

# FSBA

# BOARDER-LINE

Official Legislative Bulletin of the  
Florida School Boards Association

---

**March 16, 2007**

**Volume 2007, Number 3**

---

## **Performance Pay Legislation**

This week, the House and Senate resolved the differences between their performance pay bills – HB 7021 and SB 1226. These bills are expected to go to each chamber's floor for debate and final passage next week. Legislative leaders have expressed their hope that Governor Crist will sign the legislation into law by April 1, which will allow for a smoother transition from the current STAR Program – which is repealed in this legislation – to a new performance pay program.

The compromise legislation creates s. 1012.225 to establish the Merit Award Program (MAP) for Instructional Personnel and School-Based Administrators as follows:

### **Eligibility**

To be eligible for state funding for MAP, the school board must adopt a MAP plan that provides for an assessment and a merit award based on the performance of students assigned to the employee's classroom or school. Charter schools may participate in the program by using the district's MAP plan or, if the charter school does not follow the district's salary schedule, the charter school may submit a separate proposal with the district's plan. Charter school proposals may be submitted independently if the district does not submit a MAP plan.

All instructional personnel, as defined in s. 1012.01(2)(a)-(d), and school-based administrators, as defined in s. 1012.01(3)(c) are eligible as individuals or as instructional teams to receive MAP awards, with the exception of substitute teachers. To receive a MAP award as an instructional team, team members must be assessed on the performance of students assigned to the team members' classrooms or within the members' sphere of academic responsibility. The district MAP plan may not require employees to apply or make a presentation to be assessed or to receive an award.

### **Funding**

MAP supplements must be funded from funds appropriated by the Legislature and from any additional funds designated by the school district for the MAP. However, school districts are not required to implement their MAP plan unless the program is specifically appropriated by the Legislature.

DOE may not distribute any portion of pro rata funding to a district or to a charter school if the district or charter school chooses not to adopt a MAP plan and any undistributed funds must revert to the fund from which it was appropriated. By October 1 each year, districts must provide documentation to DOE showing expenditures of any state appropriation and districts must refund any undispersed appropriations to DOE. If undispersed funds are not remitted by November 1, an equivalent amount will be withheld from the district's FEFP funding.

### Pay Supplement Structure

The district's MAP plan must designate the top instructional personnel and school-based administrators to be outstanding performers and pay a merit based pay supplement to each such employee who remains employed in a Florida public school. The supplement must be at least 5%, but not more than 10%, of the district's average teacher salary. The MAP plan may include additional pay supplements for exemplary work attendance. The supplement must be in addition to other increases or adjustments and must not adversely affect the employee's opportunity to receive other compensation. The supplements must be distributed by September 1 of the following school year.

### Employee Assessment Criteria

At least 60% of the employee assessment must be based on student performance. The assessment of instructional personnel must consider the performance of students assigned to his/her class or within his/her academic sphere of responsibility and the assessment of school-based administrators must consider the performance of students assigned to his/her school. The evaluation of student performance must be based upon student academic proficiency, learning gains, or both, and must be measured by the FCAT, or for subjects and grades not measured by the FCAT, by national, state, or district-determined testing instruments that measure the Sunshine State Standards, curriculum frameworks, or course descriptions for the content area and grade level. Measures adopted by the school board to assess employees must balance student academic proficiency and learning gains so that top-performing employees have an opportunity to receive a MAP award.

Beginning with the 2007-2008 school year, participating school districts must be able to administer end-of-course examinations based on the Sunshine State Standards in order to measure a student's understanding and mastery of the entire course in all grade groupings and subjects for any year in which the districts participate in the program. The FCAT, AP examination, IB examination, AICE examination, or examinations resulting in national industry certification recognized by the Agency for Workforce Innovation satisfy this examination requirement for the respective grade groupings and subjects assessed by these examinations and assessments.

Up to 40% of the employee assessment must be based on professional practices. For instructional personnel, the professional practices component must be based on the principal's assessment; for school-based administrators the professional practices component must be based on the district superintendent's assessment. The professional practices assessment criteria must include:

- Ability to maintain appropriate discipline;
- Outstanding knowledge of subject matter, with the ability to plan and deliver high quality instruction, and the high-quality use of technology in the classroom;
- Ability to use diagnostic and assessment data to design and implement differentiated instructional strategies to meet student needs for remediation or acceleration;
- Ability to establish and maintain a collaborative relationship with students' families;
- The Florida Educator Accomplished Practices and any other professional competencies, responsibilities, and requirements, as established by rules of the State Board of Education and policies of the school board;
- For school-based administrators, the ability to manage human, financial, and material resources to maximize their use for direct instruction, and the ability to recruit and retain high-performing teachers;
- other appropriate factors identified by the school board.

### Collective Bargaining

Section 447.403, F.S. is amended to provide that, if an impasse is declared in dispute of a MAP plan, no mediator or special magistrate can be appointed unless both parties agree to such an appointment. If a party does not agree, the appointment will be considered waived and the parties must proceed directly to resolution by the school board.

### Duties

The school board must inform its employees of the criteria and procedures of its MAP plan. Upon request, the DOE must provide technical assistance to districts to aid in the development of MAP plans, but such assistance is not subject to Ch. 120. DOE must also collect and disseminate best practices for district determined testing instruments.

### Review of MAP Plans

Each participating school board must submit its MAP plan to the Commissioner for review by October 1 each year. The plan must include the negotiated, district-adopted plan, or charter school adopted plan if the district does not submit a plan, intended for use in the following year. The commissioner must complete a review of each plan to determine compliance with MAP requirements by November 15 of each year. If a plan is not in compliance, the commissioner must identify in writing the specific revisions that are required. Revised plans must be finalized and resubmitted to the Commissioner by January 31 of each year. The commissioner must certify those plans that do not comply to the Governor, Senate President, and House Speaker by February 15 of each year. For purposes of the 2007-2008 school year, the initial MAP plan submitted for the 2007-2008 school year will also apply to the 2008-2009 school year. Thereafter, all plans submitted and approved within the time lines set forth apply to the following school year.

Each school board must establish a procedure to annually review both the assessment and compensation components of its plan in order to determine compliance with statutory requirements. After this review and by October 1 of each year, the district school board must submit a report to the Commissioner, along with supporting documentation that will enable the commissioner to verify compliance during the prior school year. The commissioner must submit a report to the Governor, Senate President, and House Speaker certifying those school district or charter school plans that do not comply or whose plans were not implemented in accordance with MAP requirements by December 1 of each year. Any subsequent revision to an approved MAP plan must be approved by the school board and reviewed by the commissioner to determine compliance.

### Rulemaking

Within 30 days after this legislation becomes law, the State Board of Education must initiate rulemaking in order to adopt rules relating to the calculation of average teacher salaries per district, reporting formats, and the review of plan procedures for purposes of administering this section.

### STAR Program

The STAR Program appropriation of \$147,500,000 is rescinded, and proviso and implementing bill language relating to the STAR Program are repealed. The sum of \$147,500,000 is appropriated to the DOE to be allocated among school districts based on each district's proportion of K-12 base funding. These funds may be used for any of the following:

- To fund STAR plans that are implemented. A district that has been asked to submit a revised STAR plan must submit its revised plan by May 1, 2007. The state board may either approve the revised plan or deny the district eligibility to receive STAR plan funds for FY 2006-2007;
- To fund performance pay policies adopted pursuant to s. 1012.22(1)(c)4, F.S. However, the school district may disburse funds only in an amount equal to the amount of funds disbursed under its policy for the 2005-2006 school year;
- To fund performance pay policies approved by the district school board which meet the requirements of the Merit Award Program with respect to the eligibility, pay supplement structure, and assessment provisions described above.

Any district funds from this allocation that are undisbursed as of September 1, 2007 must be refunded to the DOE. If such funds are not remitted by October 1, 2007, DOE must withhold an equivalent amount from the district's FEFP funding for 2007-2008.

Effective June 30, 2007, s. 1012.22(1)(c)4, F.S is repealed and any related State Board rules that are in conflict with the MAP provisions are suspended.

### **State Budget Update**

Florida's economists have been reviewing projections for state revenues for next year and the news is not good. The latest report from the revenue estimating conference says that, for the first time in more than 30 years, that the state is expected to collect less in taxes this year than it did in the previous year. Further, it is expected that Florida lawmakers will have nearly \$1 billion less than projected to spend in the coming year when drawing up a new state budget. With economists predicting less growth from sales and other taxes for 2008, the state should have only about \$1.6 billion for new spending on all state programs. To put this in perspective, last year the Legislature provided more than \$1.7 billion in increased funding for K-12 education alone. This grim revenue picture becomes an even greater concern when coupled with some of the property tax relief measures that have been proposed.

Against this revenue backdrop, the House and Senate appropriations committees will be preparing their budget proposals next week. In anticipation of that budget development, the House Schools and Learning Council outlined a preliminary K-12 "start-up" budget in a workshop this week. This preliminary start-up budget would provide an increase of about \$1.2 billion in FEFP funding for next year, would decrease the Required Local Effort millage from 5.010 to 4.910, and would provide a change in policy with respect to the .25 supplemental discretionary millage. Currently, school districts are authorized to levy up to .25 mill to generate \$100 per FTE. For those districts that levy the full .25 mills but generate less than \$100 per FTE, the state provides funding from the FEFP to make up the difference. Under the new policy that the House is considering, school districts would be authorized to levy up to .25 mills to generate not more than twice the statewide average. For those districts that levy the full .25 mills but generate less than the statewide average, the state would provide funding from the FEFP to match the statewide average. Attached is a 4-page budget run for the preliminary House budget and also shows the impact of the .25 mill proposal for each school district.

### **Federal Education Budget Update**

Last year, the 109<sup>th</sup> Congress adjourned without having passed a budget for FY 2007 – which began October 1, 2006 – and the federal government was left to operate on a continuing budget resolution that froze funding at FY 2006 levels. In February, the 110<sup>th</sup> Congress enacted a continuing resolution that provided some modest funding increases for several programs for FY 2007. In particular, the continuing resolution for FY 2007 provides a \$250 million increase in Title I grants, including \$125 million for Title I School Improvement grants, for a total of \$12.9 billion – far below the \$25 billion authorized under the No Child Left Behind Act for FY 2007. The continuing resolution also provides a \$200 million increase for the Individuals with Disabilities Education Act (IDEA) state grants for a total of \$10.7 billion – again, far below the \$16.9 billion promised under the IDEA reauthorization in 2004. Since then, President Bush has released his education budget request for FY 2008. Attached is a spreadsheet that highlights key education allocations and compares President's budget request with appropriations for FY 2006 and FY 2007. Please visit the NSBA web site at [www.nsba.org](http://www.nsba.org) for additional information.

### **Bill Action This Week**

#### **SB 162 Schools/Abstinence-only Instruction by Geller *(Identical to HB 663 by Randolph)***

The bill requires each school district to make information available regarding the human sexuality and pregnancy and disease prevention curriculum provided to secondary school students. The curriculum information must be posted on the school district website or delivered through the most commonly used method of parental and community notification. The communication must also include the procedures available for reviewing the curriculum and provisions for parents and the community to offer input or comments.

**STATUS:** Passed Education Pre-K – 12 as a CS

**HB 215 Sales Tax/School Supplies & Clothing by Coley** *(Identical to SB 1456 by Webster*

This bill establishes a 2007 sales tax holiday to begin August 4, 2007 and end August 13, 2007. During the sales tax holiday, books, clothing, footwear, wallets, and bags that cost \$50 or less, and school supplies that cost \$10 or less, are exempt from the state sales tax and local option sales taxes. The bill specifies that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. The impact of this sales tax holiday is expected to be loss of more than \$52 million in state and local tax revenue.

**STATUS:** Passed K-12 as amended

**HB 355 Teachers Lead Program Stipend by Vana** *(Similar to SB 450 by Rich)*

This bill expands eligibility for the Teachers Lead Program Stipend to include prekindergarten teachers. The bill specifies that this expansion would not include Voluntary Prekindergarten teachers – who are not funded through the FEFP – but would include job share teachers and charter school teachers.

**STATUS:** Passed K-12 as amended

**SB 574 District School Taxation/Millage by Bennett**

In addition to other projects authorized in statute for discretionary millage levied by a district school board, this bill allows the payment of premiums for property and casualty insurance for the purpose of insuring the educational plants of the school district. For those school districts who use the discretionary levy for insurance premium payments, the bill limits the operating revenue that would have been expended on these payments to nonrecurring operational costs of the school district.

**STATUS:** Passed Education Pre-K – 12

**HB 575 Bullying/ Harassment/ Schools by Thompson** *(Similar to SB 114 by Baker)*

This bill prohibits the bullying or harassment of any student or school employee during a public K-12 education program or activity, during a school-related or school-sponsored program or activity, on a public K-12 school bus, or through a public K-12 computer, computer system, or computer network. The bill requires a school district to adopt a policy prohibiting bullying and harassment that substantially conforms to a model policy developed by the DOE, and that includes the bill's definitions of "bullying" and "harassment." For the 2008-2009 school year, a school district's Safe Schools funding would be contingent upon DOE approval of the district's policy. Beginning with the 2009-2010 school year, Safe School funding would be contingent upon a district compliance with the bill's reporting procedures.

**STATUS:** Passed K-12 as amended

**SB 680 Growth Management by Dockery** *(Similar to HB 645 by Hays)*

This bill increases the annual appropriation for the Classrooms for Kids Program from \$41.75 million to \$75 million and amends criteria for participation in the High Growth District Capital Outlay Assistance Grant Program. The bill also eliminates the 15,000 capital outlay FTE student membership and replaces it with the requirement that the district must have equaled three times the statewide average of growth in capital outlay FTE students to qualify. The allocation formula is revised, and a stipulation is included that prohibits a change, correction, or recomputation of data authorized for two years following the initial annual allocation.

**STATUS:** Passed Education Pre-K – 12

**SB 1212 Corporate Income Tax Credit Program by Wise** *(Identical to HB 465 by Legg)*

This bill expands eligibility for the Corporate Tax Credit Scholarship to students in foster care and Department of Juvenile Justice education programs. The bill also defines family income for foster care students as the income that is considered in determining whether the students qualify for free or reduced-price meals under the National School Lunch Act.

**STATUS:** Passed Education Pre-K – 12 as a CS

**HB 799 K-8 Virtual School Program by Weatherford** (*Identical to SB 2822 by Wise*)

This bill specifies that the K-8 Virtual School Program is a component of the delivery of public education within Florida’s K-20 education system. The bill requires K-8 Virtual Schools to be nonprofit entities and expands student eligibility for the program to include students who, during the prior year, attended parochial, religious, or denominational school; private school; home education program; or private tutoring program. School districts are required to be responsible for the provision of exceptional student services that a K-8 virtual school is unable to provide, and permits the school district to report such services for funding purposes under the FEFP. The bill authorizes funding for the program in the FEFP based on FTE as defined in s. 1011.61(1)(c), F.S. This bill also requires the appropriation of discretionary operating funds to the program from nonvoted discretionary millage and authorized additional state funds as may be provided in the General Appropriations Act. The bill further provides that a K-8 Virtual School that receives a grade of “D” or “F” may not increase its enrollment until it achieves a grade of “c” or better.

**STATUS:** Passed Education Innovation & Career Preparation as a CS

**SB 1232 Career & Professional Education by Gaetz**

The bill revises career education within career and professional academies. The bill defines career and professional academies (academies) as public high school academies that offer a rigorous and relevant curriculum that leads to industry-recognized certification in high demand occupations, a standard high school diploma, and opportunities for high school students to simultaneously earn college credit. The bill requires school districts to develop, in collaboration with local workforce boards and the postsecondary community, strategic five-year plans during the 2007-2008 school year that include provisions for at least one academy to be operational in the school district at the beginning of the 2008-2009 school year. The State Board of Education is required to establish a process for the continual review of newly proposed rigorous and relevant core high school courses to meet the requirements for industry standards and to address emerging academic and labor market needs. The Agency for Workforce Innovation (AWI) must identify appropriate industry certifications based on the highest national standards available. The bill requires DOE to work with Workforce Florida and Enterprise Florida to collect and analyze academic achievement and performance data of students participating in academies. The bill also amends the FEFP to provide a bonus weight of 0.3 for the funding of students enrolled in career and professional academies that result in industry certification. Funding for FTE bonuses is limited to \$30 million annually if not otherwise specified in the General Appropriations Act.

**STATUS:** Passed Education Pre-K - 12 Appropriations as a CS; now on Senate Calendar

~ ~ ~ ~ ~

**FLORIDA SCHOOL BOARDS ASSOCIATION**

Lee Swift, Chairman  
Beverly Gallagher, Vice Chairman  
FSBA Legislative Committee

Dr. Wayne Blanton, Executive Director  
[blanton@fsba.org](mailto:blanton@fsba.org)

Ruth Melton, Director of Legislative Relations  
[melton@fsba.org](mailto:melton@fsba.org)

203 South Monroe Street  
Tallahassee, FL 32301  
Phone 850/414-2578 Fax 850/414-2585  
[www.fsba.org](http://www.fsba.org)