

# FSBA

# BOARDER-LINE

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### **Performance Pay**

This week, Governor Crist signed into law SB 1226 relating to Merit Award Program. Although the legislation is not perfect, it does present a workable compromise and FSBA applauds the Legislature for the collaborative approach that was taken in redesigning the performance pay program. In particular, House Schools and Learning Council Chair Joe Pickens and Senate Education PreK-12 Chair Don Gaetz are to be commended for the inclusive and collegial procedures they followed in drafting this legislation. Attached is a detailed analysis of the legislation.

### **Education Budget**

The House and Senate appropriations committees and councils have submitted and amended their proposed budgets for 2007-2008. While there are several significant differences between the two budgets, in general, both offer an increase in total FEFP and categorical funding of approximately \$1.2 billion, or 6.5%. This is well below the increases of 8 - 10% that public schools have enjoyed over the past few years. This is due, in large part, to the reductions in state and local revenue projections – totaling nearly \$1 billion – reported by the Revenue Estimating Conference. The budget proposals are now ready for consideration on the floor of each chamber, which is expected to occur during the week of April 9 -13. After debate and amendment on the floor, the budgets will be referred to a conference committee tasked with resolving any remaining differences between the bills. Attached is a spreadsheet that provides a side-by-side comparison of 2006-2007 appropriations, the Senate education budget proposal, and the House education budget proposal.

### **Property Tax Relief**

The House has substantially revamped its property tax relief plan. **This new House plan has a significantly greater impact on school districts.** HB 7089 exempts homestead property from the state-mandated Required Local Effort (RLE) property tax levied by school districts and replaces the forgone revenue by increasing the sales tax rate by 1%, beginning on July 1, 2008. For school district taxes other than RLE, the bill provides for school boards to exempt homestead property from all ad valorem taxes levied by the school board and levy a discretionary sales surtax of up to 0.5%. The bill specifies that amount of revenue expected to be produced from the surtax may not exceed the revenues expected to be produced from the ad valorem tax being replaced. The grant of the exemption and the imposition of the surtax must be approved by a majority of the electors voting in a referendum which must be held no later than November 2010.

For non-school tax levies, the bill provides that a county may exempt homestead property from all ad valorem tax levies imposed by all taxing authorities within the county (other than school districts) and levy a discretionary sales surtax of up to 1%. The amount of revenue expected to be produced from the surtax may not exceed the revenues expected to be produced from the ad valorem tax being replaced. Again, this grant of the exemption and the imposition of the surtax must be approved by a majority of the electors voting in a referendum which must be held no later than November 2010.

The bill also limits growth in property taxes by restricting the millage rates that taxing authorities may set. Taxing authorities may not levy a millage rate in excess of the rolled-back rate, adjusted by the percentage change in the Consumer Price Index (CPI) in the year ending the previous June. Also, the bill limits the amount of state-mandated RLE that school districts must raise from ad valorem taxes by a similar formula. These provisions have the effect of limiting annual property tax revenue growth to CPI inflation plus tax revenues associated with net new construction.

For 2008, millage rates are limited to what they would be if the millage limitation had been in place in the 2003-2004 fiscal year as the base year and had been carried forward from that year. In effect, this will require governments to reduce their property tax rates so that revenues will be no greater than if FY 2003-2004 revenues had grown no faster than CPI inflation plus tax revenues associated with net new construction. School districts are exempt from the millage limitation based on a FY 2003-2004 base year, but are subject to the limitation going forward. Similarly, the bill exempts independent special districts, hospital and health care districts, children's services districts, fiscally constrained counties, municipalities located in a fiscally constrained county, and municipalities located in rural areas of critical economic concern from the millage limitation but not from the limitation going forward. Taxing authorities, including school boards, may levy a millage rate in excess of the limitation, if the millage rate is adopted by a unanimous vote of the governing board. Also, the millage limitation does not apply to ad valorem taxes levied for the payment of bonds authorized by a vote of the electors and to ad valorem taxes levied for periods not longer than two years when authorized by a vote of the electors. Further, the millage rate limitations do not apply to taxing authorities until the sixth fiscal year in which property taxes are levied or to the millage set by school districts in order to generate the state mandated required local effort.

Other provisions of the bill include an exemption from ad valorem taxes to tangible personal property up to a value of \$25,000, and an expansion of current legislative authority to provide ad valorem tax relief to renters by making it clear that the relief may be granted in the form of tax relief to the owner of the rental property.

Meanwhile, the Senate has not yet released a property tax relief proposal, but Senate leaders have made it clear that the Senate will not support a relief plan that seeks to replace property tax with sales tax. Instead, the Senate has expressed an interest in changing the way the property is assessed. The Senate's general silence on this issue has fueled speculation that it may be necessary to call a special session to address this issue. Another element to consider is the Taxation and Budget Reform Commission (TBRC) which was established by a 1988 constitutional amendment. The membership of the TBRC is comprised of eleven members appointed by the Governor, seven appointed by

the President of the Senate, seven appointed by the Speaker of the House, and four non-voting ex officio members of the Legislature. Meeting once every 20 years, the TBRC has full authority to place questions on the 2008 general election ballot without legislative approval. The TBRC held its first meeting March 16, and must submit any proposed constitutional amendments by May 4, 2008. It is likely that the TBRC will be examining the property tax issue and there may be some interest in delaying legislative action until the Commission has formulated some recommendations.

**Florida Schools of Excellence Litigation and Rule Development**

Last December, FSBA and eleven local school districts filed suit against the State Board of Education and the Florida Schools of Excellence Commission challenging the constitutionality of the authority of that Commission to approve or deny the establishment of charter schools in Florida. In February, FSBA received notice that Judge Thomas Bateman intended to dismiss the case partly because it was not “ripe” – that is, no harm had been done because no district had yet been denied exclusivity. Our attorney, Ron Meyer, determined that our wisest course of action was to dismiss the litigation before the judge’s order was entered. Since the case was voluntarily dismissed without prejudice, the litigation can be reinitiated at any appropriate time.

Last week, the DOE published notice of the development of proposed rules to establish procedures for school boards to seek exclusive authority to authorize charter schools. The rules are intended to provide a fair and consistent process for school boards to follow in submitting a resolution and written application for exclusive authority, and for the State Board of Education to follow in receiving, reviewing, and taking action on the application. The next step in the rule development process is to hold workshops that allow for public input on the content of the rules. Five workshops have been scheduled as follows:

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| April 9, 2007  | 9:00 am - 1:00 pm | Nova Southeastern University<br>North Miami Beach Campus<br>1750 N.E. 167th Street, Room 210 A & B<br>North Miami Beach, FL 33162 |
| April 10, 2007 | 9:00 am - 1:00 pm | Nova Southeastern University<br>4850 Millenia Boulevard, Room 232<br>Orlando, FL 32839  |
| April 11, 2007 | 9:00 am - 1:00 pm | Nova Southeastern University<br>6675 Corporate Center Parkway, Room 10,<br>Jacksonville, FL 32216                                 |
| April 12, 2007 | 3:00 pm - 6:00 pm | 400 South Monroe Street<br>State Capitol, Cabinet Meeting Room LL-03<br>Tallahassee, FL 32399                                     |
| April 16, 2007 | 9:00 am - 1:00 pm | Gulf Coast Community College<br>5230 Highway 98 W<br>Gibson Lecture Hall, Student Union East<br>Panama City, FL 32401             |

For more information on the workshops, the DOE contact person is Carlo Rodriguez, Executive Director of the Office of Independent Education and Parental Choice. He may be reached at 850/245-0502. **FSBA urges you to attend the workshop closest to you** and testify to the need for these rules to recognize the constitutional authority of school boards to operate, control, and supervise all public schools, including charter schools, within the school district. Attached are talking points on this issue.

In other charter school news, the Orlando Sun Sentinel has done a series of articles on the status of charter schools in Florida. You may access the series using this link (you may need to copy and paste the link into your browser): <http://www.orlandosentinel.com/orl-special-charterschools,0,2422756.htmlpage>.

**Bill Action**

At the mid-point of the legislative session, both chambers have indicated that there will be few, if any, committee meetings during the remaining weeks of the session. With that in mind, it is appropriate to review the key education legislation pending before the legislature, rather than offering the usual description of bill action for this week only. Although FSBA is currently tracking more than 500 education related bills, we have assembled a bill report that focuses only on those bills that are moving through the legislative process and/or are of particular interest to our members. The attached bill report sorts bills by topic and provides an update on their current status. As you review the bill report, please note that any bill that has passed at least one committee or council is eligible to be considered on the chamber floor and/or incorporated as an amendment to another bill. However, even if a bill has not passed a committee, it does not necessarily mean that the bill is dead.

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