

Legislative Update & COVID-19 Response

The Florida Bar - Education Law Committee
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Bills that Died

- **HB 1 – Dues and Uniform Assessments**
- **SB 142 - Abolishing the Constitution Revision Commission**
- **HB 157 - Limitation on Terms of Office for Members of a District School Board**
- **SB 534 – Education – Disqualification List**
- **HB 581 - Civic Education**
- **HB 737 - Moments of Silence in Public Schools**
- **HB 953 - Charter Schools**
- **HB 1013 - Early Learning and Early Grade Success**

Bills that Died, cont.

- **HB 1059 - Parental Rights**
- **HB 1203 - Pathways to Career Opportunities**
- **HB 1231 - Students with Disabilities in Public Schools**
- **SB 1568 – Education – Preapprenticeship and Apprenticeship programs**
- **SB 1250 - Teacher Professional Learning**
- **SB 1498 - Education – Comprehensive Bill/Revision of Turnaround Options**
- **SB 7040 – School Safety**

The Budget

The Budget – HB 5001 – FEFPP

- Enrollment growth is forecast to continue (pre COVID-19)
- Required Local Effort (RLE) – Rolled Back Rate applied to RLE. Only increase in school taxable value of new construction used to increase revenue for K-12 generated by RLE
- Base Student Allocation (BSA) increased by \$40.00 to \$4,319.49
- Declining Enrollment Supplement not funded/suspended for 1 year
- Safe Schools Allocation – Remains \$180 million
- Digital Classrooms reduced from \$20 million to \$8 million
- Mental Health Allocation increased by \$25 million to \$100 million.

The Budget – HB 5001 – FEFP

- Funding Compression Allocation and DCD Hold Harmless – Increased by almost \$14 million to \$68 million
- Best and Brightest Programs not funded
- Teacher Salary Enhancement Allocation - \$500 million
- Proviso language stipulates that 80% of the total allocation is provided to increase the minimum base salary for full-time classroom teachers as defined in s. 1012.01(2)(a), plus certified prekindergarten teachers funded in the FEFP, but not including substitute teachers, to at least \$47,500, or to the maximum amount achievable based on the school district's allocation.
- No eligible full- time classroom teacher shall receive a base salary less than the minimum base salary as adjusted by the school district's allocation. 20% of the total allocation, plus any remaining funds from the district's share of the 80% allocation, shall be used by school districts as specified in section 1011.62, F.S.

The Budget – HB 5001 – Major Provisions

- Fixed Capital Outlay - Maintenance, Repair, Renovation and Remodeling from PECO revenue - \$169,600,000
- Special Facility Projects
 - Gilchrist County: (3rd and final year) \$7,205,344
 - Baker County: (1st of 3 years) \$8,504,580
 - Bradford County: (1st of 3 years) \$13,178,063
 - Levy County: (1st of 3 years) \$12,416,164
- Aaron Feis Guardian Program - \$500,000
- Regional Education Consortiums - \$1,750,000
- \$24,992,185 for Teacher Professional Development. Included in this item is \$10,000,000 for Computer Science Certification and \$5,000,000 for Mental Health Awareness and Assistance training

The Budget – HB 5001 – Major Provisions, cont.

- Gardiner Scholarships - \$189,901,004
- Reading Scholarships - \$7,600,000
- School Hardening Grants - \$42,000,000
- Workforce Education Performance-Based Incentives - \$6,500,000
- Adult Basic Education - \$45,365,457
- District Workforce Education Programs - \$372,356,891
- School Health Services - \$17,909.412 which includes \$6 million for full-service schools

HB 7067 – Scholarship Programs

- Increases the number of new Family Empowerment Scholarships (FES) allowed each year to 1 per cent of the Unweighted FTE students in the FEFP each year. In 2019-2020 there were 18,000 new scholarships. The new standard will allow about 29,000 new scholarships.
- Increases the income eligibility level for FES to 300% of the Federal Poverty Level. It further stipulates that any year that more than 5% of the available scholarships are unused, the income level will increase 25%. So, in FY 2020-2021 if more than 5% of the available scholarships are unused, the income level will increase 25%. In the example that would mean that the income level would rise to 375% of the poverty level in FY 2021-2022.

Teacher Compensation

HB 641 – Teacher Salary Increase Allocation

Amends the FEFP and creates a new categorical as follows:

1. Each school district and charter school shall use its share of the allocation to increase the minimum base salary for full-time classroom teachers, as defined in s. 1012.01(2)(a), F.S., (see definition below) plus certified prekindergarten teachers funded in the FEFP, to at least \$47,500, or to the maximum amount achievable based on the allocation and as specified in the General Appropriations Act.
- The term "minimum base salary" means the lowest annual base salary reported on the salary schedule for a full-time classroom teacher. No full-time classroom teacher shall receive a salary less than the minimum base salary as adjusted by this subparagraph.
 - This does not apply to substitute teachers.

HB 641 cont.

2. In addition, each district shall use the allocation to provide salary increase, as funding permits, for the following personnel:

a. Full-time classroom teachers, as defined in s. 1012.01(2)(a), F.S., (see definition below) plus certified prekindergarten teachers funded in the Florida Education Finance Program, who did not receive an increase or who received an increase of less than two percent under 1 above or as specified in the General Appropriations Act. This does not apply to substitute teachers.

b. Other full-time instructional personnel as defined in s. 1012.01(2)(b)-(d), F.S. (see definition below).

HB 641 cont.

3. A school district or charter school may use funds available after requirements of 1 above are met to provide salary increases pursuant to 2 above.

4. A school district or charter school shall maintain the minimum base salary achieved for classroom teachers provided under 1 above and may not reduce the salary increases provided under 2 above in any subsequent fiscal year, unless specifically authorized in the General Appropriations Act.

Before distributing the funds, each school district and each charter school must develop a salary distribution plan that clearly delineates the planned distribution of funds in accordance with modified salary schedules, as necessary, for the implementation of this provision.

HB 641 cont.

Important Dates:

Each school district must submit the approved district salary distribution plan, along with the approved salary distribution plan for each charter school in the district, to the department by October 1 of each fiscal year.

By December 1, each school district must provide a preliminary report to DOE that includes a detailed summary explaining the school district's planned expenditure of the entire allocation received by the district.

By August 1, each school district must provide a final report to the department with the information relating to the increase in the minimum base salary for full-time classroom teachers for the prior fiscal year.

Statutory Definitions – Instructional Personnel

1012.01 Definitions.—As used in this chapter, the following terms have the following meanings:

(2) **INSTRUCTIONAL PERSONNEL.**—“Instructional personnel” means any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Included in the classification of instructional personnel are the following K-12 personnel:

(a) *Classroom teachers.*—Classroom teachers are staff members assigned the professional activity of instructing students in courses in classroom situations, including basic instruction, exceptional student education, career education, and adult education, including substitute teachers.

Definitions cont.

- (b) *Student personnel services.*—Student personnel services include staff members responsible for: advising students with regard to their abilities and aptitudes, educational and occupational opportunities, and personal and social adjustments; providing placement services; performing educational evaluations; and similar functions. Included in this classification are certified school counselors, social workers, career specialists, and school psychologists.
- (c) *Librarians/media specialists.*—Librarians/media specialists are staff members responsible for providing school library media services. These employees are responsible for evaluating, selecting, organizing, and managing media and technology resources, equipment, and related systems; facilitating access to information resources beyond the school; working with teachers to make resources available in the instructional programs; assisting teachers and students in media productions; and instructing students in the location and use of information resources.
- (d) *Other instructional staff.*—Other instructional staff are staff members who are part of the instructional staff but are not classified in one of the categories specified in paragraphs (a)-(c). Included in this classification are primary specialists, learning resource specialists, instructional trainers, adjunct educators certified pursuant to s. [1012.57](#), and similar positions.

General Legislation

SB 664 – Verification of Employment Eligibility

- Requires public employers, contractors, and subcontractors to use E-Verify.
- “Public employer” is defined as “an entity within state, regional, county, local, or municipal government, whether executive, judicial, or legislative, or any public school, community college, or state university that employs persons who perform labor or services for that employer in exchange for salary, wages, or other remuneration or that enters or attempts to enter into a contract with a contractor.

SB 664 – Verification of Employment Eligibility, Cont.

- Beginning January 1, 2021, every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees.
- A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
- If a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.

SB 664 – Verification of Employment Eligibility, Cont.

- A public employer, contractor, or subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated s. 448.09(1), F.S., (prohibiting employment of unauthorized aliens) must terminate the contract with the person or entity. A public employer that has a good faith belief that a subcontractor knowingly violated this subsection, but the contractor otherwise complied with this subsection, must promptly notify the contractor and order the contractor to immediately terminate the contract with the subcontractor. A contract terminated under these provisions is not a breach of contract and may not be considered as such.

SB 664 – Verification of Employment Eligibility, Cont.

- A public employer, contractor, or subcontractor may file an action with a circuit or county court to challenge a termination under these provisions no later than 20 calendar days after the date on which the contract was terminated.
- If a public employer terminates a contract with a contractor, the contractor may not be awarded a public contract for at least 1 year after the date on which the contract was terminated.
- A contractor is liable for any additional costs incurred by a public employer as a result of the termination of a contract.

SB 738 – Jury Service

Allows, upon request, that a full-time student between 18 and 21 years of age, inclusive, who is attending high school or any state university, private postsecondary educational institution, Florida College System institution, or career center shall be excused from that specific summons for jury service.

Taxes and Fees

HB 7097 – Taxation

- Disaster Preparedness Sales Tax Holiday from May 29 through June 4, 2020, for specified disaster preparedness items.
- Back-to-School Sales Tax Holiday from August 7 through August 9, 2020 for certain clothing, school supplies, and personal computers.
- Exempts new school construction projects funded solely through local impact fees from the total cost per student station limitation.
- School Capital Outlay Surtax – Provides that the school board in each county may levy, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

HB 7097 – Taxation, cont.

- The resolution must include a statement that provides a brief and general description of the capital outlay projects to be funded by the surtax. The resolution must include a statement that the revenues collected must be shared with eligible charter schools based on their proportionate share of the total school district enrollment. The statement must conform to the requirements of s. 101.161 and must be placed on the ballot by the governing body of the county.
- Surtax revenues shared with charter schools must be expended by the charter school in a manner consistent with the allowable uses set forth in s. 1013.62(4). All revenues and expenditures must be accounted for in a charter school's monthly or quarterly financial statement pursuant to s. 1002.33(9). The eligibility of a charter school to receive funds must be determined in accordance with s. 1013.62(1). If a school's charter is not renewed or is terminated and the school is dissolved under the provisions of law under which the school was organized, any unencumbered funds received under this subsection must revert to the sponsor.
- The amendment made by this bill to s. 212.055(6), F.S., which amends the allowable uses of the school capital outlay surtax, applies to levies authorized by vote of the electors on or after July 1, 2020.

SB 1066 – Impact Fees

- Requires that at a minimum, an impact fee adopted by ordinance of a county or municipality or by resolution of a special district must satisfy all statutory conditions.
- Notwithstanding any charter provision, comprehensive plan policy, ordinance, or resolution, the local government must credit against the collection of the impact fee any contribution, whether identified in a proportionate share agreement or other form of exaction, related to public education facilities, including land dedication, site planning and design, or construction. Any contribution must be applied to reduce any education-based impact fees on a dollar-for-dollar basis at fair market value.

SB 1066 – Impact Fees, cont.

- Requires that if a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under s. 163.3180, F.S., s. 380.06, F.S., or otherwise, which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established. This subsection shall operate prospectively and not retrospectively.
- States that audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39, F.S., and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section.

SB 1066 – Impact Fees, cont.

- In any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees as provided in s. 163.3180(6)(h)2.b., F.S., the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.
- Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to any other that is within the same impact fee zone or impact fee district or that is within an adjoining impact fee zone or impact fee district within the same local government jurisdiction and receives benefits from the improvement or contribution that generated the credits.

Assessment & Accountability

HB 641 – Funds for the Operation of Schools

- Removes the 30-semester credit hour cap for students in the IB Program and the Advanced International Certificate of Education Program.
- Expands the calculation of additional FTE membership based on college board advanced placement scores to include the earning of college board advanced placement capstone diplomas. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives a College Board AP Capstone Diploma and meets the requirements for a standard high school diploma.
- Provides that notwithstanding the requirements of the statutes and rules relating to bids or proposals for instructional materials, for the 2020 adoption cycle, DOE may establish timeframes for the advertisement and submission of bids for instructional materials. This provision expires July 1, 2022.

SB 434 – Designation of School Grades

Adds to the school grade calculation to include career dual enrollment courses resulting in the completion of 300 or more clock hours during high school which are approved by the state board as meeting the requirements of s. 1007.271, Florida Statutes.

SB 662 – Education and the Military

- Provides that a student whose parent is transferred or is pending transfer to a military installation within the *state* while on active military duty pursuant to an official military order shall be considered a resident of the school district for purposes of enrollment when the order is submitted to the school district and must be provided preferential treatment in the controlled open enrollment process of the school district pursuant to s. 1002.31, Florida Statutes.
- Provides that for a school comprised of grades 9, 10, 11, and 12, or grades 10, 11, and 12, the school's grade shall also be based, in addition to current criteria, and on the percentage of students who earned an Armed Services Qualification Test score that falls within Category II or higher on the Armed Services Vocational Aptitude Battery and earned a minimum of two credits in Junior Reserve Officers' Training Corps courses from the same branch of the United States Armed Forces, beginning with the 2022-2023 school year.

Curriculum

HB 1213 – Educational Instruction of Historical Events

- Requires the Commissioner’s African American History Task Force to examine ways in which the history of the 1920 Ocoee Election Day Riots will be included in instruction on African-American history required pursuant to s. 1003.42(2)(h), Florida Statutes. The task force must submit its recommendations to the Commissioner and the SBE by March 1, 2021.
- Requires members of the instructional staff of the public schools, subject to the rules of the SBE and the school board, to teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy, following the prescribed courses of study, and employing approved methods of instruction, the history of the Holocaust (1933-1945).

HB 1213 – Educational Instruction of Historical Events, cont.

- Each school district must annually certify and provide evidence to DOE, in a manner prescribed by DOE, that these requirements are met. DOE shall prepare and offer standards and curriculum for the instruction required by this paragraph and may seek input from the Commissioner's Task Force on Holocaust Education or from any state or nationally recognized Holocaust educational organizations. DOE may contract with any state or nationally recognized Holocaust educational organizations to develop training for instructional personnel and grade-appropriate classroom resources to support the developed curriculum.
- The second week in November shall be designated as "Holocaust Education Week" in this state in recognition that November is the anniversary of Kristallnacht, widely recognized as a precipitating event that led to the Holocaust.

SB 156 – Early Childhood Music Education Incentive Pilot Program

Extends the scheduled expiration of the Early Childhood Music Education Incentive Pilot Program to eligible school districts until June 30, 2022. A school district is to be eligible for participation in the pilot program if, the Superintendent certifies to the Commissioner of Education, in a format prescribed by the department, that specified elementary schools within the district have established a comprehensive music education program that

Athletics

HB 7011 – K-12 Student Athletes

- Cited at the “Zachary Martin Act” and substantially rewrites s. 1006.165, F.S.
- Requires that each public school that is a member of the Florida High School Athletic Association (FHSAA) must have an operational automated external defibrillator on the school grounds. The defibrillator must be available in a clearly marked and publicized location for each athletic contest, practice, workout, or conditioning session, including those conducted outside of the school year.
- Beginning June 1, 2021, a school employee or volunteer with current training in cardiopulmonary resuscitation and use of a defibrillator must be present at each athletic event during and outside of the school year, including athletic contests, practices, workouts, and conditioning sessions.

HB 7011 – K-12 Student Athletes, cont.

- The training must include completion of a course in cardiopulmonary resuscitation or a basic first aid course that includes cardiopulmonary resuscitation training and demonstrated proficiency in the use of a defibrillator. Each employee or volunteer who is reasonably expected to use a defibrillator must complete this training.
- The location of each defibrillator must be registered with a local emergency medical services medical director. Each employee or volunteer required to complete the training must annually be notified in writing of the location of each defibrillator on school grounds.

HB 7011 – K-12 Student Athletes, cont.

FHSAA must:

1. Make training and resources available to each member school for the effective monitoring of heat stress.
2. Establish guidelines for monitoring heat stress and identify heat stress levels at which a school must make a cooling zone available for each outdoor athletic contest, practice, workout, or conditioning session. Heat stress must be determined by measuring the ambient temperature, humidity, wind speed, sun angle, and cloud cover at the site of the athletic activity.
3. Require member schools to monitor heat stress and modify athletic activities, including suspending or moving activities, based on the heat stress guidelines.
4. Establish hydration guidelines, including appropriate introduction of electrolytes after extended activities or when a student participates in multiple activities in a day.
5. Establish requirements for cooling zones, including, at a minimum, the immediate availability of cold-water immersion tubs or equivalent means to rapidly cool internal body temperature when a student exhibits symptoms of exertional heat stroke and the presence of an employee or volunteer trained to implement cold-water immersion.
6. Require each school's emergency action plan, as required by the FHSAA, to include a procedure for onsite cooling using cold-water immersion or equivalent means before a student is transported to a hospital for exertional heat stroke.

HB 7011 – K-12 Student Athletes, cont.

- Above requirements apply year-round.
- Each athletic coach and sponsor of extracurricular activities involving outdoor practices or events must annually complete training in exertional heat illness identification, prevention, and response, including effective administration of cooling zones.
- Adds language that requires candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation each year prior to participating in interscholastic athletic competition or engaging in any conditioning and including activities that occur outside of the school year.

School Choice

HB 7067 – K-12 Scholarship Programs

- Modifies provisions in the Family Empowerment Scholarship (FES) Program, the Florida Tax Credit (FTC) Scholarship Program, and the Hope Scholarship Program (HSP), and establishes a dual enrollment funding incentive for school districts.
- Establishes a **dual enrollment full-time equivalent (FTE) incentive** for school districts, beginning in the 2020-2021 school year, which provides:
 - 0.16 FTE bonus for each early college program student who completes a general education core course with a grade of “A.”
 - 0.08 FTE bonus for each student not enrolled in an early college program who completes a general education core course with a grade of “A.”
 - 0.3 FTE bonus for any student who completes an associate degree through dual enrollment with at least a 3.0 grade point average.

School Safety

SB 70 – Alert Systems in Public Schools

- Cited as “Alyssa’s Law,” states that beginning with the 2021-2022 school year, each public school, including charter schools, must implement a mobile panic alert system capable of connecting diverse emergency services technologies to ensure real-time coordination between multiple first responder agencies. Such system, known as “Alyssa’s Alert,” must integrate with local public safety answering point infrastructure to transmit 911 calls and mobile activations.
- States that a school district may implement additional strategies or systems to ensure real-time coordination between multiple first responder agencies in a school security emergency.
- States that for the 2020-2021 fiscal year and subject to the appropriation of funds in the General Appropriations Act for this purpose, DOE shall issue a competitive solicitation to contract for a mobile panic alert system that may be used by each school district. DOE shall consult with the MSD High School Public Safety Commission, FDLE, and the Division of Emergency Management in the development of the competitive solicitation for the mobile panic alert system.

Workforce Education/CareerSource



SB 426 – Economic Development

Among other provisions, the bill modifies the structure of Florida's workforce development system to replace CareerSource Florida, Inc., (CareerSource) with the state board or the DEO in provisions relating to the implementation of the Workforce Innovation and Opportunity Act. The bill also clarifies the purpose, operation, and structure of CareerSource and the SBE; requires the SBE, rather than CareerSource, to produce a state plan that creates an educated and skilled workforce; and clarifies the duties of the local workforce development boards. A number of conforming changes made in the bill reflect structural adjustments in the relationship between the DEO, CareerSource, and the SBE.

Health

HB 945 – Children’s Mental Health

- Focuses on crisis stabilization services and other mental health issues.
- For public schools, requires principals of public and charter schools to verify de-escalation procedures have been followed and a mobile response team has been contacted prior to initiating a Baker Act of a student unless the principal or their designee reasonably believes a delay will increase the likelihood of harm to the student or others.

HB 81 – Health Care for Children

- Authorizes school districts to certify for reimbursement eligible school-based health services provided to any student enrolled in Medicaid, regardless of whether that student qualifies for Part B or H of IDEA, the ESE program, or has an IEP. Aligns Florida law with updated federal guidance that authorizes the federal reimbursement of Medicaid-eligible, school-based health services for all students enrolled in Medicaid.
- Requires the Department of Health to create an electronic pamphlet with information on the screening for, and treatment of, preventable infant and childhood eye and vision disorders.
- Clarifies that an auditory-oral education program must use faculty and supervisors certified as listening and spoken language specialists each day the child is in attendance and also requires a certified listening and spoken language specialist from the family's chosen auditory- oral education program to be included in the Individualized Education Plan team or Family Support Plan team.

SB 7012 – Substance Abuse and Mental Health

Makes several changes to laws relating to suicide prevention. Specifically for public education purposes, the bill:

- Broadens the scope and duties of the Statewide Office of Suicide Prevention (Statewide Office) in the Department of Children and Families (DCF) by:
 - Requiring the Statewide Office to coordinate education and training curricula on suicide prevention efforts for law enforcement personnel, first responders to emergency calls, veterans, military service members, health care providers, and **school employees**.
 - Act as a clearinghouse for information and resources related to suicide prevention by:
 - Disseminating and sharing evidence-based best practices relating to suicide prevention.
 - Collecting and analyzing data on trends in suicide and suicide attempts annually by county, age, gender, profession, and other demographics as designated by the statewide office.

Transportation

HB 37 – School Bus Safety

- Increases the penalty for a violation of a failure to stop for a school bus, from \$100 to \$200 dollars. For a second or subsequent offense within a period of 5 years, DOT must suspend the driver's license of the person for not less than 180 days and not more than 1 year.
- Implements a penalty of \$400 for passing a school bus on the side that children enter and exit when the school bus displays a stop signal. If, at a hearing, the alleged offender is found to have committed this offense, the court shall impose a minimum civil penalty of \$400. In addition to this penalty, for a second or subsequent offense within a period of 5 years, DOT must suspend the driver's license for not less than 360 days and not more than 2 years.

Construction/Facilities/ Shelters

SB 178 – Public Financing of Construction Projects

- Requires a public entity that commissions or manages a construction project within the coastal building zone, using funds appropriated from the state, to conduct a sea level impact projection (SLIP) study prior to commencing construction.
- The Department of Environmental Protection (DEP) must establish, by rule, standards for the SLIP studies.
- Requirement to conduct a SLIP study prior to commencing construction is effective one year after DEP's rule is finalized, and this requirement only applies to projects that commence after the rule is finalized.
- SLIP studies must be conducted, submitted to DEP, and published on DEP's website for 30 days before construction can commence.

HB 101 – Public Construction

Changes the limits on retainage permitted to be withheld on state and local government contracts. For contracts less than \$200,000, reduces the maximum amount the state may retain from a payment to a contractor from 10% to 5%. For contracts more than \$200,000, reduces the maximum amount that may be retained from a payment to a contractor:

- From 10% before half of the project is complete, and 5% after half of the project is complete
 - To 5% for the entire project; and
- From 10% for the entire project if the project is for a municipality with a population of 25,000 or less or a county with a population of 100,000 or less
 - To 5% for the entire project.
- The bill repeals:
 - The ability of a contractor to request the state or local government to release up to half of the retained amount after half of the project is complete; and
 - The ability of a contractor to withhold more than five percent of each payment to his or her subcontractors after half of a project for a state or local government is complete.

HB 279 – Local Government Public Construction Works

- Reforms how local governments must estimate the projected costs of a public building construction project. Local governments must use a revised cost estimation formula when deciding whether it is in the local government's best interest to perform the project using its own services, employees, and equipment.
- Requires the estimated project cost formula to include employee compensation and benefits, the cost of direct materials to be used in the construction of the project, including materials purchased by the local government, other direct costs, and an additional factor of 20 percent for management, overhead, and other indirect costs.
- Requires local governments to consider the same formula when determining the estimated cost of road and bridge construction and reconstruction projects performed with proceeds from the constitutional gas tax.

HB 279 – Local Government Public Construction Works

- Requires local governments issuing bidding documents or other requests for proposals to provide a list of all other governmental entities that may have additional permits or fees generated by a project.
- A local government constructing a public building using its own services, employees, and equipment must create a report summarizing the project constructed by the local government, which must be publicly reviewed each year by the local government. The Auditor General must also examine the project reports as part of his or her audits of local governments.

HB 441 – Public Procurement of Services

- In 1973, the Legislature enacted the Consultants’ Competitive Negotiation Act (CCNA), which requires state and local government agencies to procure the “professional services” of an architect, professional engineer, landscape architect, or registered surveyor and mapper using a qualifications-based selection process.
- Increases the maximum limit for continuing contracts covered by the CCNA from an estimated per project construction cost of \$2 million to \$4 million. Increases the maximum limit for procuring a study using a continuing contract from \$200,000 per study to \$500,000.

HB 705 – Emergency Sheltering of Persons with Pets

- Requires counties that maintain designated shelters to designate a shelter that can accommodate persons with pets. The shelter must be in compliance with applicable FEMA Disaster Assistance Policies and Procedures and with safety procedures regarding the sheltering of pets established in the shelter component of both local and state comprehensive emergency management plans.
- Requires DOE to assist the Division of Emergency Management in determining strategies for the evacuation of persons with pets for the shelter component of the state comprehensive emergency management plan.

Ethics/ Financial Disclosure

HB 7009 - Penalties for Violations of the Constitutional Prohibition Against Abuse of Public Position

- Reenacts s. 112.317, F.S., providing penalties for violations of the Code of Ethics and any violation of the Ethics in government section of the Florida Constitution.
- During the 2018 General Election, Florida voters approved Amendment 12, which amended the Ethics in government section of the Constitution to, among other things, provide a constitutional prohibition on public officers and public employees abusing their positions in order to obtain a 'disproportionate benefit' for themselves or other specified persons or entities. The amendment included an implementation schedule. The abuse of position provision becomes effective December 31, 2020.
- The adopted constitutional amendment prohibits public officers and employees from abusing their public positions to obtain a 'disproportionate benefit' for themselves, their spouse, children, employer, or entities with which they have certain business interests. As required by the amendment, the Florida Commission on Ethics adopted a rule to define the term, 'disproportionate benefit' and prescribe the requisite intent for finding a violation of the provision.

HB 7009, cont.

34-18.001 Scope and Applicability of Chapter.

(1) The purpose of this chapter is to provide notice and guidance to public officers or public employees, as well as to the general public, regarding the definition of the term “disproportionate benefit,” as that term is used in Article II, Section 8(h)(2) of the Florida Constitution, as well as the requisite intent for finding a violation of the prohibition contained in Article II, Section 8(h)(2) of the Florida Constitution.

(2) Definitions

(a) For the purpose of Article II, Section 8(h)(2) of the Florida Constitution, “disproportionate benefit” means a benefit, privilege, exemption or result arising from an act or omission by a public officer or public employee inconsistent with the proper performance of his or her public duties.

(3) The Commission will consider the following in determining whether a benefit, privilege, exemption, or result constitutes a “disproportionate benefit”:

(a) The number of persons, besides the public officer or public employee, his or her spouse, children, employer, or business with which he or she contracts, in which he or she is an officer, a partner, a director, or a proprietor, or in which he or she owns an interest, who will experience the benefit, privilege, exemption, or result;

(b) The nature of the interests involved;

(c) The degree to which the interests of all those who will experience the benefit, privilege, exemption, or result are affected;

HB 7009, cont.

(d) The degree to which the public officer or public employee, his or her spouse, children, employer, or business with which he or she contracts, in which he or she is an officer, a partner, a director, or a proprietor, or in which he or she owns an interest, receives a greater or more advantageous benefit, privilege, exemption, or result when compared to others who will receive a benefit, privilege, exemption, or result;

(e) The degree to which there is uncertainty at the time of the abuse of public position as to whether there would be any benefit, privilege, exemption, or result, and, if so, the nature or degree of the benefit, privilege, exemption, or result must also be considered; and

(f) The degree to which the benefit, privilege, exemption, or result is not available to similarly situated persons. As used in this chapter, “similarly situated persons” means those with a commonality or like characteristic to the public officer or public employee that is unrelated to the holding of public office or public employment, or a commonality or like characteristic to the public officer’s or public employee’s spouse, children, or employer, or to any business with which the public officer or public employee contracts, serves as an officer, partner, director, or proprietor, or in which he or she owns an interest.

HB 7009, cont.

(4) The requisite intent for finding a violation of the prohibition in Article II, Section 8(h)(2) of the Florida Constitution is that the public officer or public employee acted, or refrained from acting, with a wrongful intent for the purpose of obtaining any benefit, privilege, exemption, or result from the act or omission which is inconsistent with the proper performance of his or her public duties.

- The adopted Constitutional amendment also mandates that “appropriate penalties shall be provided by law.” A schedule included in the amendment requires the Legislature to enact penalty legislation “following the adoption of rules” by the Commission.
- The bill expressly states that its purpose is to implement the abuse of position prohibition in the amendment. Under the bill, the penalties applicable to that provision will be the same penalties applicable to other violations of the Ethics in government section.

Additional Ethical Considerations

Ethical Provisions for Superintendents/ School Boards/Personnel

Legislature has made several changes relating to ethics that directly impact superintendents and other educational personnel. The Legislature has also enhanced oversight and reporting requirements.

- Employment of Relatives and Advisory Opinion from the Commission on Ethics – CEO 19-12
- Lobbying Restrictions – From 2 to 6 years
- School Board Members – Travel Expenses
- School Board Members - Compensation

Ethical Conduct Provisions, cont.

- Standards expanded to include all administrative personnel and school officers. The definition of “school officer” includes superintendents and school board members.
- School boards are required to adopt policies that require training on the standards and duty to report, etc.
- Superintendent required to report misconduct.
- Confidentiality agreements regarding termination or dismissal prohibited as well as nondisclosure of misconduct with prospective employers.

Offenses Against Students by Authority Figures

- Legislation enacted to clarify offenses against students by authority figures.
- “Authority figure” defined as a person 19 or older.
- Misconduct of engaging or soliciting sexual, romantic, or lewd conduct with students is added to the list of activities that create a duty for instructional personnel and school administrators to report.
- Superintendent is also required to report misconduct by instructional or administrative personnel to law enforcement.
- Forfeiture of salary for 1 year.
- Superintendent required to notify parent of student who was subjected to misconduct within 30 days after the school learns of misconduct.

Offenses Against Students by Authority Figures, cont.

- Employment history check is required for every person employed in any position that requires direct contact with students.
- Personnel Files - Must clearly indicate if the resignation or termination of an employee occurred before an investigation of alleged misconduct of a student is concluded.
- Employee personnel files exemption does not absolve the school district of its duty to provide any legally sufficient complaint to the Department of Education within 30 days after the date on which the subject matter of the complaint comes to the attention of the school district, regardless of the status of the complaint.

Offenses against Students by Authority Figures, cont.

- Person is ineligible for educator certification or employment in any position that requires direct contact with students if the person has been convicted of a felony offense relating to offense against students by authority figures.
- **Complaints against Teachers and Administrators** - School districts must file all complaints with the Department of Education within 30 days regardless of whether the subject of the complaint is still an employee of the school district.

Education Practices Commission

- May suspend or revoke a certificate, in addition to other provisions, if the person has engaged in or solicited sexual, romantic, or lewd conduct with a student or minor.
- Situations for which the Commission may revoke or suspend an educator certificate or other professional license held in Florida or in any other state are expanded. One of these provisions includes the violation of test security.

Commission on Ethics

- **Unpaid Fines** - District school boards are now entities from which unpaid fines imposed by the Commission on Ethics may be collected.
- **Financial Disclosure - Beginning January 1, 2022**, all disclosures filed with the commission must be filed electronically through the electronic filing system maintained by the commission. Each unit of government must provide an email address to any of its officers, members, or employees who must file a financial disclosure or statement of financial interests and then provide such email address to the commission by February 1 of each year. A person required to file a disclosure or statement must inform the commission immediately of any change in an email address.

Questions?

COVID-19

School Districts Respond

Closing School Buildings

- Changes Constantly
- Extended Spring Break
- Virtual/Distance Learning
- Vulnerable Populations
- Employment Issues
 - Emergency FMLA Expansion
 - Emergency Paid Sick Leave Act
- Collective Bargaining under COVID-19
- Public Meetings – School Board and other Meetings
- Graduations
- Funding Issues – CARES Act
- Changes Constantly

Education under COVID-19 – Executive Orders

- [Executive Order 2020-51 - Response/Directs Public Health Emergency](#)
- [Executive Order 2020-52 - Public Health Emergency](#)
- [Executive Order 2020-69 - Local Government Public Meetings](#)
- [Executive Order 2020-83 - Vulnerable Populations, etc.](#)
- [Executive Order 2020-88 - Re-employment of Essential Personnel](#)
- [Executive Order 2020-91 - Essential Services/Activities](#)
- [Executive Order 2020-92 - Essential Services/Activities/COVID-19](#)
- [Executive Order 2020-112 - Phase 1: Safe, Smart, Step-by-Step Plan](#)
- [Executive Order 2020-114 - Extension of EO 2020-52](#)
- [Executive Order 2020-131 - Organized Youth Activities](#)

DOE Guidance

- [DOE Website - COVID-19 Resources](#)
- [DOE 2020-EO-01 - School Closures/Suspension of Related Activities](#)
- [FDOE Q&A Guidance - March 19, 2020](#)
- [FDOE EO-02 - May 13, 2020](#)

CDC Guidelines

- [CDC Website - Considerations for Schools](#)
- [CDC - Schools Reopening Decision Tool](#)
- [CDC Guidelines - Schools & Child Care](#)
- [CDC Guidelines - Summer Camps](#)

The Future

- Changes constantly
- Summer School and Camps
- Sports and Athletics
- School Opening – What will school look like?
 - Transportation
 - Classrooms
 - Food Service
 - Extracurricular Activities
- Employment Issues
- Funding
- Changes Constantly

Questions?