements for certain international medical graduates for both speech-language pathologists and audiologists if the board is satisfied that the applicant meets the equivalent education and practicum requirements and passes the examination in speech-language pathology or audiology.

The bill requires applicants for certification as an audiology assistant to earn a high school diploma instead of completing at least 24 semester hours of coursework, as is currently required. An audiologist or speech-language pathologist who employs a speech-language assistant or audiology assistant must provide the assistant with a plan approved by the board for on-the-job training and must maintain responsibility for all services performed by the assistant.

The bill passed the committee favorably with one technical amendment and is now on the Senate Calendar.

SB 412 by Senator Bennett relates to district school taxation/millage. This bill creates an additional basis for discretionary millage to be levied by a local district school board. In addition to other projects listed in statute, this bill authorizes the payment of premiums for property and casualty insurance for the purpose of insuring the educational plants of the school district.

If a school district uses the discretionary levy for insurance premium payment, this bill limits the operating revenue that would have been expended on these payments to paying only nonrecurring operational costs of the school district.

The bill passed the committee favorably with one technical amendment. The bill is now in the Senate Governmental Efficiency Appropriations Committee.

SB 1030 by Senator Margolis relates to charter schools. This bill grants sponsors of charter schools immunity from civil liability under state law for the following:

- Personal injury, property damage, or death due to an act or omission of an officer, employee, agent, or governing body of the school; and

- Employment actions taken by an officer, employee, agent, or governing body of the charter school.

This bill specifies that the sponsor's duties to monitor the charter school do not form the basis for a private cause of action. This bill clarifies that these provisions do not constitute a waiver of sovereign immunity by a district school board.

This bill expands the current immunity provided to school districts from immunity from assumption of debts for contracts for services between the charter school and a third party, to all contracts between a school and third party.

The bill passed the committee favorably with one amendment which limits immunity to those acts or omissions that are not subject to the sponsor's direct authority, as provided in statute. The bill is now in the Senate Judiciary Committee.

SB 1064 by Senator Clary relates to FRS/DROP/Grades K-12 Personnel. This bill permits district school superintendents to authorize administrative personnel to extend participation in the Deferred Retirement Option Program (DROP) program an additional 36 months, beyond the current 60-month maximum authorized.

The bill passed the committee favorably and is now in the Senate Governmental Oversight and Productivity Committee.

SB 1174 by Senator Miller relates to Schools/Child's Record/Parent Right. This bill requires parents to be provided with information regarding the content of their child's permanent record, their legal right of access, others' rights of access, and privacy regarding such records. In addition, a checklist of parental actions that can strengthen parental involvement must be reviewed during parent-teacher conferences.

The bill was amended to require district school boards to develop beginning in the 2006-07 school year, rules that enhance parental communication including notice by phone or in writing whenever a student is seen in the school office for disciplinary or academic reasons. The contents of a student's cumulative folders must be reviewed with a parent when a teacher or other staff member request a conference with the parent concerning a problem with their child's behavior or academic performance.

The bill passed the committee favorably with one amendment and is now in the Senate Education Appropriations Committee.

SB 502 by Senator Wilson relates to Students/Computers/Internet Access. This bill establishes a program to provide discounted computers and internet access to public school students in grades 5-12. The bill authorizes the Department of Education (DOE) to negotiate with computer companies and non-profit organizations for discounted computers and software that support word processing and broadband internet access.

DOE must negotiate with broadband providers for discounted internet access and to adopt rules, in conjunction with the Digital Divide Council, to provide training to students; notification to parents; and information regarding eligibility, locations where the computers are available, and how students may obtain and pay for computers and internet access.

In addition, the bill establishes a pilot project to assist low-income students in purchasing discounted computers and internet access services. The pilot project would be funded as provided in the General Appropriations Act and any grants received from public and private sources.

The bill passed the committee favorably and is now in the Senate Commerce and Consumer Services Committee.

SB 1004 by Senator Bullard relates to Personnel Discipline/Public Schools. The bill revises the grounds for disciplinary action against certified instructional personnel and administrators to include a certificate holder who knowingly obtains or attempts to fraudulently obtain an educator certificate.

The bill passed the committee favorably and is now on the Senate Calendar.

Senate Health Care Committee

CS/SB 248 by Health Care Committee and Senator Constantine relates to Automated External Defibrillators/High Schools. The Committee Substitute requires each high school that is a member of the Florida High School Athletics Association to have an operational automated external defibrillator (AED) on the high school grounds. The bill encourages public/private partnerships to cover the cost associated with the purchase and placement of the AED and training in the use of the AED.

The bill passed the committee favorably as a committee substitute and is now in the Senate Education Committee.

House PreK-12 Committee

CS/HB 127 by the PreK-12 Committee and Rep. Hays relates to Immunizations. The bill requires district school boards and private school governing authorities to provide every student's parent specified information about meningococcal disease in accordance with the recommendations of the Department of Health (DOH). The bill requires DOH to adopt rules specifying the age or grade level of students to receive the information consistent with recommendations of the Centers for Disease Control. It further requires DOH to make information about the disease available to district school boards and private school governing authorities, who shall determine the means and methods for providing this information to parents of students.

The Committee Substitute passed the committee favorably and is now in House Health Care Appropriations.

The Committee then heard a presentation on the recommendations of the **High School Reform Task Force**. A panel representing members of the task force made presentations. Dr. Margaret “Peg” Smith, Superintendent of the Volusia County School Board, was on the panel. The recommendations are reproduced below:

- 1) Upgrade Florida’s high school graduation requirements to better prepare students for the 21st century. New graduation requirements:
 - Including rigorous core requirements
 - 4 years of mathematics including algebra and geometry or equivalent courses such as applied and integrated (level 2 or above)
 - Areas(s) of specialization
 - Minimum GPA requirements
 - Earning a passing score on the 10th Grade FCAT
- 2) Provide for Differentiated Levels of Proficiency in content areas. For example recognition obtained in each content area for:
 - Successful completion of courses such as honors, AICE, IB, AP, Dual Enrollment
 - Achievement at this level – GPA in area
 - Non-traditional ways of demonstrating “Outstanding Accomplishments”
- 3) Increase opportunities at the middle school level for earning high school level course credit by encouraging middle schools to offer a minimum of one high school course for high school credit with an emphasis on Algebra 1.
- 4) To ensure the foundation of academic skills in middle school, require minimum core course completion (required number in core areas) to exit grade 8 or enter high school.
- 5) Provide summer academies that give intensive intervention/remediation between grades 5/6, 6/7, 7/8, and 8/9 as needed as a condition for promotion and credit recovery in high school. Particular emphasis must be placed on the transition from grade 8 to 9, with 9th grade summer academies to prepare struggling learners for high school. FCAT retakes should be allowed after the summer academies.
- 6) The Department will research the implementation of end-of-course exams in other states and Florida districts as a measure of students meeting higher expectations.
- 7) Help teachers meet higher expectations by providing data-driven, student specific, research-based professional development.
- 8) Help administrators meet higher expectations by providing instructional leadership training for principals.

9) Encourage the development of the opportunities for a high school student to earn a high school diploma and a higher level degree, certification, or competency at the same time.

10) Require career education consisting of a minimum of 9 weeks in at least one middle level grade: 6, 7 or 8.

11) Implement smaller learning communities, which may include (1) career clusters/academies in high school that may lead to industry certification or (2) other advanced academic studies.

12) Expand academic advisement and support services in secondary schools. Coordinate all planning with parental involvement and the student's academic and/or career plan (increase use of FACTS.org).

13) Provide the tools whereby middle grade students can focus on the future by the development of a 5 year educational plan to address high school and postsecondary goals.

14) Eliminate grade level retention in high school, with high school graduation being based on proficiency and earning the required credits and GPA.

15) Help middle and high schools infuse reading as part of the culture by ensuring Level 1 and Level 2 readers are served with intensive reading instruction, incentivize content area teachers to pursue the reading endorsement, providing engaging and diverse texts in both the media center and classroom libraries, and tying reading to all content area and elective courses. Ensure that literacy benchmarks are a part of all content areas.

The Committee then had a panel discussion on the transfer rule recently promulgated by the Florida High School Athletics Association.

House Community College and Workforce Committee

The Committee heard several presentations on Workforce Readiness Skills and Credentials. Kathie Schmidt, Director of Career and Technical Education, St. Lucie School District was one of the presenters.

House and Senate Appropriations Committees

The Senate Education Appropriations Committee had a presentation from Commissioner Winn on the Governor's Legislative Budget Request. The House Education Appropriations Committee did not meet this week.

Reports of Interest

The Florida Impact Fee Review Task Force has released its *Final Report and Recommendations*. The Executive Summary is reproduced for you below.

Executive Summary

Florida Impact Fee Review Task Force

In 2005, the Florida Legislature passed the “pay-as-you-grow” growth management law (CS/CS/CS SB 360). The goal of the new legislation is to ensure that roads, schools and water are available to meet the needs of Florida’s rapidly growing communities. Among its numerous provisions, the legislation (codified as Ch. 2005-290, L.O.F.) created the Florida Impact Fee Review Task Force. Comprised of 15 members representing the state and local governments, the building and development community, the school boards, and an affordable housing advocate, the Task Force was established to serve as an advisory body to the Legislature on the issue of impact fees.

The Task Force was charged with surveying the current use of impact fees, reviewing current impact fee case law and making recommendations as to whether statutory direction was necessary with respect to specific impact fee topics. The Florida Legislative Committee on Intergovernmental Relations (LCIR) was assigned to serve as staff to the Task Force. The Task Force was directed to submit a report detailing its recommendations to the Governor and the Legislature by February 1, 2006.

From August 2005 through January 2006, the Task Force held seven meetings throughout Florida. During these meetings, the Task Force received oral reports along with detailed information from representatives of the Florida Association of Counties, Florida League of Cities, Florida School Boards Association, Florida Association of Special Districts, Florida Home Builders Association, Florida Association of Realtors, Small County Coalition, as well as local government officials, impact fee consultants and interested members of the public. Approximately one-half of the Task Force’s total meeting time was devoted to public comment.

Impact Fees in Florida

Impact fees are a total or partial payment to counties, municipalities, special districts, and school districts for the cost of additional infrastructure necessary as a result of new development. Impact fees are tailored to meet the infrastructure needs of new growth at the local level. As a result, impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources and the local government’s determination to charge the full cost of the fee’s earmarked purposes.

In Florida, impact fees are an outgrowth of local governments’ home rule powers to provide certain services within their jurisdictions. Accordingly, impact fees are governed by case law, rather than by statute.

From 1993 through 2004, reported impact fee revenues totaled nearly \$5.3 billion. During this period, impact fee revenues increased 505 percent with much of the

accelerated growth occurring since the late 1990s. This increase is a result of Florida's rapid population growth, the rising cost of land and building infrastructure, along with the decreasing availability of state and federal revenues for local infrastructure. During this time period, counties account for the largest amount of impact fee revenue collections at \$3.5 billion. Municipalities follow with \$1.2 billion in collections. However, since 2002 school districts have become a major beneficiary of impact fees with \$500 million in collections.

Conclusions

Based on the testimony and supporting documentation received, the Task Force concluded:

1. Impact fees are a growing local source of revenue for infrastructure in Florida.
2. Local governments in Florida do not have adequate revenue generating resources with which to meet the demand for infrastructure within their jurisdictions.
3. Without impact fees, Florida's growth, vitality and levels of service would be seriously compromised.
4. Impact fees are a revenue option for Florida's local governments to meet the infrastructure needs of their residents.
5. Because Florida comprises a wide variety of local governments – small and large, urban and rural, high growth and stable, built out and vacant land – each with diverse infrastructure needs, a uniform impact fee statute would not serve the state.
6. Impact fees must remain flexible to address the infrastructure needs of the specific jurisdiction which it was tailored to serve.
7. Statutory direction on impact fees is needed to address and clarify certain issues regarding impact fees.

Recommendations

The Task Force proposes that the following recommended statutory changes be incorporated into existing statutes, rather than creating a uniform impact fee statute. Based upon its conclusions, the Task Force recommends statutory guidance for impact fees in the following areas:

- (1) **Data.** Require local governments to use the most recent and localized data when calculating an impact fee.
- (2) **Affordable Housing.** Require that "all impact fee ordinances significantly address affordable housing. This may include waiving, deferring, exempting, paying out of

another source, or establishing a significant affordable housing program. Furthermore, the Task Force recommends that the Legislature fully fund the State Housing Trust Fund and the Local Government Housing Trust Fund, collectively referred to as the Sadowski program, and dedicate the funds for affordable housing units.”

(3) Accounting and Reporting Collections and Expenditures. Require that all impact fee collections and expenditures be accounted and reported.

(4) Notice. Require that local governments provide notice of not less than 90 days before the effective date of an impact fee ordinance.

(5) Administrative Charges. Require that administrative charges for impact fee collections be limited to “no more than actual cost.” Based on testimony before and debate among the Task Force members, the Task Force recommends ‘no’ statutory guidance regarding the following impact fee topics:

- (1) methodology used to calculate impact fees;
- (2) sharing of impact fees between counties and cities;
- (3) timing of impact fee payments;
- (4) time limits for the expenditure of impact fee collections and impact fee refunds;
- (5) changing the legal burden of proof for impact fee challenges;
- (6) a presumptively unchallengeable impact fee;
- (7) impact fee caps; and
- (8) a model impact fee ordinance.

In addition, the Task Force was unable to come to a consensus (by a vote of six to six) with regards to a recommendation on impact fee credits. The Task Force further recognized that the use and amount of impact fees in Florida has risen dramatically in the past decade. This is a result of Florida’s rapid population growth, the rising costs of land and building infrastructure and decreases in state and federal revenue sources that previously assisted local governments with their infrastructure needs. As a result, the Task Force found that for various reasons local governments have not been able to enact available revenue sources or do not have adequate revenue generating resources to keep up with infrastructure demands. Consequently, the Task Force strongly recommends that the Legislature consider additional or alternative funding sources for local governments to meet their infrastructure demands. Specifically, the Task Force recommends that the Legislature consider the following revenue sources for this purpose:

- (1) authorizing passage of the Local Option Sales Tax, which includes the Local Government Infrastructure Surtax and the Small County Surtax by majority or supermajority vote of the Board of County Commissioners, and the School Capital Outlay Surtax by majority or supermajority vote of the District School Board, as an option to the referendum requirement;
- (2) increasing the bonding capacity of County Revenue Sharing Dollars;
- (3) finding an alternative to augment the Public Education Capital Outlay (PECO) fund;

(4) fully funding the Sadowski program for affordable housing, as previously stated; and (5) authorizing all local governments to assess a Documentary Stamp Surtax, similar to Miami-Dade County's \$0.45 per \$100.

It is the Task Force's hope that these funding sources for infrastructure will help address the rising cost of growth in Florida. The Task Force believes that these recommendations offer Florida's citizens, homebuyers, homebuilders, and developers the fairness and predictability with respect to impact fees that they seek, while maintaining Florida's local governments' ability to address infrastructure needs within their jurisdictions, in a manner consistent with their home rule powers guaranteed by the Florida Constitution.