



Florida School Boards Association

The voice of education in Florida.

Discussion of the Major Issues Contained in HB 7069

HB 7069 is a broad-ranging omnibus bill that addresses a variety of education issues. The legislation includes several provisions that many school districts support including, among others, revisions to the state assessment and accountability system, school recess, greater local funding flexibility for several school programs and course offerings, streamlined certification procedures, and revised policies and services for students with unique abilities. However, the legislation also includes several controversial provisions that have raised profound concerns among school districts.

The purpose of this document is to encourage and facilitate discussions among school boards and legislators by highlighting some of the major concerns and offering potential solutions to address them.

Issue: Sharing Local Capital Outlay Revenue with Charter Schools

FSBA believes that charter schools can play an integral role in serving the individual educational needs of Florida's students. As an important part of the public school system, charter schools are, and should be, eligible for capital outlay funding. However, certain safeguards should be put in place to ensure that capital outlay funding is awarded responsibly, consistently, and in a manner that provides for public accountability. Among the major concerns that arise from this legislation in this arena:

- The legislation requires school districts distribute local millage revenue to charter schools regardless of demonstrated, prioritized need. Furthermore, the legislation does not require the charter school governing body to use capital outlay funds at the charter school that generated the funding.

A potential solution to this would be to establish a process and criteria by which all charter school capital outlay projects may be incorporated into the district state approved Capital Outlay Plan and require that local capital outlay funding may be expended only in accordance with the priority order of the Capital Outlay Plan.

- The legislation does not include any requirement that funds may be used only for constructing, renovating, or improving facilities that are owned by a public entity or a 501 (c)(3) organization so that, upon dissolution, the property shall be transferred to a public entity.

A potential solution would be to require that any charter school facilities that are funded by district capital outlay millage revenue are, or will become, a public asset that may be reclaimed and utilized by the school district and/or may be sold to recoup the investment made by local taxpayers.

- The legislation does not prohibit personal financial enrichment by owners, operators, real estate developers, managers, and other affiliated parties.

A potential solution would be to restore language that had been contained in earlier versions of both the House and Senate proposed legislation – but which did not appear in the final version of the legislation – which prohibits personal financial enrichment.

- The credit-rating business, Moody's, issued a report saying that the fund diversion to charter school facilities "is credit negative for school districts with significant charter enrollment," suggesting that district credit ratings could be adversely impacted.

A potential solution would be to restore the local discretionary capital outlay millage authority to 2 mills for all districts or, at a minimum, authorize sufficient additional millage authority in districts that have charter schools.

Issue: Local School Board Authority

The locally elected school board is most keenly aware of the unique needs of the community that it serves and is best positioned to make the decisions necessary to ensure the greatest opportunities for students. Unfortunately, concerns have arisen about several provisions of HB 7069 that appear to trespass on the constitutional authority of the locally elected school board to operate, supervise, and control the public schools within the school district. Among the major concerns that arise from this legislation in this arena:

- The legislation dramatically reduces the amount of Title I funds that may be coordinated and leveraged at the district level and requires distribution of the remaining funds to individual school sites. This diminishes the district's ability to maximize the efficient use of these limited funds to serve the greatest number of eligible and most vulnerable students. Furthermore, this puts successful targeted and district-wide services at risk while encouraging wasteful and duplicative services at individual school sites.

A potential solution would be to restore district level control of these funds and to encourage greater representation of eligible schools – including charter schools – at the district decision-making level to provide school-level perspective and advice on strategies to improve the delivery of these services to the most vulnerable students.

- The legislation confers Local Education Agency (LEA) status on a charter school system's governing board. This would bestow fiscal authority on the local, state, and federal level to a group of individuals who are not directly accountable to taxpayers. In addition, it overlooks the constitutional provision that the elected school board shall operate, control, and supervise all free public schools – including charter schools – within the school district.

A potential solution would be to restore the practice and policy in this area that existed prior to the passage of HB 7069. This would recognize that, while this designation of LEA status may be permissible in other states, it appears to be inconsistent with the Florida Constitution and may be inconsistent with federal law.

General Comments on the Process for the Development and Passage of HB 7069

This legislation was derived from a 6-page, single-subject bill that was expanded to include the content of two very contentious bills, and popular provisions from more than two dozen other bills to produce a 274-page bill. The resulting bill includes some provisions that are extremely complex and controversial, some provisions that had not been thoroughly vetted through the legislative process, and some provisions that had been rejected in committee.

Because the bill was unveiled so late in the process, there was no realistic opportunity for members of the public and, by their own admission, some members of the legislature to even read the bill in full, let alone to carefully evaluate its contents and repercussions or for taxpayers to provide public comment. Furthermore, many of the provisions of this bill have no impact on the state budget and, therefore, according to Section 2.2 (1) of the *Joint Rules of the Florida Legislature 2016-2018*, do not fit the definition for inclusion in a budget conforming bill. The protocols of a budget conforming bill, the legislation impose the same constraints on amendment and passage that apply to a Conference Report. As a result, legislators were not free to amend the bill and could offer only their up or down vote. It is important to note that, in the Senate, the bill passed by the narrowest possible margin.

Additional Background Information:

Stand-alone bills that are included, entirely or in part, in HB 7069:

HB 15 / SB 902 / SB 1314 – Gardner/Tax Credit Scholarships (HB 15 also passed separately)

SB 78 / HB 67 – Recess

HB 79 / SB 656 – Reading

HB 127 / SB 1128 – Attendance Policies/Treatment for Autism

HB 293 / SB 360 – Middle Grades Study (HB 293 also passed separately)

SB 376 / HB 5103 – Sharing Local Capital Outlay Millage Revenue with Charter Schools

SB 468 / HB 757 – VPK Programs

HB 549 / SB 906 – Publication of Statewide Assessments

HB 655 / SB 1368 – Feeder Pattern Designation

SB 692 / HB 833 – Virtual Instruction

HB 773 / SB 926 – Assessments

SB 782 / HB 6015 – Exemption from PE Requirements

SB 796 / HB 5105 – Schools of Hope, Turnaround Options, etc.

SB 824 / HB 1365 – Early Childhood Music Instruction

HB 827 – Teacher Bonuses for AP, IB, AICE, CAPE

HB 833 / SB 1468 – Florida School For the Deaf & the Blind Audits, Music Instruction, etc.

SB 868 – Education Options

SB 964 / HB 1249 – Assessments

SB 984 / HB 1131 – Shared Use of Public Facilities

HB 989 / HB 1210 – Instructional Materials (HB 989 also passed separately)

HB 1111 / SB 1474 – Teacher Certification

HB 1139 / SB 1422 – Minority Teacher Scholarships

HB 1267 / SB1492 – Supplemental Academic Instruction

HB 1331 / SB 1598 – Schools of Excellence, Teacher Certification and Training

SB 1362 / HB 7101 – Charter Schools

SB 1410 / SB 1552 / HB 5103 – Best & Brightest Teachers and Principals

SB 1710 / HB 7057 – Civic Literacy

SB 2516 / HB 5101 – Education Funding