

MEMORANDUM

January 21, 2011

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

FROM: Alberto M. Carvalho, Superintendent of Schools 

SUBJECT: TRANSMITTAL OF SUPPORTING INFORMATION FOR THE SCHOOL BOARD / CABINET RETREAT SCHEDULED FOR JANUARY 26, 2011

In preparation for the School Board/Cabinet Retreat scheduled for Wednesday, January 26, 2011, staff has compiled information related to the discussion of school facility utilization as well as descriptions of high-demand choice program models.

This information will be presented at the retreat in greater detail, however, if you would like any additional information or require clarification of the information provided, please feel free to contact Dr. Daniel Tosado, Assistant Superintendent, District Operations, at 305-995-1206, so that appropriate staff may be scheduled to meet with you. Staff will be available for individual briefings on Monday, January 24 and Tuesday January 25, 2011.

AMC:cpi
M658

Attachments

cc: Superintendent's Cabinet

2010-2011 %Utilization Report

The % Utilization Report for 2010-2011 provides the following information:

1. A school by school listing by type, i.e. elementary, middle, K-8 and senior, for each of the five regions;
2. The respective school enrollment as of the October 2010 official FTE count;
3. The permanent capacity (which excludes portable units) of the school, expressed in number of available student stations, as reported in the State-based Florida Inventory of School Houses (FISH) and as a percentage is calculated by dividing the number of students by the number of student stations;
4. The capacity of any on-site portable units, expressed in number of available student stations;
5. The total capacity of each school, and the overall percent utilization which is calculated using all student stations (permanent and portables).

The % Utilization Report is used to track the utilization of each school and is one of the tools used to formulate new capacity needs as well as to inform the attendance boundary process.

% UTILIZATION REPORT 2010-2011

Region	SCHOOLS	Oct. '10 FTE	Permanent Capacity	% Util. Perm	Reloc Capacity	Total Capacity	% Util Total
I	Thomas, Eugenia B. K-8 Center	1,558	1,422	110%	176	1,598	97%
I	Graham, Bob Education K-8 Center	2,013	1,385	145%	0	1,385	145%
I	Arcola Lake Elementary School	481	798	60%	0	798	60%
I	Espinosa, Dr. Rolando K-8 Center	1,740	1,519	115%	0	1,519	115%
I	Blanton, Van E. Elementary School	570	616	93%	54	670	85%
I	Bright, James H. Elementary School	778	704	111%	0	704	111%
I	Broadmoor Elementary School	429	690	62%	0	690	62%
I	Bunche Park Elementary School	314	691	45%	80	771	41%
I	DuPuis, John G. Elementary School	734	623	118%	116	739	99%
I	Earhart, Amelia Elementary School	510	536	95%	66	602	85%
I	Flamingo Elementary School	855	866	99%	18	884	97%
I	Franklin, Benjamin Elementary School	468	590	79%	102	692	68%
I	Hialeah Gardens Elementary School	969	925	105%	66	991	98%
I	Golden Glades Elementary School	328	406	81%	18	424	77%
I	Good, Joella Elementary School	887	963	92%	36	999	89%
I	Spanish Lake Elementary School	1,703	1,637	104%	0	1,637	104%
I	West Hialeah Gardens Elementary School	1,177	1,241	95%	0	1,241	95%
I	Lakeview Elementary School	474	500	95%	72	572	83%
I	Meadowlane Elementary School	1,120	1,042	107%	18	1,060	106%
I	Miami Lakes K-8 Center	1,560	1,364	114%	0	1,364	114%
I	Miami Park Elementary School	477	758	63%	126	884	54%
I	Milam, M. A. K-8 Center	1,155	963	120%	128	1,091	106%
I	North Hialeah Elementary School	651	688	95%	146	834	78%
I	North Twin Lakes Elementary School	662	551	120%	18	569	116%
I	Ingram, Dr. Robert B. Elementary School	374	558	67%	36	594	63%
I	Palm Lakes Elementary School	903	1,014	89%	0	1,014	89%
I	Palm Springs Elementary School	757	842	90%	102	944	80%
I	Palm Springs No. Elementary School	965	881	110%	112	993	97%
I	Reeves, Henry E.S. Elementary School	825	731	113%	0	731	113%
I	Rainbow Park Elementary School	417	542	77%	18	560	74%
I	Sheppard, Ben Elementary School	1,063	802	133%	532	1,334	80%
I	Graham, Ernest R. Elementary School	1,260	1,592	79%	0	1,592	79%
I	Smith, John I. Elementary School	1,114	1,205	92%	0	1,205	92%
I	No. Dade Ctr. For Mod. Lang.	382	462	83%	0	462	83%
I	Twin Lakes Elementary School	605	668	91%	0	668	91%
I	Walters, Mae M. Elementary School	800	721	111%	54	775	103%
I	Mack, Dr. HW/W. Little River Elementary School (♣)	358	628	57%	0	628	57%
I	Meek, Carrie P./Westview Elementary School	405	580	70%	40	620	65%
I	Young, Nathan B. Elementary School	347	482	72%	0	482	72%
I	Wyche, Charles D. Elementary School	893	937	95%	0	937	95%
	ELEMENTARY TOTAL	33,081	34,124	97%	2,134	36,258	91%
I	Doral Middle School	789	1,041	76%	0	1,041	76%
I	Chiles, Lawton Middle School	991	1,301	76%	0	1,301	76%
I	Filer, Henry H. Middle School	1,159	1,130	103%	79	1,209	96%
I	Hialeah Middle School	863	919	94%	139	1,058	82%
I	Madison Middle School	641	783	82%	218	1,001	64%
I	Marti, Jose Middle School	748	1,018	73%	218	1,236	61%
I	Miami Lakes Middle School	802	966	83%	79	1,045	77%
I	North Dade Middle School	590	808	73%	59	868	68%
I	Country Club Middle School	1,421	1,493	95%	0	1,493	95%
I	Palm Springs Middle School	1,101	1,336	82%	59	1,395	79%
I	Hialeah Gardens Middle School	1,746	1,506	116%	0	1,506	116%
I	Westview Middle School	628	1,012	62%	79	1,091	58%
	MIDDLE TOTAL	11,479	13,312	86%	931	14,243	81%

* Based on the Official October FTE and the Capacity of October 26, 2010

% UTILIZATION REPORT 2010-2011

Region	SCHOOLS	Oct. 10 FTE	Permanent Capacity	% Util. Perm	Reloc Capacity	Total Capacity	% Util Total
I	American Senior High School	2,074	2,079	100%	119	2,197	94%
I	Westland Hialeah Senior High School	1,870	1,749	107%	0	1,749	107%
I	Hialeah Senior High School	2,971	3,354	89%	119	3,472	86%
I	Hialeah-Miami Lakes Senior High School	1,848	2,876	64%	48	2,923	63%
I	Hialeah Gardens Senior High School	2,397	2,575	93%	0	2,575	93%
I	Reagan, Ronald W./Doral Senior High School	2,303	2,000	115%	0	2,000	115%
I	Miami Central Senior High School (♣)	1,848	2,809	66%	48	2,857	65%
I	YMAACD at MacArthur North Senior High	162	406	40%	0	406	40%
I	Miami Lakes Educational Center	1,586	1,177	135%	0	1,177	135%
I	Turner, Wm. H. Tech. Arts Senior High School	1,529	1,832	83%	0	1,832	83%
I	Goleman, Barbara Senior High School	1,972	2,986	66%	546	3,532	56%
I	YWAACD @ Jan Mann Opportunity School	96	368	26%	0	368	26%
	SENIOR TOTAL	20,656	24,210	85%	879	25,088	82%
	REGION I TOTAL	65,216	71,645	91%	3,944	75,589	86%
	(♣) Education Transformation School						

* Based on the Official October FTE
and the Capacity of October 28, 2010

% UTILIZATION REPORT 2010-2011

Region	SCHOOLS	Oct. '10 FTE	Permanent Capacity	% Util. Perm	Reloc. Capacity	Total Capacity	% Util Total
II	Sunny Isles Beach Community School K-8 Ctr.	1,724	1,494	115%	0	1,494	115%
II	Aventura Waterways K-8 Center	1,842	1,499	123%	0	1,499	123%
II	Ruth K. Broad/Bay Harbor K-8 Center	1,213	997	122%	0	997	122%
II	Biscayne Elementary School	781	822	95%	194	1,016	77%
II	Arch Creek Elementary School	605	752	80%	0	752	80%
II	Biscayne Gardens Elementary School	667	691	97%	326	1,017	66%
II	Brentwood Elementary School	846	806	105%	0	806	105%
II	Bryan, W. J. Elementary School	776	920	84%	110	1,030	75%
II	Carol City Elementary School	636	806	79%	0	806	79%
II	Fienberg/Fisher K-8 Center	895	878	102%	65	943	95%
II	Crestview Elementary School	699	884	79%	0	884	79%
II	Edison Park Elementary School	385	662	58%	0	662	58%
II	Fulford Elementary School	561	500	112%	106	606	93%
II	Gratigny Elementary School	739	670	110%	200	870	85%
II	Greynolds Park Elementary School	821	742	111%	262	1,004	82%
II	Hibiscus Elementary School	632	643	98%	44	687	92%
II	Boone, V./Highland Oaks Elementary School	664	654	102%	138	792	84%
II	Crowder, Thena Elementary School	138	250	55%	18	268	51%
II	Ives, Madie Elementary School	747	647	115%	270	917	81%
II	Lake Stevens Elementary School	318	494	64%	18	512	62%
II	Lentin, Linda K-8 Center	992	1,063	93%	0	1,063	93%
II	McCrary, Jesse J. Jr. Elementary (♣)	529	656	81%	44	700	76%
II	L'Ouverture, Toussaint Elementary School	483	660	73%	62	722	67%
II	Miami Gardens Elementary School	298	412	72%	18	430	69%
II	Miami Shores Elementary School	709	714	99%	36	750	95%
II	Miller, Phyllis Ruth Elementary School	692	731	95%	0	731	95%
II	Morningside Elementary School	439	740	59%	58	798	55%
II	Myrtle Grove Elementary School	381	580	66%	44	624	61%
II	Natural Bridge Elementary School	621	698	89%	270	968	64%
II	Norland Elementary School	625	598	105%	80	678	92%
II	North Beach Elementary School	997	869	115%	72	941	106%
II	Hawkins, Barbara Elementary School	329	492	67%	0	492	67%
II	North County Elementary School (♣)	361	724	50%	0	724	50%
II	North Glade Elementary School	375	508	74%	18	526	71%
II	North Miami Elementary School	618	754	82%	132	886	70%
II	Norwood Elementary School	511	552	93%	0	552	93%
II	Oak Grove Elementary School	711	656	108%	124	780	91%
II	Ojus Elementary School	835	892	94%	0	892	94%
II	Parkview Elementary School	421	426	99%	0	426	99%
II	Parkway Elementary School	384	478	80%	62	540	71%
II	Edelman, G./Sabal Palm Elementary School	782	696	112%	182	878	89%
II	Scott Lake Elementary School	575	724	79%	80	804	72%
II	Shadowlawn Elementary School	307	398	77%	40	438	70%
II	Lawrence, David Jr. K-8 Center	1,461	1,199	122%	0	1,199	122%
II	Skyway Elementary School	487	660	74%	0	660	74%
II	South Pointe Elementary School	538	428	126%	0	428	126%
II	Sibley, Hubert O. Elementary School	767	1,072	72%	0	1,072	72%
II	Treasure Island Elementary School	702	915	77%	84	999	70%
	ELEMENTARY TOTAL	32,619	35,107	93%	3,157	38,264	85%
II	Andover Middle School	1,111	1,264	88%	0	1,264	88%
II	Carol City Middle School	821	1,045	79%	0	1,045	79%
II	Highland Oaks Middle School	1,192	1,056	113%	198	1,254	95%
II	Jefferson, Thomas Middle School	533	826	65%	148	974	55%
II	Kennedy, John F. Middle School	1,407	1,349	104%	317	1,666	84%
II	Lake Stevens Middle School	645	878	73%	158	1,037	62%
II	Mann, Horace Middle School	750	1,419	53%	0	1,419	53%
II	Miami Edison Middle School (♣)	493	1,053	47%	0	1,053	47%
II	Nautilus Middle School	1,196	1,048	114%	0	1,048	114%
II	Norland Middle School	812	1,417	57%	158	1,575	52%
II	North Miami Middle School (♣)	1,052	862	122%	0	862	122%
II	Parkway Middle School	431	809	53%	0	809	53%
	MIDDLE TOTAL	10,443	13,026	80%	979	14,005	75%

* Based on the Official October FTE and the Capacity of October 28, 2010

% UTILIZATION REPORT 2010-2011

Region	SCHOOLS	Oct. 10 FTE	Permanent Capacity	% Util Perm	Reloc Capacity	Total Capacity	% Util Total
II	Law Enforcement Officers Memorial Senior High School (●)	236	319	74%	0	319	74%
II	Alonzo & Tracy Mourning Senior High School (▼)	1,178	1,446	81%	0	1,446	81%
II	Young Women's Prep. Academy	360	402	89%	0	402	89%
II	Design & Architecture Senior High School	494	283	175%	0	283	175%
II	Krop, Dr. Michael M. Senior High School	3,073	2,834	108%	190	3,024	102%
II	Miami Beach Senior High School	2,268	2,353	96%	0	2,353	96%
II	Miami Carol City Senior High School (♣)	1,895	2,590	73%	48	2,638	72%
II	Miami Edison Senior High School (♣)	890	1,600	56%	0	1,600	56%
II	Miami Norland Senior High School (♣)	1,457	2,229	65%	71	2,300	63%
II	North Miami Beach Senior High School	2,338	2,466	95%	24	2,490	94%
II	North Miami Senior High School (♣)	2,839	2,784	102%	238	3,022	94%
II	500 Role Models Academy	76	254	30%	0	254	30%
II	COPE North Alt. Ed. Ctr.	128	363	35%	25	388	33%
II	Juvenile Justice Center	80	286	28%	45	331	24%
II	Corporate Academy North	90	546	16%	0	546	16%
	SENIOR TOTAL	17,402	20,755	84%	640	21,395	81%
	REGION II TOTAL	60,464	68,887	88%	4,776	73,663	82%
	(▼) Only 9th, 10th, and 11th grades opened						
	(●) Only 9th and 10th grades opened						
	(♣) Education Transformation School						

* Based on the Official October FTE and the Capacity of October 28, 2010

% UTILIZATION REPORT 2010-2011

Region	SCHOOLS	Oct. '10 FTE	Permanent Capacity	% Util Perm	Reloc Capacity	Total Capacity	% Util Total
III	Smith, Lenora B. Elementary School	507	736	69%	0	736	69%
III	Angelou, Maya Elementary School	591	713	83%	0	713	83%
III	Auburndale Elementary School	913	1,019	90%	72	1,091	84%
III	Carver, G. W. Elementary School	500	442	113%	44	486	103%
III	Citrus Grove Elementary School	909	772	118%	228	1,000	91%
III	Coconut Grove Elementary School	349	308	113%	44	352	99%
III	Comstock Elementary School	583	501	116%	90	591	99%
III	Coral Gables K-8 Center	633	522	121%	18	540	117%
III	Coral Terrace Elementary School	556	632	88%	22	654	85%
III	Coral Way K-8 Center	1,562	1,374	114%	178	1,553	101%
III	Douglass, Frederick Elementary School (♣)	355	772	46%	172	944	38%
III	Drew, Charles R. Elementary School	273	658	41%	22	680	40%
III	Dunbar, Paul Laurence Elementary School	349	837	42%	0	837	42%
III	Earlington Heights Elementary School	502	656	77%	18	674	74%
III	Emerson Elementary School	403	576	70%	0	576	70%
III	Evans, Lillie C. Elementary School	425	696	61%	220	916	46%
III	Fairchild, David Elementary School	609	710	86%	18	728	84%
III	Fairlawn Elementary School	661	612	108%	0	612	108%
III	Flagami Elementary School	500	504	99%	66	570	88%
III	Flagler, Henry M. Elementary School	869	938	93%	0	938	93%
III	Hartner, Eneida M. Elementary School	589	713	83%	0	713	83%
III	Hialeah Elementary School	788	886	89%	90	976	81%
III	Holmes Elementary School (♣)	522	572	91%	0	572	91%
III	Kensington Park Elementary School	1,223	1,342	91%	0	1,342	91%
III	Key Biscayne K-8 Center	1,244	986	126%	16	1,003	124%
III	King, Martin Luther Elementary School	102	212	48%	54	266	38%
III	Kinloch Park Elementary School	856	818	105%	0	818	105%
III	YWAACD at J.R. E. Lee Opportunity School	92	259	36%	50	309	30%
III	Liberty City Elementary School	270	638	42%	0	638	42%
III	Lorah Park Elementary School	410	546	75%	0	546	75%
III	Ludlam Elementary School	431	446	97%	178	624	69%
III	Melrose Elementary School	564	608	93%	0	608	93%
III	Merritt, Ada K-8 Center	722	707	102%	0	707	102%
III	Miami Springs Elementary School	631	602	105%	120	722	87%
III	Olinda Elementary School	380	468	81%	0	468	81%
III	MDCPS Primary Learning Center	90	72	125%	0	72	125%
III	Orchard Villa Elementary School	423	723	59%	0	723	59%
III	Pharr, Kelsey L. Elementary School	450	424	106%	18	442	102%
III	Poinciana Park Elementary School	451	712	63%	102	814	55%
III	Riverside Elementary School	969	759	128%	0	759	128%
III	Santa Clara Elementary School	548	713	77%	0	713	77%
III	Shenandoah Elementary School	1,011	950	106%	0	950	106%
III	Silver Bluff Elementary School	555	528	105%	44	572	97%
III	South Hialeah Elementary School	1,210	1,274	95%	0	1,274	95%
III	South Miami K-8 Center	851	788	108%	198	986	86%
III	Southside Elementary School	604	884	68%	0	884	68%
III	Springview Elementary School	534	452	118%	58	510	105%
III	Sunset Elementary School	1,118	1,214	92%	230	1,444	77%
III	Sylvania Heights Elementary School	580	826	70%	18	844	69%
III	Tucker, Frances S. Elementary School	401	540	74%	36	576	70%
III	West, Henry S. Lab.	238	314	76%	22	336	71%
III	Wheatley, Phillis Elementary School	224	620	36%	0	620	36%
III	ELEMENTARY TOTAL	31,130	35,576	88%	2,446	38,022	82%

* Based on the Official October FTE and the Capacity of October 28, 2010

% UTILIZATION REPORT 2010-2011

Region	SCHOOLS	Oct. '10 FTE	Permanent Capacity	% Util. Perm	Reloc. Capacity	Total Capacity	% Util Total
III	Allapattah Middle School	696	1,085	64%	79	1,165	60%
III	Brownsville Middle School	724	1,321	55%	0	1,321	55%
III	Carver, G. W. Middle School	1,015	872	116%	0	872	116%
III	Citrus Grove Middle School	1,044	1,481	70%	0	1,481	70%
III	Drew, Charles R. Middle School (♣)	483	855	56%	158	1,013	48%
III	Kinloch Park Middle School	1,173	1,280	92%	0	1,280	92%
III	de Diego, Jose Middle School	579	1,044	55%	0	1,044	55%
III	Miami Springs Middle School	1,628	1,291	126%	317	1,607	101%
III	Ponce de Leon Middle School	1,171	1,319	89%	139	1,457	80%
III	Shenandoah Middle School	1,123	1,181	95%	0	1,181	95%
III	South Miami Middle School	1,060	760	140%	40	799	133%
III	West Miami Middle School	1,130	1,202	94%	0	1,202	94%
	MIDDLE TOTAL	11,826	13,690	86%	733	14,423	82%
III	Young Mens Preparatory Academy	139	362	38%	0	362	38%
III	Coral Gables Senior High School	3,170	2,888	110%	0	2,888	110%
III	MAST Academy	550	419	131%	0	419	131%
III	Miami Jackson Senior High School (♣)	1,210	2,335	52%	0	2,335	52%
III	Miami Northwestern Senior High School (♣)	1,770	2,339	76%	71	2,410	73%
III	Miami Senior High School	2,803	1,621	173%	594	2,214	127%
III	Miami Springs Senior High School	1,925	2,073	93%	48	2,120	91%
III	International Studies Preparatory Academy (*)	15	511	3%	0	511	3%
III	iPrep Academy (+)	44	75	59%	0	75	59%
III	South Miami Senior High School	2,355	2,358	100%	143	2,500	94%
III	Washington, B. T. Senior High School (♣)	1,044	2,092	50%	0	2,092	50%
III	New World School of the Arts	484	420	115%	0	420	115%
	SENIOR TOTAL	15,509	17,493	89%	855	18,348	85%
	REGION III TOTAL	58,465	66,758	88%	4,034	70,792	83%
	(*) Only 9th grade opened						
	(+) Only 11th grade opened						
	(♣) Education Transformation School						

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% UTILIZATION REPORT 2010-2011

Region	SCHOOLS	Oct 10 FTE	Permanent Capacity	% Util. Perm	Reloc Capacity	Total Capacity	% Util Total
IV	Bossard, Norma Butler Elementary School	1,280	1,032	124%	0	1,032	124%
IV	Banyan Elementary School	393	540	73%	0	540	73%
IV	Barreiro, Dr. Manuel C. Elementary School	916	824	111%	0	824	111%
IV	Beckham, Ethel Koger Elementary School	724	749	97%	0	749	97%
IV	Bent Tree Elementary School	557	623	89%	0	623	89%
IV	Blue Lakes Elementary School	533	725	74%	36	761	70%
IV	Ashe, Bowman Foster Elementary School	890	1,157	77%	170	1,327	67%
IV	Calusa Elementary School	817	792	103%	0	792	103%
IV	Pepper, Claude Elementary School	844	922	92%	126	1,048	81%
IV	Colonial Drive Elementary School	315	460	68%	0	460	68%
IV	Coral Park Elementary School	1,078	804	134%	148	952	113%
IV	Cypress Elementary School	340	540	63%	18	558	61%
IV	Devon Aire K-8 Center	1,542	1,391	111%	0	1,391	111%
IV	Douglas, Marjory S. Elementary School	1,176	1,321	89%	0	1,321	89%
IV	Eve, Christina M. Elementary School	718	720	100%	0	720	100%
IV	Everglades K-8 Center	1,195	1,048	114%	101	1,148	104%
IV	Fascell, Dante B. Elementary School	518	703	74%	98	801	65%
IV	Floyd, Gloria Elementary School	649	792	82%	18	810	80%
IV	Greenglade Elementary School	586	528	111%	18	546	107%
IV	Hadley, Charles R. Elementary School	1,025	790	130%	218	1,008	102%
IV	Hall, Joe Elementary School	669	627	107%	18	645	104%
IV	Hurston, Zora Neale Elementary School	869	1,039	84%	0	1,039	84%
IV	Hoover, Oliver Elementary School	908	854	106%	172	1,026	88%
IV	Kendale Elementary School	566	724	78%	36	760	74%
IV	Kendale Lakes Elementary School	753	984	77%	76	1,060	71%
IV	Kenwood K-8 Center	1,148	1,139	101%	16	1,156	99%
IV	Leewood K-8 Center	747	981	76%	36	1,017	73%
IV	Lehman, William Elementary School	755	935	81%	0	935	81%
IV	Matthews, Wesley Elementary School	521	693	75%	18	711	73%
IV	Olympia Heights Elementary School	547	580	94%	62	642	85%
IV	Porter, Gilbert L. Elementary School	787	919	86%	18	937	84%
IV	Roberts, Jane S. K-8 Center	942	1,240	76%	184	1,424	66%
IV	Rockway Elementary School	449	536	84%	0	536	84%
IV	Royal Green Elementary School	702	722	97%	22	744	94%
IV	Royal Palm Elementary School	541	570	95%	18	588	92%
IV	Seminole Elementary School	536	822	65%	18	840	64%
IV	Finlay, Dr. Carlos J. Elementary School	519	626	83%	0	626	83%
IV	Snapper Creek Elementary School	550	658	84%	0	658	84%
IV	Stirrup, Sr., E. W. F. Elementary School	885	916	97%	98	1,014	87%
IV	Sunset Park Elementary School	677	646	105%	58	704	96%
IV	Sweetwater Elementary School	941	931	101%	50	981	96%
IV	Tropical Elementary School	457	802	57%	22	824	55%
IV	Village Green Elementary School	392	480	82%	36	516	76%
IV	Winston Park K-8 Center	1,397	1,147	122%	0	1,147	122%
	ELEMENTARY TOTAL	33,354	36,032	93%	1,909	37,941	88%
IV	Ammons, Herbert A. Middle School	1,165	0	0%	990	990	118%
IV	Arvida Middle School	1,320	1,156	114%	79	1,235	107%
IV	Bell, Paul Middle School	756	1,028	74%	0	1,028	74%
IV	Zelda Glazer Middle School	1,437	1,501	96%	0	1,501	96%
IV	Dario, Ruben Middle School	841	1,043	81%	99	1,142	74%
IV	Doolin, Howard A. Middle School	766	1,033	74%	79	1,112	69%
IV	Glades Middle School	1,212	851	143%	119	969	125%
IV	Hammocks Middle School	1,227	1,452	85%	218	1,670	73%
IV	McMillan, Howard D. Middle School	870	1,198	73%	40	1,238	70%
IV	Mas Canosa, Jorge Middle School	1,858	2,029	92%	0	2,029	92%
IV	Riviera Middle School	797	1,004	79%	0	1,004	79%
IV	Rockway Middle School	1,286	1,347	95%	0	1,347	95%
IV	Thomas, W. R. Middle School	644	919	70%	0	919	70%
IV	Curry, Lamar Louise Middle School	1,052	1,040	101%	0	1,040	101%
	MIDDLE TOTAL	15,231	15,600	98%	1,624	17,223	88%

* Based on the Official October FTE and the Capacity of October 28, 2010

% UTILIZATION REPORT 2010-2011

Region	SCHOOLS	Oct '10 FTE	Permanent Capacity	% Util. Perm	Reloc Capacity	Total Capacity	% Util Total
IV	Terra Environmental Reserve Institute (●)	892	1,564	57%	71	1,635	55%
IV	Braddock, G. Holmes Senior High	3,361	3,822	88%	0	3,822	88%
IV	Ferguson, John A. Senior High School	4,289	3,777	114%	0	3,777	114%
IV	Miami Coral Park Senior High School	3,150	3,350	94%	238	3,587	88%
IV	Miami Killian Senior High School	2,940	3,165	93%	257	3,422	86%
IV	Miami Sunset Senior High School	2,628	2,422	109%	428	2,849	92%
IV	Southwest Miami Senior High School	2,957	2,812	105%	238	3,050	97%
IV	Varela, Felix Senior High School	3,053	2,819	108%	0	2,819	108%
	SENIOR TOTAL	23,270	23,730	98%	1,230	24,961	93%
	REGION IV TOTAL	71,855	75,362	95%	4,762	80,125	90%
	(●) Only 9th and 10th grades opened						

* Based on the Official October FTE
and the Capacity of October 28, 2010

% UTILIZATION REPORT 2010-2011

Region	SCHOOLS	Oct. 10 FTE	Permanent Capacity	% Util Perm	Reloc Capacity	Total Capacity	% Util Total
V	Air Base Elementary School	707	874	81%	18	892	79%
V	Mandarin Lakes K-8 Academy	1,404	1,508	93%	0	1,508	93%
V	Avocado Elementary School	632	869	73%	66	935	68%
V	Bel-Aire Elementary School	522	514	102%	134	648	81%
V	Goulds Elementary School	540	824	66%	0	824	66%
V	Campbell Drive Elementary School	669	931	72%	36	967	69%
V	Caribbean Elementary School	679	975	70%	22	997	68%
V	Chapman, William A. Elementary School	406	630	64%	108	738	55%
V	Coral Reef Elementary School	899	1,005	89%	18	1,023	88%
V	Cutler Ridge Elementary School	902	982	92%	18	1,000	90%
V	Florida City Elementary School	770	830	93%	72	902	85%
V	Gordon, Jack D. Elementary School	1,125	1,051	107%	162	1,213	93%
V	Gulfstream Elementary School	702	699	100%	54	753	93%
V	Howard Drive Elementary School	643	771	83%	0	771	83%
V	Leisure City K-8 Center	1,115	1,137	98%	178	1,315	85%
V	Saunders, Laura C. Elementary School	795	809	98%	54	863	92%
V	Martin, Frank C. K-8 Center	1,188	1,239	96%	16	1,256	95%
V	Miami Heights Elementary School	1,167	1,273	92%	152	1,425	82%
V	Moton, R. R. Elementary School	377	715	53%	0	715	53%
V	Coconut Palm K-8 Academy	1,342	1,499	90%	0	1,499	90%
V	Gateway Environmental K-8 Learning Center (o)	1,191	1,492	80%	0	1,492	80%
V	Palmetto Elementary School	595	598	99%	84	682	87%
V	Perrine Elementary School	802	840	95%	0	840	95%
V	Peskoe, Irving & Beatrice Elementary School	599	925	65%	18	943	64%
V	Pinecrest Elementary School	968	1,156	84%	0	1,156	84%
V	Pine Lake Elementary School	481	630	76%	18	648	74%
V	Pine Villa Elementary School (★)	331	834	40%	120	954	35%
V	Redland Elementary School	897	903	99%	0	903	99%
V	Redondo Elementary School	710	749	95%	40	789	90%
V	Beckford, E./Richmond Elementary School	278	504	55%	36	540	51%
V	South Dade Middle (Grades 4-8)	1,414	1,477	96%	0	1,477	96%
V	South Miami Heights Elementary School	595	714	83%	62	776	77%
V	Vineland K-8 Center	805	872	92%	0	872	92%
V	West Homestead Elementary School	630	794	79%	18	812	78%
V	Whispering Pines Elementary School	708	724	98%	0	724	98%
V	Whigham, Dr. Edward L. Elementary School	657	898	73%	22	920	71%
	ELEMENTARY TOTAL	28,245	33,246	85%	1,526	34,772	81%
V	Campbell Drive Middle School	753	1,445	52%	0	1,445	52%
V	Centennial Middle School	845	1,494	57%	0	1,494	57%
V	Cutler Ridge Middle School	715	1,428	50%	99	1,527	47%
V	Homestead Middle School	654	834	78%	139	973	67%
V	Mays Middle School	548	945	58%	99	1,044	52%
V	Palmetto Middle School	1,194	1,183	101%	99	1,282	93%
V	Redland Middle School	644	1,219	53%	79	1,298	50%
V	Richmond Heights Middle School	781	1,147	68%	158	1,305	60%
V	Southwood Middle School	1,509	1,727	87%	0	1,727	87%
	MIDDLE TOTAL	7,643	11,421	67%	673	12,094	63%
V	Coral Reef Senior High School	3,090	2,676	115%	0	2,676	115%
V	Homestead Senior High School (★)	1,829	2,894	63%	0	2,894	63%
V	Medical Academy for Science and Technology (*)	69	716	10%	0	716	10%
V	Morgan, Robert Educ. Center	2,294	1,958	117%	0	1,958	117%
V	Miami Palmetto Senior High School	3,047	2,819	108%	214	3,032	100%
V	YMAACD at Miami Douglas MacArthur South	170	560	30%	140	700	24%
V	South Dade Senior High School	3,499	3,302	106%	0	3,302	106%
V	Miami Southridge Senior High School (★)	2,261	2,580	88%	166	2,746	82%
V	Wallace, Dorothy Educ. Ctr.	101	357	28%	225	582	17%
V	Corporate Academy South	63	0	0%	200	200	32%
	SENIOR TOTAL	16,423	17,862	0%	945	18,807	87%
	REGION V TOTAL	52,311	62,529	84%	3,145	65,673	80%
	GRAND TOTAL	308,311	345,182	89%	20,661	365,842	84%
	(*) Only 9th grade opened						
	(o) Only PK-5th grades opened						
	(★) Education Transformation School						

* Based on the Official October FTE and the Capacity of October 28, 2010

OTHER VIEWS

Fund Miami-Dade schools fairly

BY ALBERTO CARVALHO
www.dadeschools.net

Miami-Dade County's public schools have demonstrated three years of unprecedented academic achievements, drawing the attention of leaders nationwide, including President Obama. But the pace of our progress could be derailed by inadequate education funding. While we recognize the economic hardships our state is experiencing and have sacrificed as much or more than other school districts, we will continue to demand a fair funding for our students.

Despite the dismal economic conditions that we've experienced since 2008, Miami-Dade schools have rallied to success. Last year, high scoring Miami-Dade students performed at five times the state average in FCAT reading and doubled the state's numbers in math.

Miami-Dade's students outperformed students nationwide on the National Assessment of Educational Progress exams, and the district's graduation rate has improved significantly, in spite of the county's high poverty level of 82 percent, a factor that has often proved counterproductive to student achievement. School performance grades, especially in secondary schools, show remarkable improvement, with more middle schools receiving "A" grades last year and high schools showing solid gains, including Miami Central and Edison senior highs' move from "F" to "C."

Even though we have produced an excellent return on students, there is a breaking point where further cuts will only work against us.

Good education takes solid funding. Gov. Rick Scott has proposed a budget that would decrease education funding by a full 10 percent, or \$1.7 billion — a decrease of \$214.9 million for Miami-Dade public schools. Stimulus funding, which has been used by the state to plug holes in the education budget, sunsets this year, and there is no state plan for making up this annual loss of \$121 million, which puts 2,000 local jobs at stake.

Over the last three years, the Miami-Dade school district has put its house in order. With the support of the School Board, the district has reduced its budget by \$2 billion and decreased central office staff by 52 percent. During this transition, not a single teacher was



CARVALHO

fired for economic reasons. The School Board did not raise the portion of taxes it controls, and I am not proposing to raise taxes for the year ahead.

But under the state's current education funding formula, Miami-Dade students receive average of the state's eight largest school districts. Miami-Dade taxpayers pay an average of \$200 more in taxes each year on a per student basis than the average taxpayer statewide, and no adjustment is made for our higher cost of living.

There are possible solutions to achieve the district's goal of level funding without imposing more cuts. The Legislature should stabilize school property taxes it controls without increasing its tax rate by requiring property owners disputing tax bills to pay a portion upfront. This would mitigate the current proposed reduction for Miami-Dade by \$83 million. Specialized provisions that favor small or sparsely populated school districts, could be eliminated, saving as much as \$238 million.

Despite catastrophic eco-

 MiamiHerald.com/opinion
Watch videos of Superintendent Alberto Carvalho, Baptist Health South Florida executive George W. Foyo and parent task force leader Karen Rivo talk about challenges facing Miami-Dade schools.

nomic conditions, the needs of Miami-Dade's students should be prioritized above all else. Now is the time for Miami-Dade's citizens and leaders to advocate in favor of adequate school funding. The Miami-Dade delegation, working with the school district, can help achieve the best interests of our students and community.

I join my colleagues, Miami Dade College President Eduardo Padrón and Florida International University President Mark Rosenberg, in a community partnership that ensures a viable workforce by protecting a necessary investment in education at all levels. Miami-Dade's children, as the future of the state's economic engine, deserve that investment.

Alberto Carvalho is superintendent of Miami-Dade public schools.

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OTHER VIEWS

SCHOOLS

Miami-Dade leaders must defend funding

BY CAROLYN NELSON-GOEDERT
AND KAREN RIVO
www.dccptpsa.org

Where is the outrage? Recently, Miami-Dade voters recalled the county mayor, citing outrage over increased taxes. But where is the outrage of our citizens over the decimation of education funds for our children?

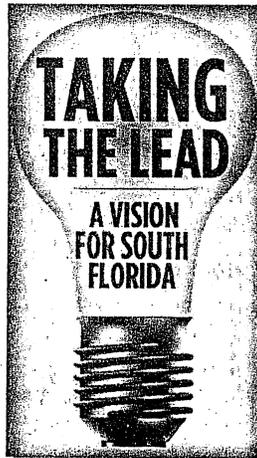
The Florida Constitution mandates that educating our students is a paramount duty for the state, yet over the last

10 years the portion of education funding provided by the state has insidiously dropped from nearly 70 percent to about 30 percent, while the percentage provided by local taxpayers has crept up from 30 percent to 70 percent. Adding to this imbalance is the fact that home values in South Florida have depreciated considerably since the economic downturn, providing less of a tax base to support the required local effort.

Miami-Dade County Public Schools has actively worked to convey the message that the coming school year will be the toughest one we have experienced in many years, but we are seeing now that the decrease in funding will be much worse than previously anticipated.

Superintendent Alberto Carvalho created a School District Budget Priorities Subcommittee to give parents and the community a voice in budget decisions that directly affect our students. Members of that committee have a front-row seat to observe exactly how much revenue forecasts and budget proposals by the governor and the legislature will negatively affect our children's education, and that impact is nothing less than major devastation.

Until now, Miami-Dade County Public Schools have offered outstanding educational programming and services to meet the needs of all students. The District has one of the nation's most comprehensive



Exceptional Student Education programs, providing for the needs of tens of thousands of special needs students. In addition, the school district continues to offer advanced placement courses and dual enrollment opportunities that allow students to graduate from high school and even receive an associate's degree at the same time. Specialized magnet programs like MAST Academy and Design and Architecture Senior High School provide offerings that no charter school can match. And despite more than \$500 million in funding cuts in the past three years, the district has decreased its budget by \$2 billion, yet has managed to preserve programming that is important to students and parents, including world languages, physical education, arts and music.

Yet all of these educational opportunities are threatened by a governor who is asking to reduce funding to schools by 10 percent, a move that will redefine K-12 education as we know it.

Parents should be outraged that their students are being denied educational opportunities because the state won't

fund our schools properly. Florida already ranks at the bottom of the list of states in per student funding based on personal income. Miami-Dade taxpayers are paying more per student than other school districts, yet receiving less in per student funding than Florida's other large school districts. Our tax money doesn't come back to us, and we are contributing more than we get back.

We are, in reality, funding the education of students in other counties.

Every citizen, including our business leaders and municipal compact partners, should be angry that we are not getting fair funding. Our entire community suffers as a whole when the citizenry does not have the skills to get the jobs needed or attract the industries our community so desperately needs. Imagine the impact of potential layoffs on the well-being of our community.

We know that funding cuts will affect our schools and communities in troublesome ways. When extracurricular activities are cut, increases in crime, teen pregnancies and the drop-out rate are sure to follow. Eliminating arts and extracurricular activities would make our high school students less competitive candidates for college. A reduction in maintenance will surely affect the cleanliness of our schools. Many of our school buildings are more than 50 years old and require constant repairs, which will not be available in the years ahead with cuts to the capital budget. The short- and long-term implications that even one year of drastic cuts will have on our students, families, and the community at large will be devastating.

It's time for parents and the entire community to express their outrage to our legislators and to Gov. Rick Scott. The Rally to Tally was a good start, but we must make ourselves heard until our students and schools receive fair funding. With a united voice, we will remind our elected officials of the state's paramount responsibility to educate our students until they meet that responsibility.

Karen Rivo chairs the Miami-Dade school district budget priorities subcommittee. Carolyn Nelson-Goedert is president of Miami-Dade County Council of PTAs/PTSAs.

The Florida Senate

CS/CS/HB 1255: Education Accountability

[Track This Bill](#)

GENERAL BILL by Education Committee; K-20 Competitiveness Subcommittee; Adkins

Education Accountability; Revises numerous provisions relating to K-12 public education system; revises provisions relating to virtual instruction courses, school board member acceptance of gifts, Opportunity Scholarship Program, McKay Scholarships, Voluntary Prekindergarten Education Program, special education services, requirements for middle grades promotion & high school graduation, digital curriculum, career & professional academies, assistive technology, statewide assessments, college readiness, school improvement, designation of school grades, education budgets, etc.

EFFECTIVE DATE: July 1, 2011

Bill History

DATE	CHAMBER	ACTION
03/04/2011	House	• Filed
03/08/2011	House	• Introduced -HJ 113
03/14/2011	House	• Referred to K-20 Competitiveness Subcommittee; PreK-12 Appropriations Subcommittee; Education Committee -HJ 220
03/21/2011	House	• PCS on Committee agenda-- K-20 Competitiveness Subcommittee, 03/23/11, 8:00 am, Morris Hall
03/23/2011	House	• CS by K-20 Competitiveness Subcommittee; YEAS 14 NAYS 0 -HJ 314
03/24/2011	House	• Pending review of CS under Rule 7.19(c) • CS by K-20 Competitiveness Subcommittee read 1st time -HJ 306 • Original reference(s) removed: PreK-12 Appropriations Subcommittee
03/25/2011	House	• CS referred to Education Committee -HJ 324 • Now in Education Committee -HJ 324
04/01/2011	House	• On Committee agenda-- Education Committee, 04/05/11, 8:00 am, Reed Hall
04/05/2011	House	• CS/CS by- Education Committee; YEAS 18 NAYS 0 -HJ 416
04/07/2011	House	• Pending review of CS -under Rule 7.19(c)

Related Bills

BILL NUMBER	SUBJECT	SPONSOR	RELATIONSHIP	LAST ACTION	TRACK BILLS
H 1341	Public School Education	Bullard	Compare	03/14/2011 H Referred to K-20 Innovation Subcommittee; PreK-12 Appropriations Subcommittee; Education Committee -HJ 221	
H 7087	Education Law Repeals	Stargel	Compare	04/06/2011 S In Messages	
S 1678	McKay Scholarships/Students With Disabilities	Wise	Compare	03/10/2011 S Introduced -SJ 190	
S 1696	Public School Accountability	Wise	Compare	04/07/2011 S Also referred to Rules -SJ 461	
S 1832	Voluntary Prekindergarten Program	Wise	Compare	03/14/2011 S Introduced -SJ 208	
S 1844	Career and Professional Academies	Gaetz	Compare	03/28/2011 S Now in Budget	
S 1996	Student Assessment Program for Public Schools	Education Pre-K - 12	Compare	03/24/2011 S Now in Budget -SJ 286	
S 2026	Public School Education	Sachs	Compare	03/23/2011 S Introduced -SJ 272	

Bill Text

VERSION	POSTED	FORMAT
H 1255	03/04/2011	Web Page PDF
H 1255 c1	03/24/2011	Web Page PDF
H 1255 c2	04/07/2011	Web Page PDF

Committee Amendments

NO COMMITTEE AMENDMENTS AVAILABLE

Floor Amendments

NO FLOOR AMENDMENTS AVAILABLE

Vote History - Floor

NO VOTE HISTORY AVAILABLE

Citations - Statutes

- [1001.2](#) - Department under direction of state board.
- [1001.42](#) - Powers and duties of district school board.
- 1001.421
- [1002.37](#) - The Florida Virtual School.
- [1002.38](#) - Opportunity Scholarship Program.
- [1002.39](#) - The John M. McKay Scholarships for Students with Disabilities Program.
- [1002.45](#) - School district virtual instruction programs.
- [1002.66](#) - Specialized instructional services for children with disabilities.
- [1002.67](#) - Performance standards; curricula and accountability.
- [1002.69](#) - Statewide kindergarten screening; kindergarten readiness rates.
- [1002.71](#) - Funding; financial and attendance reporting.
- [1002.73](#) - Department of Education; powers and duties; accountability requirements.
- [1003.01](#) - Definitions.
- [1003.4156](#) - General requirements for middle grades promotion.
- 1003.4203
- [1003.428](#) - General requirements for high school graduation; revised.
- [1003.491](#) - Florida Career and Professional Education Act.
- [1003.493](#) - Career and professional academies.
- 1003.4935
- [1003.575](#) - Assistive technology devices; findings; interagency agreements.
- [1008.22](#) - Student assessment program for public schools.
- [1008.3](#) - Common placement testing for public postsecondary education.
- [1008.33](#) - Authority to enforce public school improvement.
- [1008.34](#) - School grading system; school report cards; district grade.
- [1011.01](#) - Budget system established.
- [1011.03](#) - Public hearings; budget to be submitted to Department of Education.
- 1011.035
- [1011.62](#) - Funds for operation of schools.
- [1012.39](#) - Employment of substitute teachers, teachers of adult education, nondegreed teachers of career education, and career specialists; students performing clinical field experience.

Citations - Constitution

NO CONSTITUTIONAL CITATIONS FOUND FOR HOUSE BILL 1255.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

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The Florida Senate

CS/SB 1696: Public School Accountability

[Track This Bill](#)

GENERAL BILL by Education Pre-K - 12; Wise

Public School Accountability; Deletes a provision that requires the Florida Virtual School to be administratively housed within the Office of Technology and Information Services within the DOE. Revises the powers and duties of district school boards to require that students be provided with access to Florida Virtual School courses. Prohibits district school board members from accepting gifts from vendors. Revises the general requirements for middle grades promotion. Revises provisions relating to the Florida Career and Professional Education Act, etc.

EFFECTIVE DATE: upon becoming a law, except as otherwise provided

Bill History

DATE	CHAMBER	ACTION
03/04/2011	Senate	<ul style="list-style-type: none">• Filed
03/10/2011	Senate	<ul style="list-style-type: none">• Referred to Education Pre-K - 12; Budget -SJ 192• Introduced -SJ 191
03/25/2011	Senate	<ul style="list-style-type: none">• On Committee agenda-- Education Pre-K - 12, 03/30/11, 1:30 pm, 301 Senate Office Building
03/30/2011	Senate	<ul style="list-style-type: none">• CS by Education Pre-K - 12; YEAS 3 NAYS 0 -SJ 323
03/31/2011	Senate	<ul style="list-style-type: none">• Pending reference review under Rule 4.7(2) - (Committee Substitute)
04/01/2011	Senate	<ul style="list-style-type: none">• Now in Budget -SJ 323
04/05/2011	Senate	<ul style="list-style-type: none">• CS by Education Pre-K - 12 read 1st time -SJ 347
04/07/2011	Senate	<ul style="list-style-type: none">• Also referred to Rules -SJ 461

Related Bills

BILL NUMBER	SUBJECT	SPONSOR	RELATIONSHIP	LAST ACTION	TRACK BILLS
H 1255	Education Accountability	Adkins	Compare	04/07/2011 H Pending review of CS - under Rule 7.19(c)	
H 1341	Public School Education	Bullard	Compare	03/14/2011 H Referred to K-20 Innovation Subcommittee; PreK-12 Appropriations Subcommittee; Education Committee -HJ 221	
H 4217	Authority to Enforce Public School Improvement	Metz	Compare	03/14/2011 H Referred to K-20 Competitiveness Subcommittee; PreK-12 Appropriations Subcommittee; Education Committee -HJ 223	
H 5101	Prekindergarten through Grade 12 Education Funding	Coley	Compare	04/07/2011 H Laid on Table, refer to SB 2120	
H 7087	Education Law Repeals	Stargel	Compare	04/06/2011 S In Messages	
S 1678	McKay Scholarships/Students With Disabilities	Wise	Compare	03/10/2011 S Introduced -SJ 190	
S 1832	Voluntary Prekindergarten Program	Wise	Compare	03/14/2011 S Introduced -SJ 208	
S 1844	Career and Professional Academies	Gaetz	Compare	03/28/2011 S Now in Budget	
S 1950	Authority to Enforce Public School Improvement	Garcia	Compare	03/22/2011 S Introduced -SJ 248	
S 1996	Student Assessment Program for Public Schools	Education Pre-K - 12	Compare	03/24/2011 S Now in Budget -SJ 286	
S 2026	Public School Education	Sachs	Compare	03/23/2011 S Introduced -SJ 272	

Bill Text

VERSION	POSTED	FORMAT
S 1696	03/04/2011	Web Page PDF
S 1696 c1	03/31/2011	Web Page PDF

Proposed Committee Substitutes

VERSION	BARCODE	FILED	COMMITTEE ACTIONS	FORMAT
S 1696	762170	03/29/2011 ED		Web Page PDF

Committee Amendments

VERSION	AMENDMENT	FILED	COMMITTEE ACTIONS	FORMAT
S 1696	591064	03/30/2011 ED	Replaced by Committee Substitute 03/30/2011	Web Page PDF
S 1696	836470	03/30/2011 ED	Replaced by Committee Substitute 03/30/2011	Web Page PDF

Floor Amendments

NO FLOOR AMENDMENTS AVAILABLE

Vote History - Committee

VERSION	COMMITTEE	DATE	RESULT
S 1696	Education Pre-K - 12	03/30/2011	Yea: 3 Nays: 0

Vote History - Floor

NO VOTE HISTORY AVAILABLE

Citations - Statutes

- [1001.2](#) - Department under direction of state board.
- [1001.42](#) - Powers and duties of district school board.
- 1001.421
- [1002.37](#) - The Florida Virtual School.
- [1002.38](#) - Opportunity Scholarship Program.
- [1002.39](#) - The John M. McKay Scholarships for Students with Disabilities Program.
- [1002.45](#) - School district virtual instruction programs.
- [1002.67](#) - Performance standards; curricula and accountability.
- [1002.69](#) - Statewide kindergarten screening; kindergarten readiness rates.
- [1002.71](#) - Funding; financial and attendance reporting.
- [1002.73](#) - Department of Education; powers and duties; accountability requirements.
- [1003.4156](#) - General requirements for middle grades promotion.
- [1003.428](#) - General requirements for high school graduation; revised.
- [1003.491](#) - Florida Career and Professional Education Act.
- [1003.492](#) - Industry-certified career education programs.
- [1003.493](#) - Career and professional academies.
- 1003.4935
- [1003.575](#) - Assistive technology devices; findings; interagency agreements.
- [1008.22](#) - Student assessment program for public schools.
- [1008.33](#) - Authority to enforce public school improvement.
- [1008.331](#) - Supplemental educational services in Title I schools; school district, provider, and department responsibilities.
- [1008.34](#) - School grading system; school report cards; district grade.
- [1011.01](#) - Budget system established.
- [1011.03](#) - Public hearings; budget to be submitted to Department of Education.
- 1011.035
- [1011.61](#) - Definitions.
- [1011.62](#) - Funds for operation of schools.
- [1012.39](#) - Employment of substitute teachers, teachers of adult education, nondegreed teachers of career education, and career specialists; students performing clinical field experience.

Citations - Constitution

NO CONSTITUTIONAL CITATIONS FOUND FOR SENATE BILL 1696.

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The Florida Senate

SB 2110: Auditor General

[Track This Bill](#)

GENERAL BILL by Budget

Auditor General; Requires that the Auditor General conduct operational audits at least every 3 years of certain additional state entities and district school boards and report on the activities of the ad valorem tax program of the Department of Revenue. Revises the duties of the Auditor General with respect to responsibilities for auditing certain reports made to the State Supreme Court and the operations of the Florida Clerks of Court Operations Corporation, respectively. Revises requirements to issue rules for surplus property, etc.

EFFECTIVE DATE: July 1, 2011

Bill History

DATE	CHAMBER	ACTION
04/01/2011	Senate	<ul style="list-style-type: none"> • SPB 7104 submitted as a committee bill (SB 2110) by Budget • Filed
04/04/2011	Senate	<ul style="list-style-type: none"> • Placed on Calendar, on 2nd reading -SJ 329 • Placed on Special Order Calendar, 04/06/11
04/05/2011	Senate	<ul style="list-style-type: none"> • Introduced -SJ 329
04/06/2011	Senate	<ul style="list-style-type: none"> • Read 2nd time -SJ 388 • Placed on 3rd reading • Read 3rd time -SJ 446
04/07/2011	Senate	<ul style="list-style-type: none"> • Passed; YEAS 38 NAYS 0 -SJ 446 • Immediately certified -SJ 450 • Requests House concur or failing to concur appoint conference cmte -SJ 450 • In Messages • Received • Referred to Calendar
04/07/2011	House	<ul style="list-style-type: none"> • Read 2nd time • Amendment(s) adopted (761437) • Read 3rd time • Passed as amended; YEAS 116 NAYS 0 • Immediately certified • Refused to concur, acceded to request for conference committee
04/07/2011	Senate	<ul style="list-style-type: none"> • In returning messages

Related Bills

BILL NUMBER	SUBJECT	SPONSOR	RELATIONSHIP	LAST ACTION	TRACK BILLS
H 5009	Auditor General	Grimsley	Similar	04/07/2011 H Laid on Table, refer to SB 2110	
H 5001	Appropriations	Grimsley	Compare	04/07/2011 H Laid on Table, refer to SB 2000	
S 2000	Appropriations	Budget	Compare	04/07/2011 S In returning messages	

Bill Text

VERSION	POSTED	FORMAT
S 2110	04/01/2011	Web Page PDF

Committee Amendments

NO COMMITTEE AMENDMENTS AVAILABLE

Floor Amendments

VERSION	AMENDMENT	FILED	FLOOR ACTIONS	FORMAT
S 2110	761437	04/05/2011		Web Page PDF

Vote History - Floor

VERSION	CHAMBER	ROLL CALL	DATE	RESULT
S 2110	Senate	35	04/07/2011	Yeas: 38 Nays: 0
S 2110	House	166	04/07/2011	Yeas: 116 Nays: 0

Citations - Statutes

- [1002.36](#) - Florida School for the Deaf and the Blind.
- [1009.53](#) - Florida Bright Futures Scholarship Program.
- [11.4](#) - Legislative Auditing Committee.
- [11.45](#) - Definitions; duties; authorities; reports; rules.
- [195.096](#) - Review of assessment rolls.
- [218.31](#) - Definitions.
- [25.075](#) - Uniform case reporting system.
- [273.05](#) - Surplus property.
- [28.35](#) - Florida Clerks of Court Operations Corporation.
- [365.173](#) - Emergency Communications Number E911 System Fund.
- [943.25](#) - Criminal justice trust funds; source of funds; use of funds.

Citations - Constitution

NO CONSTITUTIONAL CITATIONS FOUND FOR SENATE BILL 2110.

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2010 Florida Statutes (including Special Session A)

<u>TITLE XLVIII</u> K-20 EDUCATION CODE	<u>CHAPTER 1013</u> EDUCATIONAL FACILITIES	<u>VIEW ENTIRE CHAPTER</u>
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1013.62 Charter schools capital outlay funding.—

(1) In each year in which funds are appropriated for charter school capital outlay purposes, the Commissioner of Education shall allocate the funds among eligible charter schools.

(a) To be eligible for a funding allocation, a charter school must:

1.a. Have been in operation for 3 or more years;

b. Be governed by a governing board established in the state for 3 or more years which operates both charter schools and conversion charter schools within the state;

c. Be an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds;

d. Have been accredited by the Commission on Schools of the Southern Association of Colleges and Schools; or

e. Serve students in facilities that are provided by a business partner for a charter school-in-the-workplace pursuant to s. 1002.33(15)

(b).

2. Have financial stability for future operation as a charter school.

3. Have satisfactory student achievement based on state accountability standards applicable to the charter school.

4. Have received final approval from its sponsor pursuant to s. 1002.33 for operation during that fiscal year.

5. Serve students in facilities that are not provided by the charter school's sponsor.

(b) The first priority for charter school capital outlay funding is to allocate to charter schools that received funding in the 2005-2006 fiscal year an allocation of the same amount per capital outlay full-time equivalent student, up to the lesser of the actual number of capital outlay full-time equivalent students in the current year, or the capital outlay full-time equivalent students in the 2005-2006 fiscal year. After calculating the first priority, the second priority is to allocate excess funds remaining in the appropriation in an amount equal to the per capital outlay full-time equivalent student amount in the first priority calculation to eligible charter schools not included in the first priority calculation and to schools in the first priority calculation with growth greater than the 2005-2006 capital outlay full-time equivalent students. After calculating the first and second priorities, excess funds remaining in the appropriation must be allocated to all eligible charter schools.

(c) A charter school's allocation may not exceed one-fifteenth of the cost per student station specified in s. 1013.64(6)(b). Before releasing capital outlay funds to a school district on behalf of the charter school, the Department of Education must ensure that the district school board and the charter school governing board enter into a written agreement that provides for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the district school board, as provided for in subsection (3) if the school terminates operations. Any funds recovered by the state shall be deposited in the General Revenue Fund.

(d) A charter school is not eligible for a funding allocation if it was created by the conversion of a public school and operates in facilities provided by the charter school's sponsor for a nominal fee, or at no charge, or if it is directly or indirectly operated by the school district.

(e) Unless otherwise provided in the General Appropriations Act, the funding allocation for each eligible charter school is determined by multiplying the school's projected student enrollment by one-fifteenth of the cost-per-student station specified in s. 1013.64(6)(b) for an elementary, middle, or high school, as appropriate. If the funds appropriated are not sufficient, the commissioner shall prorate the available funds among eligible charter schools. However, a charter school or charter lab school may not receive state charter school capital outlay funds greater than the one-fifteenth cost per student station formula if the charter school's combination of state charter school capital outlay funds, capital outlay funds calculated through the reduction in the administrative fee provided in s. 1002.33(20), and capital outlay funds allowed in s. 1002.32(9)(e) and (h) exceeds the one-fifteenth cost per student station formula.

(f) Funds shall be distributed on the basis of the capital outlay full-time equivalent membership by grade level, which is calculated by averaging the results of the second and third enrollment surveys. The Department of Education shall distribute capital outlay funds monthly, beginning in the first quarter of the fiscal year, based on one-twelfth of the amount the department reasonably expects the charter school to receive during that fiscal year. The commissioner shall adjust subsequent distributions as necessary to reflect each charter school's actual student enrollment as reflected in the second and third enrollment surveys. The commissioner shall establish the intervals and procedures for determining the projected and actual student enrollment of eligible charter schools.

(2) A charter school's governing body may use charter school capital outlay funds for the following purposes:

(a) Purchase of real property.

(b) Construction of school facilities.

(c) Purchase, lease-purchase, or lease of permanent or relocatable school facilities.

(d) Purchase of vehicles to transport students to and from the charter school.

(e) Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer.

- (f) Effective July 1, 2008, purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements.
- (g) Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.
- (h) Purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.

Conversion charter schools may use capital outlay funds received through the reduction in the administrative fee provided in s. 1002.33(20) for renovation, repair, and maintenance of school facilities that are owned by the sponsor.

(3) When a charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with district public funds shall revert to the ownership of the district school board, as provided for in s. 1002.33(8)(e) and (f). In the case of a charter lab school, any unencumbered funds and all equipment and property purchased with university public funds shall revert to the ownership of the state university that issued the charter. The reversion of such equipment, property, and furnishings shall focus on recoverable assets, but not on intangible or irrecoverable costs such as rental or leasing fees, normal maintenance, and limited renovations. The reversion of all property secured with public funds is subject to the complete satisfaction of all lawful liens or encumbrances. If there are additional local issues such as the shared use of facilities or partial ownership of facilities or property, these issues shall be agreed to in the charter contract prior to the expenditure of funds.

(4) The Commissioner of Education shall specify procedures for submitting and approving requests for funding under this section and procedures for documenting expenditures.

(5) The annual legislative budget request of the Department of Education shall include a request for capital outlay funding for charter schools. The request shall be based on the projected number of students to be served in charter schools who meet the eligibility requirements of this section. A dedicated funding source, if identified in writing by the Commissioner of Education and submitted along with the annual charter school legislative budget request, may be considered an additional source of funding.

(6) Unless authorized otherwise by the Legislature, allocation and proration of charter school capital outlay funds shall be made to eligible charter schools by the Commissioner of Education in an amount and in a manner authorized by subsection (1).

History.—s. 859, ch. 2002-387; s. 4, ch. 2003-393; s. 8, ch. 2006-27; s. 39, ch. 2009-59; s. 35, ch. 2010-154.

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The Florida Senate

2010 Florida Statutes (including Special Session A)

<u>TITLE XLVIII</u> K-20 EDUCATION CODE	<u>CHAPTER 1013</u> EDUCATIONAL FACILITIES	<u>VIEW ENTIRE CHAPTER</u>
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CHAPTER 1013 EDUCATIONAL FACILITIES

PART I FUNCTIONS; DEPARTMENT OF EDUCATION (ss. 1013.01-1013.04)

PART II USE AND MANAGEMENT OF EDUCATIONAL FACILITIES (ss. 1013.10-1013.28)

PART III PLANNING AND CONSTRUCTION OF EDUCATIONAL FACILITIES (ss. 1013.30-1013.54)

PART IV FUNDING FOR EDUCATIONAL FACILITIES (ss. 1013.60-1013.82)

PART I FUNCTIONS; DEPARTMENT OF EDUCATION

- 1013.01 Definitions.
- 1013.02 Purpose; rules and regulations.
- 1013.03 Functions of the department and the Board of Governors.
- 1013.04 School district educational facilities plan performance and productivity standards; development; measurement; application.

1013.01 Definitions.—The following terms shall be defined as follows for the purpose of this chapter:

- (1) "Ancillary plant" is comprised of the building, site, and site improvements necessary to provide such facilities as vehicle maintenance, warehouses, maintenance, or administrative buildings necessary to provide support services to an educational program.
- (2) "Auxiliary facility" means the spaces located at educational plants which are not designed for student occupant stations.
- (3) "Board," unless otherwise specified, means a district school board, a community college board of trustees, a university board of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind. The term "board" does not include the State Board of Education or the Board of Governors.
- (4) "Capital project," for the purpose of s. 9(a)(2), Art. XII of the State Constitution, as amended, means sums of money appropriated from the Public Education Capital Outlay and Debt Service Trust Fund to the state system of public education and other educational agencies as authorized by the Legislature.
- (5) "Core facilities" means the media center, cafeteria, toilet facilities, and circulation space of an educational plant.
- (6) "Educational facilities" means the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards.
- (7) "Educational plant" comprises the educational facilities, site, and site improvements necessary to accommodate students, faculty, administrators, staff, and the activities of the educational program of each plant.
- (8) "Educational plant survey" means a systematic study of present educational and ancillary plants and the determination of future needs to provide an appropriate educational program and services for each student based on projected capital outlay FTE's approved by the Department of Education.
- (9) "Feasibility study" means the examination and analysis of information related to projected educational facilities to determine whether they are reasonable and possible.
- (10) "Long-range planning" means devising a systematic method based on educational information and needs, carefully analyzed, to provide the facilities to meet the goals and objectives of the educational agency for a period of 5 years.
- (11) "Low-energy usage features" means engineering features or devices that supplant or minimize the consumption of fossil fuels by heating equipment and cooling equipment. Such features may include, but are not limited to, high efficiency chillers and boilers, thermal storage tanks, solar energy systems, waste heat recovery systems, and facility load management systems.
- (12) "Maintenance and repair" means the upkeep of educational and ancillary plants, including, but not limited to, roof or roofing replacement short of complete replacement of membrane or structure; repainting of interior or exterior surfaces; resurfacing of floors; repair or replacement of glass; repair of hardware, furniture, equipment, electrical fixtures, and plumbing fixtures; and repair or resurfacing of parking lots, roads, and walkways. The term "maintenance and repair" does not include custodial or groundskeeping functions, or renovation except for the replacement of equipment with new equipment of equal systems meeting current code requirements, provided

that the replacement item neither places increased demand upon utilities services or structural supports nor adversely affects the function of safety to life systems.

(13) "Need determination" means the identification of types and amounts of educational facilities necessary to accommodate the educational programs, student population, faculty, administrators, staff, and auxiliary and ancillary services of an educational agency.

(14) "New construction" means any construction of a building or unit of a building in which the entire work is new or an entirely new addition connected to an existing building or which adds additional square footage to the space inventory.

(15) "Passive design elements" means architectural features that minimize heat gain, heat loss, and the use of heating and cooling equipment when ambient conditions are extreme and that permit use of the facility without heating or air-conditioning when ambient conditions are moderate. Such features may include, but are not limited to, building orientation, landscaping, earth bermings, insulation, thermal windows and doors, overhangs, skylights, thermal chimneys, and other design arrangements.

(16) "Public education capital outlay (PECO) funded projects" means site acquisition, renovation, remodeling, construction projects, and site improvements necessary to accommodate buildings, equipment, other structures, and special educational use areas that are built, installed, or established to serve primarily the educational instructional program of the district school board, ¹community college board of trustees, or university board of trustees.

(17) "Remodeling" means the changing of existing facilities by rearrangement of spaces and their use and includes, but is not limited to, the conversion of two classrooms to a science laboratory or the conversion of a closed plan arrangement to an open plan configuration.

(18) "Renovation" means the rejuvenating or upgrading of existing facilities by installation or replacement of materials and equipment and includes, but is not limited to, interior or exterior reconditioning of facilities and spaces; air-conditioning, heating, or ventilating equipment; fire alarm systems; emergency lighting; electrical systems; and complete roofing or roof replacement, including replacement of membrane or structure. As used in this subsection, the term "materials" does not include instructional materials.

(19) "Satisfactory educational facility" means a facility that has been recommended for continued use by an educational plant survey or that has been classified as satisfactory in the state inventory of educational facilities.

(20) "Site" means a space of ground occupied or to be occupied by an educational facility or program.

(21) "Site development" means work that must be performed on an unimproved site in order to make it usable for the desired purpose or work incidental to new construction or to make an addition usable.

(22) "Site improvement" means work that must be performed on an existing site to improve its utilization, correct health and safety deficiencies, meet special program needs, or provide additional service areas.

(23) "Site improvement incident to construction" means the work that must be performed on a site as an accompaniment to the construction of an educational facility.

(24) "Satellite facility" means the buildings and equipment, structures, and special educational use areas that are built, installed, or established by private business or industry in accordance with chapter 6A-2, Florida Administrative Code, to be used exclusively for educational purposes to serve primarily the students of its employees and that are staffed professionally by the district school board.

History.—s. 797, ch. 2002-387; s. 166, ch. 2007-217.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.02 Purpose; rules and regulations.—

(1) The purpose of this chapter is to authorize state and local officials to cooperate in establishing and maintaining educational plants that will provide for public educational needs throughout the state.

(2)(a) The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter for school districts and ¹community colleges.

(b) The Board of Governors shall adopt regulations pursuant to its regulation development procedure to implement the provisions of this chapter for state universities.

History.—s. 798, ch. 2002-387; s. 167, ch. 2007-217; s. 27, ch. 2010-78.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.03 Functions of the department and the Board of Governors.—The functions of the Department of Education as it pertains to educational facilities of school districts and ¹community colleges and of the Board of Governors as it pertains to educational facilities of state universities shall include, but not be limited to, the following:

(1) Establish recommended minimum and maximum square footage standards for different functions and areas and procedures for determining the gross square footage for each educational facility to be funded in whole or in part by the state, including public broadcasting stations but excluding postsecondary special purpose laboratory space. The gross square footage determination standards may be exceeded when the core facility space of an educational facility is constructed or renovated to accommodate the future addition of classrooms to meet projected increases in student enrollment. The department and the Board of Governors shall encourage multiple use of facilities and spaces in educational plants.

(2) Establish, for the purpose of determining need, equitably uniform utilization standards for all types of like space, regardless of the level of education. These standards shall also establish, for postsecondary education classrooms, a minimum room utilization rate of 40 hours per week and a minimum station utilization rate of 60 percent. These rates shall be subject to increase based on national norms for utilization of postsecondary education classrooms.

(3) Require boards to submit other educational plant inventories data and statistical data or information relevant to construction, capital improvements, and related costs.

(4) Require each board and other appropriate agencies to submit complete and accurate financial data as to the amounts of funds from all sources that are available and spent for construction and capital improvements. The commissioner shall prescribe the format and the date for the submission of this data and any other educational facilities data. If any district does not submit the required educational facilities fiscal data by the prescribed date, the Commissioner of Education shall notify the district school board of this fact and, if appropriate action is not taken to immediately submit the required report, the district school board shall be directed to proceed pursuant to s. 1001.42(13)(b). If any ¹community college or university does not submit the required educational facilities fiscal data by the prescribed date, the same policy prescribed in this subsection for school districts shall be implemented.

(5) Administer, under the supervision of the Commissioner of Education, the Public Education Capital Outlay and Debt Service Trust Fund and the School District and Community College District Capital Outlay and Debt Service Trust Fund.

(6) Develop, review, update, revise, and recommend a mandatory portion of the Florida Building Code for educational facilities construction and capital improvement by ¹community college boards and district school boards.

(7) Provide training, technical assistance, and building code interpretation for requirements of the mandatory Florida Building Code for the educational facilities construction and capital improvement programs of the ¹community college boards and district school boards and, upon request, approve phase III construction documents for remodeling, renovation, or new construction of educational plants or ancillary facilities, except that university boards of trustees shall approve specifications and construction documents for their respective institutions pursuant to guidelines of the Board of Governors. The Department of Management Services may, upon request, provide similar services for the Florida School for the Deaf and the Blind and shall use the Florida Building Code and the Florida Fire Prevention Code.

(8) Provide minimum criteria, procedures, and training to boards to conduct educational plant surveys and document the determination of future needs.

(9) Make available to boards technical assistance, awareness training, and research and technical publications relating to lifesafety, casualty, sanitation, environmental, maintenance, and custodial issues; and, as needed, technical assistance for survey, planning, design, construction, operation, and evaluation of educational and ancillary facilities and plants, facilities administrative procedures review, and training for new administrators.

(10)(a) Review and validate surveys proposed or amended by the boards and recommend to the Commissioner of Education, or the Chancellor of the State University System, as appropriate, for approval, surveys that meet the requirements of this chapter.

1. The term "validate" as applied to surveys by school districts means to review inventory data as submitted to the department by district school boards; provide for review and inspection, where required, of student stations and aggregate square feet of inventory changed from satisfactory to unsatisfactory or changed from unsatisfactory to satisfactory; compare new school inventory to allocation limits provided by this chapter; review cost projections for conformity with cost limits set by s. 1013.64(6); compare total capital outlay full-time equivalent enrollment projections in the survey with the department's projections; review facilities lists to verify that student station and auxiliary facility space allocations do not exceed the limits provided by this chapter and related rules; review and confirm the application of uniform facility utilization factors, where provided by this chapter or related rules; utilize the documentation of programs offered per site, as submitted by the board, to analyze facility needs; confirm that need projections for career and adult educational programs comply with needs documented by the Department of Education; and confirm the assignment of full-time student stations to all space except auxiliary facilities, which, for purposes of exemption from student station assignment, include the following:

a. Cafeterias.

b. Multipurpose dining areas.

c. Media centers.

d. Auditoriums.

e. Administration.

f. Elementary, middle, and high school resource rooms, up to the number of such rooms recommended for the applicable occupant and space design capacity of the educational plant in the State Requirements for Educational Facilities, beyond which student stations must be assigned.

g. Elementary school skills labs, up to the number of such rooms recommended for the applicable occupant and space design capacity of the educational plant in the State Requirements for Educational Facilities, beyond which student stations must be assigned.

h. Elementary school art and music rooms.

2. The term "validate" as applied to surveys by ¹community colleges and universities means to review and document the approval of each new site and official designation, where applicable; review the inventory database as submitted by each board to the department, including noncareer, and total capital outlay full-time equivalent enrollment projections per site and per college; provide for the review and inspection, where required, of student stations and aggregate square feet of space changed from satisfactory to unsatisfactory; utilize and review the documentation of programs offered per site submitted by the boards as accurate for analysis of space requirements and needs; confirm that needs projected for career and adult educational programs comply with needs documented by the Department of Education;

compare new facility inventory to allocations limits as provided in this chapter; review cost projections for conformity with state averages or limits designated by this chapter; compare student enrollment projections in the survey to the department's projections; review facilities lists to verify that area allocations and space factors for generating space needs do not exceed the limits as provided by this chapter and related rules; confirm the application of facility utilization factors as provided by this chapter and related rules; and review, as submitted, documentation of how survey recommendations will implement the detail of current campus master plans and integrate with local comprehensive plans and development regulations.

(b) Recommend priority of projects to be funded.

(11) Prepare the commissioner's comprehensive fixed capital outlay legislative budget request and provide annually an estimate of the funds available for developing required 3-year priority lists. This amount shall be based upon the average percentage for the 5 prior years of funds appropriated by the Legislature for fixed capital outlay to each level of public education: public schools, ¹community colleges, and universities.

(12) Perform any other functions that may be involved in educational facilities construction and capital improvement which shall ensure that the intent of the Legislature is implemented.

History.—s. 799, ch. 2002-387; s. 17, ch. 2003-391; s. 135, ch. 2004-357; s. 168, ch. 2007-217; s. 35, ch. 2008-108.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.04 School district educational facilities plan performance and productivity standards; development; measurement; application.—

(1) The Office of Educational Facilities shall develop and adopt measures for evaluating the performance and productivity of school district educational facilities plans. The measures may be both quantitative and qualitative and must, to the maximum extent practical, assess those factors that are within the districts' control. The measures must, at a minimum, assess performance in the following areas:

(a) Frugal production of high-quality projects.

(b) Efficient finance and administration.

(c) Optimal school and classroom size and utilization rate.

(d) Safety.

(e) Core facility space needs and cost-effective capacity improvements that consider demographic projections.

(f) Level of district local effort.

(2) The office shall establish annual performance objectives and standards that can be used to evaluate district performance and productivity.

(3) The office shall conduct ongoing evaluations of district educational facilities program performance and productivity, using the measures adopted under this section. If, using these measures, the office finds that a district failed to perform satisfactorily, the office must recommend to the district school board actions to be taken to improve the district's performance.

History.—s. 25, ch. 2002-296; s. 800, ch. 2002-387; s. 13, ch. 2010-70.

PART II USE AND MANAGEMENT OF EDUCATIONAL FACILITIES

1013.10 Use of buildings and grounds.

1013.11 Postsecondary institutions assessment of physical plant safety.

1013.12 Casualty, safety, sanitation, and firesafety standards and inspection of property.

1013.13 Coordination of school safety information; construction design documents.

1013.14 Proposed purchase of real property by a board; confidentiality of records; procedure.

1013.15 Lease, rental, and lease-purchase of educational facilities and sites.

1013.16 Construction of facilities on leased property; conditions.

1013.17 University leasing in affiliated research and development park.

1013.171 University lease agreements; land, facilities.

1013.18 Radio and television facilities.

1013.19 Purchase, conveyance, or encumbrance of property interests above surface of land; joint-occupancy structures.

1013.20 Standards for relocatables used as classroom space; inspections.

1013.21 Reduction of relocatable facilities in use.

1013.22 Obscenity on educational buildings or vehicles.

1013.23 Energy efficiency contracting.

1013.231 ¹Florida college and university energy consumption; 10-percent reduction goal.

1013.24 Right of eminent domain.

1013.25 When university or ¹community college board of trustees may exercise power of eminent domain.

1013.26 Department of Legal Affairs to represent university board in condemnation proceedings.

1013.27 Purchase of land by municipality.

1013.28 Disposal of property.

1013.10 Use of buildings and grounds.—The board may permit the use of educational facilities and grounds for any legal assembly or for community use centers or may permit the same to be used as voting places in any primary, regular, or special election. The board shall adopt rules, regulations, or policies and procedures necessary to protect educational facilities and grounds when used for such purposes.

History.—s. 803, ch. 2002-387; s. 28, ch. 2010-78.

1013.11 Postsecondary institutions assessment of physical plant safety.—The president of each postsecondary institution shall conduct or cause to be conducted an annual assessment of physical plant safety. An annual report shall incorporate the assessment findings and recommendations for the improvement of safety on each campus. The annual report shall be submitted to the respective governing or licensing board of jurisdiction no later than January 1 of each year. Each board shall compile the individual institutional reports and convey the aggregate institutional reports to the Commissioner of Education or the Chancellor of the State University System, as appropriate.

History.—s. 804, ch. 2002-387; s. 181, ch. 2007-5; s. 169, ch. 2007-217; s. 32, ch. 2010-70; s. 183, ch. 2010-102.

1013.12 Casualty, safety, sanitation, and firesafety standards and inspection of property.—

(1) FIRESAFETY.—The State Board of Education shall adopt and administer rules prescribing standards for the safety and health of occupants of educational and ancillary plants as a part of State Requirements for Educational Facilities or the Florida Building Code for educational facilities construction as provided in s. 1013.37, except that the State Fire Marshal in consultation with the Department of Education shall adopt uniform firesafety standards for educational and ancillary plants and educational facilities, as provided in s. 633.022(1)(b), and a firesafety evaluation system to be used as an alternate firesafety inspection standard for existing educational and ancillary plants and educational facilities. The uniform firesafety standards and the alternate firesafety evaluation system shall be administered and enforced by local fire officials. These standards must be used by all public agencies when inspecting public educational and ancillary plants, and the firesafety standards must be used by local fire officials when performing firesafety inspections of public educational and ancillary plants and educational facilities. In accordance with such standards, each board shall prescribe policies and procedures establishing a comprehensive program of safety and sanitation for the protection of occupants of public educational and ancillary plants. Such policies must contain procedures for periodic inspections as prescribed in this section and for withdrawal of any educational and ancillary plant, or portion thereof, from use until unsafe or unsanitary conditions are corrected or removed.

(2) PERIODIC INSPECTION OF PROPERTY BY DISTRICT SCHOOL BOARDS.—

(a) Each board shall provide for periodic inspection, other than firesafety inspection, of each educational and ancillary plant at least once during each fiscal year to determine compliance with standards of sanitation and casualty safety prescribed in the rules of the State Board of Education.

(b) Each school cafeteria must post in a visible location and on the school website the school's semiannual sanitation certificate and a copy of its most recent sanitation inspection report.

(c) Firesafety inspections of each educational and ancillary plant must be made annually by persons certified by the Division of State Fire Marshal to be eligible to conduct firesafety inspections in public educational and ancillary plants. The board shall submit a copy of the firesafety inspection report to the State Fire Marshal and, if there is a local fire official who conducts firesafety inspections, to the local fire official.

(d) In each firesafety inspection report, the board shall include a plan of action and a schedule for the correction of each deficiency which have been formulated in consultation with the local fire control authority. If immediate life-threatening deficiencies are noted in any inspection, the board shall either take action to promptly correct the deficiencies or withdraw the educational or ancillary plant from use until such time as the deficiencies are corrected.

(3) INSPECTION OF EDUCATIONAL PROPERTY BY OTHER PUBLIC AGENCIES.—

(a) A safety or sanitation inspection of any educational or ancillary plant may be made at any time by the Department of Education or any other state or local agency authorized or required to conduct such inspections by either general or special law. Each agency conducting inspections shall use the standards adopted by the Commissioner of Education in lieu of, and to the exclusion of, any other inspection standards prescribed either by statute or administrative rule. The agency shall submit a copy of the inspection report to the board.

(b) One firesafety inspection of each educational or ancillary plant must be conducted each fiscal year by the county, municipality, or special fire control district in which the plant is located using the standards adopted by the State Fire Marshal. The board shall cooperate with the inspecting authority when a firesafety inspection is made by a governmental authority under this paragraph.

(c) In each firesafety inspection report, the local fire official in conjunction with the board shall include a plan of action and a schedule for the correction of each deficiency. If immediate life-threatening deficiencies are noted in any inspection, the local fire official shall either take action to require the board to promptly correct the deficiencies or withdraw the educational facility from use until the deficiencies are corrected, subject to review by the State Fire Marshal who shall act within 10 days to ensure that the deficiencies are corrected or withdraw the facility from use.

(4) CORRECTIVE ACTION; DEFICIENCIES OTHER THAN FIRESAFETY DEFICIENCIES.—Upon failure of the board to take corrective action within a reasonable time, the agency making the inspection, other than a local fire official, may request the commissioner to:

(a) Order that appropriate action be taken to correct all deficiencies in accordance with a schedule determined jointly by the inspecting authority and the board; in developing the schedule, consideration must be given to the seriousness of the deficiencies and the ability of the board to obtain the necessary funds; or

(b) After 30 calendar days' notice to the board, order all or a portion of the educational or ancillary plant withdrawn from use until the deficiencies are corrected.

(5) INSPECTIONS OF PUBLIC POSTSECONDARY EDUCATION FACILITIES.—

(a) Firesafety inspections of ¹community college facilities shall comply with State Board of Education rules.

(b) Firesafety inspections of state universities shall comply with regulations of the Board of Governors.

(6) CORRECTIVE ACTION; FIRESAFETY DEFICIENCIES.— Upon failure of the board to take corrective action within the time designated in the plan of action to correct any firesafety deficiency noted under paragraph (2)(d) or paragraph (3)(c), the local fire official shall immediately report the deficiency to the State Fire Marshal, who shall have enforcement authority with respect to educational and ancillary plants and educational facilities as provided in chapter 633 for any other building or structure.

(7) ADDITIONAL STANDARDS.— In addition to any other rules adopted under this section or s. 633.022, the State Fire Marshal in consultation with the Department of Education shall adopt and administer rules prescribing the following standards for the safety and health of occupants of educational and ancillary plants:

(a) The designation of serious life-safety hazards, including, but not limited to, nonfunctional fire alarm systems, nonfunctional fire sprinkler systems, doors with padlocks or other locks or devices that preclude egress at any time, inadequate exits, hazardous electrical system conditions, potential structural failure, and storage conditions that create a fire hazard.

(b) The proper placement of functional smoke and heat detectors and accessible, unexpired fire extinguishers.

(c) The maintenance of fire doors without doorstops or wedges improperly holding them open.

(8) ANNUAL REPORT.— The State Fire Marshal shall publish an annual report to be filed with the substantive committees of the state House of Representatives and Senate having jurisdiction over education, the Commissioner of Education or his or her successor, the State Board of Education, the Board of Governors, and the Governor documenting the status of each board's firesafety program, including the improvement or lack thereof.

History.—s. 1, ch. 2002-287; s. 805, ch. 2002-387; s. 4, ch. 2003-3; s. 170, ch. 2007-217; s. 29, ch. 2008-235; s. 106, ch. 2009-21; s. 29, ch. 2010-78.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.13 Coordination of school safety information; construction design documents.—

(1) Each district school superintendent must provide to the law enforcement agency and fire department that has jurisdiction over each educational facility a copy of the floor plans and other relevant documents for each educational facility in the district, as defined in s. 1013.01. After the initial submission of the floor plans and other relevant documents, the district superintendent of schools shall submit, by October 1 of each year, revised floor plans and other relevant documents for each educational facility in the district that was modified during the preceding year.

(2) Each ¹community college president must provide to the law enforcement agency and fire department that has jurisdiction over the ¹community college a copy of the floor plans and other relevant documents for each educational facility as defined in s. 1013.01. After the initial submission of the floor plans and other relevant documents, the ¹community college president shall submit, by October 1 of each year, revised floor plans and other relevant documents for each educational facility that was modified during the preceding year.

History.—s. 806, ch. 2002-387.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.14 Proposed purchase of real property by a board; confidentiality of records; procedure.—

(1)(a) In any case in which a board, pursuant to the provisions of this chapter, seeks to acquire by purchase any real property for educational purposes, every appraisal, offer, or counteroffer must be in writing and is exempt from the provisions of s. 119.07(1) until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the board. If a contract or agreement for purchase is not submitted to the board for approval, the exemption from s. 119.07(1) shall expire 30 days after the termination of negotiations. The board shall maintain complete and accurate records of every such appraisal, offer, and counteroffer. For the purposes of this section, the term "option contract" means an agreement by the board to purchase a piece of property, subject to the approval of the board at a public meeting after 30 days' public notice.

(b) Prior to acquisition of the property, the board shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025(6) for each purchase in an amount greater than \$100,000 and not more than \$500,000. For each purchase in an amount in excess of \$500,000, the board shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025(6)(b). If the agreed to purchase price exceeds the average appraised value, the board is required to approve the purchase by an extraordinary vote.

(2) Nothing in this section shall be interpreted as providing an exemption from, or an exception to, s. 286.011.

History.—s. 807, ch. 2002-387.

1013.15 Lease, rental, and lease-purchase of educational facilities and sites.—

(1) A board may lease any land, facilities, or educational plants owned by it to any person or entity for such term, for such rent, and upon such terms and conditions as the board determines to be in its best interests; any such lease may provide for the optional or binding purchase of the land, facilities, or educational plants by the lessee upon such terms and conditions as the board determines are in its best interests. A determination that any such land, facility, or educational plant so leased is unnecessary for educational purposes is not a prerequisite to the leasing or lease-purchase of such land, facility, or educational plant. Prior to entering into or executing any such lease, a board shall consider approval of the lease or lease-purchase agreement at a public meeting, at which a copy of the proposed agreement in its final form shall be available for inspection and review by the public, after due notice as required by law.

(2)(a) A district school board may rent or lease educational facilities and sites as defined in s. 1013.01. Educational facilities and sites rented or leased for 1 year or less shall be funded through the operations budget or funds derived from millage proceeds pursuant to s. 1011.71(2). A lease contract for 1 year or less, when extended or renewed beyond a year, becomes a multiple-year lease. Operational funds or funds derived from millage proceeds pursuant to s. 1011.71(2) may be authorized to be expended for multiple-year leases. All leased facilities and sites must be inspected prior to occupancy by the authority having jurisdiction.

1. All newly leased spaces must be inspected and brought into compliance with the Florida Building Code pursuant to chapter 553 and the life safety codes pursuant to chapter 633, prior to occupancy, using the board's operations budget or funds derived from millage proceeds pursuant to s. 1011.71(2).

2. Plans for renovation or remodeling of leased space shall conform to the Florida Building Code and the Florida Fire Prevention Code for educational occupancies or other occupancies, as appropriate and as required in chapters 553 and 633, prior to occupancy.

3. All leased facilities must be inspected annually for firesafety deficiencies in accordance with the applicable code and have corrections made in accordance with s. 1013.12. Operational funds or funds derived from millage proceeds pursuant to s. 1011.71(2) may be used to correct deficiencies in leased space.

4. When the board declares that a public emergency exists, it may take up to 30 days to bring the leased facility into compliance with the requirements of State Board of Education rules.

(b) A board is authorized to lease-purchase educational facilities and sites as defined in s. 1013.01. The lease-purchase of educational facilities and sites shall be as required by s. 1013.37, shall be advertised for and receive competitive proposals and be awarded to the best proposer, and shall be funded using current or other funds specifically authorized by law to be used for such purpose.

1. A district school board, by itself, or through a direct-support organization formed pursuant to s. 1001.453 or nonprofit educational organization or a consortium of district school boards, may, in developing a lease-purchase of educational facilities and sites provide for separately advertising for and receiving competitive bids or proposals on the construction of facilities and the selection of financing to provide the lowest cost funding available, so long as the board determines that such process would best serve the public interest and the pledged revenues are limited to those authorized in s. 1011.71(2)(e).

2. All activities and information, including lists of individual participants, associated with agreements made pursuant to this section shall be subject to the provisions of chapter 119 and s. 286.011.

(c)1. The term of any lease-purchase agreement, including the initial term and any subsequent renewals, shall not exceed the useful life of the educational facilities and sites for which the agreement is made, or 30 years, whichever is less.

2. The initial term or any renewal term of any lease-purchase agreement shall expire on June 30 of each fiscal year, but may be automatically renewed annually, subject to a board making sufficient annual appropriations therefor. Under no circumstances shall the failure of a board to renew a lease-purchase agreement constitute a default or require payment of any penalty or in any way limit the right of a board to purchase or utilize educational facilities and sites similar in function to the educational facilities and sites that are the subject of the said lease-purchase agreement. Educational facilities and sites being acquired pursuant to a lease-purchase agreement shall be exempt from ad valorem taxation.

3. No lease-purchase agreement entered into pursuant to this subsection shall constitute a debt, liability, or obligation of the state or a board or shall be a pledge of the faith and credit of the state or a board.

4. Any lease-purchase agreement entered into pursuant to this subsection shall stipulate an annual rate which may consist of a principal component and an interest component, provided that the maximum interest rate of any interest component payable under any such lease-purchase agreement, or any participation or certificated portion thereof, shall be calculated in accordance with and be governed by the provisions of s. 215.84.

(3) Lease or lease-purchase agreements entered into by university boards of trustees shall comply with the provisions of ss. 1013.171 and 1010.62.

(4)(a) A board may rent or lease existing buildings, or space within existing buildings, originally constructed or used for purposes other than education, for conversion to use as educational facilities. Such buildings rented or leased for 1 year or less shall be funded through the operations budget or funds derived from millage pursuant to s. 1011.71(2). A rental agreement or lease contract for 1 year or less, when extended or renewed beyond a year, becomes a multiple-year rental or lease. Operational funds or funds derived from millage proceeds pursuant to s. 1011.71(2) may be authorized to be expended for multiple-year rentals or leases. Notwithstanding any other provisions of this section, if a building was constructed in conformance with all applicable building and life safety codes, it shall be deemed to meet the requirements for use and occupancy as an educational facility subject only to the provisions of this subsection.

(b) Prior to occupying a rented or a leased existing building, or space within an existing building, pursuant to this subsection, a school board shall, in a public meeting, adopt a resolution certifying that the following circumstances apply to the building proposed for occupancy:

1. Growth among the school-age population in the school district has created a need for new educational facilities in a neighborhood where there is little or no vacant land.
2. There exists a supply of vacant space in existing buildings that meet state minimum building and life safety codes.
3. Acquisition and conversion to use as educational facilities of an existing building or buildings is a cost-saving means of providing the needed classroom space as determined by the difference between the cost of new construction, including land acquisition and preparation and, if applicable, demolition of existing structures, and the cost of acquisition through rental or lease and conversion of an existing building or buildings.
4. The building has been examined for suitability, safety, and conformance with state minimum building and life safety codes. The building examination shall consist, at a minimum, of a review of existing documents, building site reconnaissance, and analysis of the building conducted by, or under the responsible charge of, a licensed structural engineer.
5. A certificate of evaluation has been issued by an appropriately licensed design professional which states that, based on available documents, building site reconnaissance, current knowledge, and design judgment in the professional's opinion, the building meets the requirements of state minimum building and life safety codes, provides safe egress of occupants from the building, provides adequate firesafety, and does not pose a substantial threat to life to persons who would occupy the building for classroom use.
6. The plans for conversion of the building were prepared by an appropriate design professional licensed in this state and the work of conversion was performed by contractors licensed in this state.
7. The conversion of the building was observed by an appropriate design professional licensed in this state.
8. The building has been reviewed, inspected, and granted a certificate of occupancy by the local building department.
9. All ceilings, light fixtures, ducts, and registers within the area to be occupied for classroom purposes were constructed or have been reconstructed to meet state minimum requirements.

History.—s. 808, ch. 2002-387; s. 171, ch. 2007-217.

1013.16 Construction of facilities on leased property; conditions.—

(1) A board may construct or place educational facilities and ancillary facilities on land that is owned by any person after the board has acquired from the owner of the land a long-term lease for the use of this land for a period of not less than 40 years or the life expectancy of the permanent facilities constructed thereon, whichever is longer.

(2) A board may enter into a short-term lease for the use of land owned by any person on which temporary or relocatable facilities are to be utilized.

(3) Leases executed by a university board of trustees pursuant to this section are subject to s. 1010.62.

History.—s. 809, ch. 2002-387; s. 172, ch. 2007-217.

1013.17 University leasing in affiliated research and development park.—A university is exempt from the requirements of s. 255.25(3), (4), and (8) when leasing educational facilities in a research and development park with which the university is affiliated and when the Board of Governors certifies in writing that the leasing of such educational facilities is in the best interests of the university and that the exemption from competitive bid requirements would not be detrimental to the state. Leases entered into pursuant to this section are subject to the provisions of s. 1010.62.

History.—s. 810, ch. 2002-387; s. 173, ch. 2007-217.

1013.171 University lease agreements; land, facilities.—

(1) Each university board of trustees is authorized to negotiate and enter into agreements to lease land under its jurisdiction to for-profit and nonprofit corporations, registered by the Secretary of State to do business in this state, for the purpose of erecting thereon facilities and accommodations necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide strategic plan adopted by the Board of Governors. Such agreement will be for a term not in excess of 99 years or the life expectancy of the permanent facilities constructed thereon, whichever is shorter, and shall include as a part of the consideration provisions for the eventual ownership of the completed facilities by the state. The Board of Trustees of the Internal Improvement Trust Fund upon request of the university board of trustees shall lease any such property to the university for sublease as heretofore provided.

(2) Each university board of trustees is authorized to enter into agreements with for-profit and nonprofit corporations, registered by the Secretary of State to do business in this state, whereby income-producing buildings, improvements, and facilities necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide strategic plan adopted by the Board of Governors, are acquired by purchase or lease-purchase by the university. When such agreements provide for lease-purchase of facilities erected on land that is not under the jurisdiction of the university, the agreement shall include as a part of the consideration provisions for the eventual ownership of the land and facility by the state. Agreements for lease-purchase shall not exceed 30 years or the life expectancy of the permanent facility constructed, whichever is shorter. The university board of trustees may enter into an agreement for the lease-purchase of a facility under this section for a term greater than 1 year. Each university board of trustees is authorized to use any auxiliary trust funds, available and not otherwise obligated, to pay rent to the owner should income from the facilities not be sufficient in any debt payment period. The trust funds used for payment of rent shall be reimbursed as soon as possible to the extent that income from the facilities exceeds the amount necessary for such debt payment.

(3) Each university board of trustees may:

(a) Construct educational facilities on land that is owned by a direct-support organization, as defined in s. 1004.28, or a governmental agency at the federal, state, county, or municipal level, if the university has acquired a long-term lease for the use of the land. The lease must be for at least 40 years or the expected time the facilities to be constructed on the land are expected to remain in a condition acceptable for use, whichever is longer.

(b) Acquire a short-term lease from one of the entities listed in paragraph (a) for the use of land, if adequate temporary or relocatable facilities are available on the land.

(c) Enter into a short-term lease for the use of land and buildings upon which capital improvements may be made.

If sufficient land is not available from any of the entities listed in paragraph (a), a university may acquire a short-term lease from a private landowner or developer.

(4) Agreements as provided in this section shall be entered into with an offeror resulting from publicly announced competitive bids or proposals, except that the university may enter into an agreement with an entity enumerated in paragraph (3)(a) for leasing land or with a direct-support organization as provided in s. 1004.28, which shall enter into subsequent agreements for financing and constructing the project after receiving competitive bids or proposals. Any facility constructed, lease-purchased, or purchased under such agreements, whether erected on land under the jurisdiction of the university or not, shall conform to the construction standards and codes applicable to university facilities. Each university board of trustees shall adopt such rules as are necessary to carry out its duties and responsibilities imposed by this section.

(5) Agreements executed by the State Board of Education prior to January 1, 1980, for the purposes listed herein shall be validated, and said board's capacity to act in such cases ratified and confirmed.

(6) Agreements entered into pursuant to this section are subject to the provisions of s. 1010.62.

History.—s. 811, ch. 2002-387; s. 174, ch. 2007-217.

1013.18 Radio and television facilities.—

(1) A board may acquire, by purchase, license, permanent easement, or gift, suitable lands and other facilities, either within or without the boundaries of the district, for use in providing educational radio or television transmitting sites and may erect such buildings, antennas, transmission equipment, towers, or other structures as are necessary to accomplish the purposes of this section.

(2) Fixed capital outlay budget requests for public broadcasting stations and instructional television and radio facilities shall be submitted pursuant to s. 1013.60. The commissioner may include any recommendations for these purposes in the legislative budget request for fixed capital outlay.

History.—s. 812, ch. 2002-387.

1013.19 Purchase, conveyance, or encumbrance of property interests above surface of land; joint-occupancy structures.—For the purpose of implementing jointly financed construction project agreements, or for the construction of combined occupancy structures, any board may purchase, own, convey, sell, lease, or encumber airspace or any other interests in property above the surface of the land, provided the lease of airspace for nonpublic use is for such reasonable rent, length of term, and conditions as the board in its discretion may determine. All proceeds from such sale or lease shall be used by the board or boards receiving the proceeds solely for fixed capital outlay purposes. These purposes may include the renovation or remodeling of existing facilities owned by the board or the construction of new facilities; however, for a community college board or university board, such new facility must be authorized by the Legislature. It is declared that the use of such rental by the board for public purposes in accordance with its statutory authority is a public use. Airspace or any other interest in property held by the Board of Trustees of the Internal Improvement Trust Fund or the State Board of Education may not be divested or conveyed without approval of the respective board. Any building, including any building or facility component that is common to both nonpublic and educational portions thereof, constructed in airspace that is sold or leased for nonpublic use pursuant to this section is subject to all applicable state, county, and municipal regulations pertaining to land use, zoning, construction of buildings, fire protection, health, and safety to the same extent and in the same manner as such regulations would be applicable to the construction of a building for nonpublic use on the appurtenant land beneath the subject airspace. Any educational facility constructed or leased as a part of a joint-occupancy facility is subject to all rules and requirements of the respective boards or departments having jurisdiction over educational facilities. Any contract executed by a university board of trustees pursuant to this section is subject to the provisions of s. 1010.62.

History.—s. 813, ch. 2002-387; s. 175, ch. 2007-217.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.20 Standards for relocatables used as classroom space; inspections.—

(1) The State Board of Education shall adopt rules establishing standards for relocatables intended for long-term use as classroom space at a public elementary school, middle school, or high school. "Long-term use" means the use of relocatables at the same educational plant for a period of 4 years or more. Each relocatable acquired by a district school board after the effective date of the rules and intended for long-term use must comply with the standards. District school boards shall submit a plan for the use of existing relocatables within the 5-year work program to be reviewed and approved by the commissioner by January 1, 2003. A progress report shall be provided by the commissioner to the Speaker of the House of Representatives and the President of the Senate each January thereafter. Relocatables that fail to

meet the standards after completion of the approved plan may not be used as classrooms. The standards shall protect the health, safety, and welfare of occupants by requiring compliance with the Florida Building Code or the State Requirements for Educational Facilities for existing relocatables, as applicable, to ensure the safety and stability of construction and onsite installation; fire and moisture protection; air quality and ventilation; appropriate wind resistance; and compliance with the requirements of the Americans with Disabilities Act of 1990. If appropriate and where relocatables are not scheduled for replacement, the standards must also require relocatables to provide access to the same technologies available to similar classrooms within the main school facility and, if appropriate, and where relocatables are not scheduled for replacement, to be accessible by adequate covered walkways. A relocatable that is subject to this section and does not meet the standards shall not be reported as providing satisfactory student stations in the Florida Inventory of School Houses.

(2) Annual inspections for all satisfactory relocatables designed for classroom use or being occupied by students are required for: foundations; tie-downs; structural integrity; weatherproofing; HVAC; electrical; plumbing, if applicable; firesafety; and accessibility. Reports shall be filed with the district school board and posted in each respective relocatable in order to facilitate corrective action.

History.—s. 814, ch. 2002-387.

1013.21 Reduction of relocatable facilities in use.—

(1)(a) It is a goal of the Legislature that all school districts shall provide a quality educational environment for their students such that, by July 1, 2003, student stations in relocatable facilities exceeding 20 years of age and in use by a district during the 1998-1999 fiscal year shall be removed and the number of all other relocatable student stations at over-capacity schools during that fiscal year shall be decreased by half. The Legislature finds, however, that necessary maintenance of existing facilities and public school enrollment growth impair the ability of some districts to achieve the goal of this section within 5 years. Therefore, the Legislature is increasing its commitment to school funding in this act, in part to help districts reduce the number of temporary, relocatable student stations at over-capacity schools. The Legislature intends that local school districts also increase their investment toward meeting this goal. Each district's progress toward meeting this goal shall be measured annually by comparing district facilities work programs for replacing relocatables with the state capital outlay projections for education prepared by the Office of Educational Facilities. District facilities work programs shall be monitored by the Office of Educational Facilities to measure the commitment of local school districts toward this goal.

(b) For the purposes of this section, an "over-capacity school" means a school the capital outlay FTE enrollment of which exceeds 100 percent of the space and occupant design capacity of its nonrelocatable facilities. However, if a school's initial design incorporated relocatable or modular instructional space, an "over-capacity school" shall mean a school the capital outlay FTE enrollment of which exceeds 100 percent of the space and occupant design capacity of its core facilities.

(2) In accordance with the legislative goal described in subsection (1), any relocatables purchased with money appropriated pursuant to chapter 97-384, Laws of Florida, shall be counted at actual student capacity for purposes of s. 1013.31 for the life cycle of the relocatable.

History.—s. 815, ch. 2002-387; s. 14, ch. 2010-70.

1013.22 Obscenity on educational buildings or vehicles.—Whoever willfully cuts, paints, pastes, marks, or defaces by writing or in any other manner any educational building, furniture, apparatus, appliance, outbuilding, ground, fence, tree, post, vehicle, or other educational property with an obscene word, image, or device commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. This section shall not apply to any student in grades K-12 subject to the discipline of a district school board.

History.—s. 816, ch. 2002-387.

1013.23 Energy efficiency contracting.—

(1) LEGISLATIVE INTENT.—The Legislature finds that investment in energy conservation measures in educational facilities can reduce the amount of energy consumed and produce immediate and long-term savings. It is the policy of this state to encourage school districts, ¹community colleges, and state universities to invest in energy conservation measures that reduce energy consumption, produce a cost savings, and improve the quality of indoor air in facilities, and, when economically feasible, to build, operate, maintain, or renovate educational facilities in such a manner so as to minimize energy consumption and maximize energy savings. It is further the policy of this state to encourage school districts, ¹community colleges, and state universities to reinvest any energy savings resulting from energy conservation measures into additional energy conservation efforts.

(2) DEFINITIONS.—For purposes of this section, the term:

- (a) "Energy conservation measure" means a training program, facility alteration, or equipment to be used in new construction, including an addition to an existing facility, that reduces energy costs, and includes, but is not limited to:
1. Insulation of the facility structure and systems within the facility.
 2. Storm windows and doors, caulking or weatherstripping, multiglazed windows and doors, heat-absorbing, or heat-reflective, glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption.
 3. Automatic energy control systems.
 4. Heating, ventilating, or air-conditioning system modifications or replacements.
 5. Replacement or modifications of lighting fixtures to increase the energy efficiency of the lighting system which, at a minimum, shall conform to the Florida Building Code.
 6. Energy recovery systems.

7. Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a facility or complex of facilities.
 8. Energy conservation measures that provide long-term operating cost reductions and significantly reduce Btu consumed.
 9. Renewable energy systems, such as solar, biomass, and wind.
 10. Devices which reduce water consumption or sewer charges.
- (b) "Energy cost savings" means:
1. A measured reduction in fuel, energy, or operation and maintenance costs created from the implementation of one or more energy conservation measures when compared with an established baseline for previous fuel, energy, or operation and maintenance costs; or
 2. For new construction, a projected reduction in fuel, energy, or operation and maintenance costs created from the implementation of one or more energy conservation measures when compared with the projected fuel, energy, or operation and maintenance costs for equipment if the minimum standards of the Florida Building Code for educational facilities construction were implemented and signed and sealed by a registered professional engineer.
- (c) "Energy performance-based contract" means a contract for the evaluation, recommendation, and implementation of energy conservation measures which includes, at a minimum:
1. The design and installation of equipment to implement one or more of such measures, and, if applicable, operation and maintenance of such measures.
 2. The amount of any actual annual savings. This amount must meet or exceed total annual contract payments made by the district school board, ¹community college board of trustees, or state university board of trustees for such contract.
 3. Financing charges to be incurred by the district school board, ¹community college board of trustees, or state university board of trustees over the life of the contract.
- (d) "Energy performance contractor" means a person or business licensed pursuant to chapter 471, chapter 481, or chapter 489 and experienced in the analysis, design, implementation, and installation of energy conservation measures through the implementation of energy performance-based contracts.
- (3) ENERGY PERFORMANCE-BASED CONTRACT PROCEDURES.—
- (a) A district school board, ¹community college board of trustees, or state university board of trustees may enter into an energy performance-based contract with an energy performance contractor to significantly reduce energy or operating costs of an educational facility through one or more energy conservation measures.
- (b) The energy performance contractor shall be selected in compliance with s. 287.055; except that in a case where a district school board, ¹community college board of trustees, or state university board of trustees determines that fewer than three firms are qualified to perform the required services, the requirement for agency selection of three firms, as provided in s. 287.055(4)(b), shall not apply and the bid requirements of s. 287.057 shall not apply.
- (c) Before entering into a contract pursuant to this section, the district school board, ¹community college board of trustees, or state university board of trustees shall provide published notice of the meeting in which it proposes to award the contract, the names of the parties to the proposed contract, and the contract's purpose.
- (d) Prior to the design and installation of the energy conservation measure, the district school board, ¹community college board of trustees, or state university board of trustees must obtain from the energy performance contractor a report that discloses all costs associated with the energy conservation measure and provides an estimate of the amount of the energy cost savings. The report must be reviewed by either the Department of Education or the Department of Management Services or signed and sealed by a registered professional engineer.
- (e) A district school board, ¹community college board of trustees, or state university board of trustees may enter into an energy performance-based contract with an energy performance contractor if, after review of the report required by paragraph (d), it finds that the amount it would spend on the energy conservation measures recommended in the report will not exceed the amount to be saved in energy and operation costs over 20 years from the date of installation, based on life-cycle costing calculations, if the recommendations in the report were followed and if the energy performance contractor provides a written guarantee that the energy or operating cost savings will meet or exceed the costs of the system. The contract may provide for payments over a period of time not to exceed 20 years.
- (f) A district school board, ¹community college board of trustees, or state university board of trustees may enter into an installment payment contract for the purchase and installation of energy conservation measures. The contract shall provide for payments of not less than one-twentieth of the price to be paid within 2 years from the date of the complete installation and acceptance by the district school board, ¹community college board of trustees, or state university board of trustees, and the remaining costs to be paid at least quarterly, not to exceed a 20-year term based on life-cycle costing calculations.
- (g) Energy performance-based contracts may extend beyond the fiscal year in which they become effective; however, the term of any contract shall expire at the end of each fiscal year and may be automatically renewed annually up to 20 years, subject to a district school board, ¹community college board of trustees, or state university board of trustees making sufficient annual appropriations based upon continued realized energy cost savings. Such contracts shall stipulate that the agreement does not constitute a debt, liability, or obligation of the state or a district school board, ¹community college board of trustees, or state university board of trustees, or a pledge of the faith and credit of the state or a district school board, ¹community college board of trustees, or state university board of trustees.
- (4) CONTRACT PROVISIONS.—

(a) An energy performance-based contract shall include a guarantee by the energy performance contractor that annual energy cost savings will meet or exceed the amortized cost of energy conservation measures.

(b) The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time, but not to exceed 20 years from the date of complete installation and acceptance by the district school board, ¹community college board of trustees, or state university board of trustees, and that the annual savings are guaranteed to the extent necessary to make annual payments to satisfy the contract.

(c) The contract must require that the energy performance contractor to whom the contract is awarded provide a 100-percent public construction bond to the district school board, ¹community college board of trustees, or state university board of trustees for its faithful performance, as required by s. 255.05.

(d) The contract shall require the energy performance contractor to provide to the district school board, ¹community college board of trustees, or state university board of trustees an annual reconciliation of the guaranteed energy cost savings. The energy performance contractor shall be liable for any annual savings shortfall which may occur. In the event that such reconciliation reveals an excess in annual energy cost savings, such excess savings shall not be used to cover potential energy cost savings shortages in subsequent contract years.

History.—s. 817, ch. 2002-387.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.231 ¹Florida college and university energy consumption; 10-percent reduction goal.—

(1) Each ¹Florida college and state university shall strive to reduce its campuswide energy consumption by 10 percent. While savings may be accrued by any means, the goal shall be to implement energy use policies or procedures or both and any equipment retrofits that are necessary to carry out this reduction. The reduction may be obtained by either reducing the cost of the energy consumed or by reducing total energy usage, or a combination of both.

(2) Energy consumption expenditures incurred during the 2007-2008 fiscal year shall be used to establish the benchmark for the 10-percent goal. If a ¹Florida college or state university can document that it has implemented energy use policies or procedures in the 2008-2009 fiscal year or the 2009-2010 fiscal year that resulted in reduction in energy usage or costs, those reductions may be counted towards the 10-percent goal.

(3) Each ¹Florida college and state university shall submit a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 1, 2011, describing how they have met or plan to meet the 10-percent energy consumption reduction goal.

History.—s. 30, ch. 2010-155.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.24 Right of eminent domain.—There is conferred upon the district school boards in the state the authority and right to take private property for any public school purpose or use when, in the opinion of the school board, such property is needed in the operation of any or all of the public schools within the district, including property needed for any school purpose or use in any school district or districts within the county. The absolute fee simple title to all property so taken and acquired shall vest in the district school board, unless the school board seeks to appropriate a particular right or estate in such property.

History.—s. 818, ch. 2002-387.

1013.25 When university or ¹community college board of trustees may exercise power of eminent domain.—Whenever it becomes necessary for the welfare and convenience of any of its institutions or divisions to acquire private property for the use of such institutions, and this cannot be acquired by agreement satisfactory to a university or ¹community college board of trustees and the parties interested in, or the owners of, the private property, the board of trustees may exercise the power of eminent domain after receiving approval therefor from the Administration Commission and may then proceed to condemn the property in the manner provided by chapter 73 or chapter 74.

History.—s. 819, ch. 2002-387; s. 176, ch. 2007-217.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.26 Department of Legal Affairs to represent university board in condemnation proceedings.—Any suits or actions brought by a university board of trustees to condemn property, as provided in s. 1013.25, shall be brought in the name of the university board of trustees, and the Department of Legal Affairs shall conduct the proceedings for, and act as the counsel of, the university board of trustees.

History.—s. 820, ch. 2002-387.

1013.27 Purchase of land by municipality.—Any municipality wherein a ¹community college as defined by s. 1004.65 is situated may purchase land with municipal funds and to donate and convey the land or any other land to the ¹community college board of trustees.

History.—s. 821, ch. 2002-387.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.28 Disposal of property.—

(1) REAL PROPERTY.—

(a) Subject to rules of the State Board of Education, a district school board, the Board of Trustees for the Florida School for the Deaf and the Blind, or a ¹community college board of trustees may dispose of any land or real property to which the board holds title which is, by resolution of the board, determined to be unnecessary for educational purposes as recommended in an educational plant survey. A district school board, the Board of Trustees for the Florida School for the Deaf and the Blind, or a ¹community college board of trustees shall take diligent measures to dispose of educational property only in the best interests of the public. However, appraisals may be obtained by the district school board, the Board of Trustees for the Florida School for the Deaf and the Blind, or the ¹community college board of trustees prior to or simultaneously with the receipt of bids.

(b) Subject to regulations of the Board of Governors, a state university board of trustees may dispose of any land or real property to which it holds valid title which is, by resolution of the state university board of trustees, determined to be unnecessary for educational purposes as recommended in an educational plant survey. A state university board of trustees shall take diligent measures to dispose of educational property only in the best interests of the public. However, appraisals may be obtained by the state university board of trustees prior to or simultaneously with the receipt of bids.

(2) TANGIBLE PERSONAL PROPERTY.—

(a) Tangible personal property that has been properly classified as surplus by a district school board or ¹community college board of trustees shall be disposed of in accordance with the procedure established by chapter 274. However, the provisions of chapter 274 shall not be applicable to a motor vehicle used in driver education to which title is obtained for a token amount from an automobile dealer or manufacturer. In such cases, the disposal of the vehicle shall be as prescribed in the contractual agreement between the automotive agency or manufacturer and the board.

(b) Tangible personal property that has been properly classified as surplus by a state university board of trustees shall be disposed of in accordance with the procedure established by chapter 273.

History.—s. 822, ch. 2002-387; s. 177, ch. 2007-217; s. 30, ch. 2010-78.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

PART III
**PLANNING AND CONSTRUCTION
OF EDUCATIONAL FACILITIES**

**A. Campus Master Plans and
Educational Plant Surveys**

**B. Building Codes and Construction
for Educational Facilities**

**C. Contracting for Educational
Facilities**

**D. Cooperative Development of
Educational Facilities**

**A. Campus Master Plans and
Educational Plant Surveys**

1013.30 University campus master plans and campus development agreements.

1013.31 Educational plant survey; localized need assessment; PECO project funding.

1013.32 Exception to recommendations in educational plant survey.

1013.33 Coordination of planning with local governing bodies.

1013.35 School district educational facilities plan; definitions; preparation, adoption, and amendment; long-term work programs.

1013.351 Coordination of planning between the Florida School for the Deaf and the Blind and local governing bodies.

1013.355 Educational facilities benefit districts.

- 1013.356 Local funding for educational facilities benefit districts or community development districts.
- 1013.357 Educational facilities benefit district or community development district facility utilization.
- 1013.36 Site planning and selection.
- 1013.365 Schools on contaminated site prohibited.

1013.30 University campus master plans and campus development agreements.—

(1) This section contains provisions for campus planning and concurrency management that supersede the requirements of part II of chapter 163, except when stated otherwise in this section. These special growth management provisions are adopted in recognition of the unique relationship between university campuses and the local governments in which they are located. While the campuses provide research and educational benefits of statewide and national importance, and further provide substantial educational, economic, and cultural benefits to their host local governments, they may also have an adverse impact on the public facilities and services and natural resources of host governments. On balance, however, universities should be considered as vital public facilities of the state and local governments. The intent of this section is to address this unique relationship by providing for the preparation of campus master plans and associated campus development agreements.

(2) As used in this section:

(a) "Affected local government" means a unit of local government that provides public services to or is responsible for maintaining facilities within a campus of an institution or is directly affected by development that is proposed for a campus.

(b) "Affected person" means a host local government; an affected local government; any state, regional, or federal agency; or a person who resides, owns property, or owns or operates a business within the boundaries of a host local government or affected local government. In order to qualify under this definition, each person, other than a host or affected local government, must have submitted oral or written comments, recommendations, or objections to the university during the period of time beginning with the advertisement of the first public hearing under subsection (6) and ending with the adoption of the campus master plan or plan amendment. If the plan or plan amendment is amended at the adoption hearing, the time period shall be extended by 7 calendar days. However, any comments, recommendations, or objections filed during the extension must be limited to those amendments adopted at the adoption hearing.

(c) "Host local government" means a local government within the jurisdiction of which all or part of a campus of an institution is located, but does not include a county if no part of an institution is located within its unincorporated area.

(d) "Institution" means a university.

(e) "Division" means the Division of Administrative Hearings.

(3) Each university board of trustees shall prepare and adopt a campus master plan for the university and maintain a copy of the plan on the university's website. The master plan must identify general land uses and address the need for and plans for provision of roads, parking, public transportation, solid waste, drainage, sewer, potable water, and recreation and open space during the coming 10 to 20 years. The plans must contain elements relating to future land use, intergovernmental coordination, capital improvements, recreation and open space, general infrastructure, housing, and conservation. Each element must address compatibility with the surrounding community. The master plan must identify specific land uses, general location of structures, densities and intensities of use, and contain standards for onsite development, site design, environmental management, and the preservation of historic and archaeological resources. The transportation element must address reasonable transportation demand management techniques to minimize offsite impacts where possible. Data and analyses on which the elements are based must include, at a minimum: the characteristics of vacant lands; projected impacts of development on onsite and offsite infrastructure, public services, and natural resources; student enrollment projections; student housing needs; and the need for academic and support facilities. Master plans must be updated at least every 5 years.

(4) Campus master plans may contain additional elements at the discretion of the Board of Governors; however, such elements are not subject to review under this section. These additional elements may include the academic mission of the institution, academic program, utilities, public safety, architectural design, landscape architectural design, and facilities maintenance.

(5) Subject to the right of the university board of trustees to initiate the dispute resolution provisions of subsection (8), a campus master plan must not be in conflict with the comprehensive plan of the host local government and the comprehensive plan of any affected local governments. A campus master plan must be consistent with the state comprehensive plan.

(6) Before a campus master plan is adopted, a copy of the draft master plan must be sent for review or made available electronically to the host and any affected local governments, the state land planning agency, the Department of Environmental Protection, the Department of Transportation, the Department of State, the Fish and Wildlife Conservation Commission, and the applicable water management district and regional planning council. At the request of a governmental entity, a hard copy of the draft master plan shall be submitted within 7 business days of an electronic copy being made available. These agencies must be given 90 days after receipt of the campus master plans in which to conduct their review and provide comments to the university board of trustees. The commencement of this review period must be advertised in newspapers of general circulation within the host local government and any affected local government to allow for public comment. Following receipt and consideration of all comments and the holding of an informal information session and at least two public hearings within the host jurisdiction, the university board of trustees shall adopt the campus master plan. It is the intent of the Legislature that the university board of trustees comply with the notice requirements set forth in s. 163.3184(15) to ensure full public participation in this planning process. The informal public information session must be held before the first public hearing. The first public hearing shall be held before the draft master plan is sent to the agencies specified in this subsection. The second public hearing shall be held in conjunction with

the adoption of the draft master plan by the university board of trustees. Campus master plans developed under this section are not rules and are not subject to chapter 120 except as otherwise provided in this section.

(7) Notice that the campus master plan has been adopted must be forwarded within 45 days after its adoption to any affected person that submitted comments on the draft campus master plan. The notice must state how and where a copy of the master plan may be obtained or inspected. Within 30 days after receipt of the notice of adoption of the campus master plan, or 30 days after the date the adopted plan is available for review, whichever is later, an affected person who submitted comments on the draft master plan may petition the university board of trustees, challenging the campus master plan as not being in compliance with this section or any rule adopted under this section. The petition must state each objection, identify its source, and provide a recommended action. A petition filed by an affected local government may raise only those issues directly pertaining to the public facilities or services that the affected local government provides to or maintains within the campus or to the direct impact that campus development would have on the affected local government. A petition filed by an affected person must include those items required by the uniform rules adopted under s. 120.54(5). Any affected person who files a petition under this subsection may challenge only those provisions in the plan that were raised by that person's oral or written comments, recommendations, or objections presented to the university board of trustees, as required by paragraph (2)(b). The university may, during the pendency of a challenge, negotiate a campus development agreement as provided in subsection (11).

(8) Following receipt of a petition challenging a campus master plan or plan amendment, the university board of trustees must submit the petition to the Division of Administrative Hearings of the Department of Management Services for assignment to an administrative law judge under ss. 120.569 and 120.57.

(a) If a party to the proceeding requests mediation, the parties have no more than 30 days to resolve any issue in dispute. The costs of the mediation must be borne equally by all of the parties to the proceeding.

(b) If the matter is not resolved within 30 days, the administrative law judge shall proceed with a hearing under ss. 120.569 and 120.57. The hearing shall be held in the county where the campus of the university subject to the amendment is located. Within 60 days after receiving the petition, the administrative law judge must, consistent with the applicable requirements and procedures of the Administrative Procedure Act, hold a hearing, identify the issues remaining in dispute, prepare a record of the proceedings, and submit a recommended order to the state land planning agency for final action. Parties to the proceeding may submit written exceptions to the recommended order within 10 days after the recommended order is issued. The state land planning agency must issue its final order no later than 60 days after receiving the recommended order.

(c) The final order of the state land planning agency is subject to judicial review as provided in s. 120.68.

(d) The signature of an attorney or party constitutes a certificate that he or she has read the pleading, motion, or other paper and that, to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay, or for economic advantage, competitive reasons, frivolous purposes, or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the division, upon motion or its own initiative, shall impose upon either the person who signed it or a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including reasonable attorney's fees.

(9) An amendment to a campus master plan must be reviewed and adopted under subsections (6)-(8) if such amendment, alone or in conjunction with other amendments, would:

(a) Increase density or intensity of use of land on the campus by more than 10 percent;

(b) Decrease the amount of natural areas, open space, or buffers on the campus by more than 10 percent; or

(c) Rearrange land uses in a manner that will increase the impact of any proposed campus development by more than 10 percent on a road or on another public facility or service provided or maintained by the state, the county, the host local government, or any affected local government.

(10) Upon adoption of a campus master plan, the university board of trustees shall draft a proposed campus development agreement for each local government and send it to the local government within 270 days after the adoption of the relevant campus master plan.

(11) At a minimum, each campus development agreement:

(a) Must identify the geographic area of the campus and local government covered by the campus development agreement.

(b) Must establish its duration, which must be at least 5 years and not more than 10 years.

(c) Must address public facilities and services including roads, sanitary sewer, solid waste, drainage, potable water, parks and recreation, and public transportation.

(d) Must, for each of the facilities and services listed in paragraph (c), identify the level-of-service standard established by the applicable local government, identify the entity that will provide the service to the campus, and describe any financial arrangements between the Board of Governors and other entities relating to the provision of the facility or service.

(e) Must, for each of the facilities and services listed in paragraph (c), determine the impact of existing and proposed campus development reasonably expected over the term of the campus development agreement on each service or facility and any deficiencies in such service or facility which the proposed campus development will create or to which it will contribute.

(f) May, if proposed by the university board of trustees, address the issues prescribed in paragraphs (d) and (e) with regard to additional facilities and services, including, but not limited to, electricity, nonpotable water, law enforcement, fire and emergency rescue, gas, and telephone.

- (g) Must, to the extent it addresses issues addressed in the campus master plan and host local government comprehensive plan, be consistent with the adopted campus master plan and host local government comprehensive plan.
- (12)(a) Each proposed campus development agreement must clearly identify the lands to which the university board of trustees intends the campus development agreement to apply.
- (b) Such land may include:
1. Land to be purchased by the university board of trustees and if purchased with state appropriated funds titled in the name of the board of trustees of the Internal Improvement Trust Fund for use by an institution over the life of the campus development agreement.
 2. Land not owned by the board of trustees of the Internal Improvement Trust Fund if the university board of trustees intends to undertake development activities on the land during the term of the campus development agreement.
- (c) Land owned by the Board of Trustees of the Internal Improvement Trust Fund for lease to the Board of Governors acting on behalf of the institution may be excluded, but any development activity undertaken on excluded land is subject to part II of chapter 163.
- (13) With regard to the impact of campus development on the facilities and services listed in paragraph (11)(c), the following applies:
- (a) All improvements to facilities or services which are necessary to eliminate the deficiencies identified in paragraph (11)(e) must be specifically listed in the campus development agreement.
- (b) The university board of trustees' fair share of the cost of the measures identified in paragraph (a) must be stated in the campus development agreement. In determining the fair share, the effect of any demand management techniques, which may include such techniques as flexible work hours and carpooling, that are used by the Board of Governors to minimize the offsite impacts shall be considered.
- (c) The university board of trustees is responsible for paying the fair share identified in paragraph (b), and it may do so by:
1. Paying a fair share of each of the improvements identified in paragraph (a); or
 2. Taking on full responsibility for the improvements, selected from the list of improvements identified in paragraph (a), and agreed to between the host local government and the Board of Governors, the total cost of which equals the contribution identified in paragraph (b).
- (d) All concurrency management responsibilities of the university board of trustees are fulfilled if the university board of trustees expends the total amount of funds identified in paragraph (b) notwithstanding that the university board of trustees may not have undertaken or made contributions to some of the measures identified in paragraph (a).
- (e) Capital projects included in the campus development agreement may be used by the local government for the concurrency management purposes.
- (f) Funds provided by universities in accordance with campus development agreements are subject to appropriation by the Legislature. A development authorized by a campus development agreement may not be built until the funds to be provided pursuant to paragraph (b) are appropriated by the Legislature.
- (14) A campus development agreement may not address or include any standards or requirements for onsite development, including environmental management requirements or requirements for site preparation.
- (15) Once the university board of trustees and host local government agree on the provisions of the campus development agreement, the campus development agreement shall be executed by the university board of trustees and the host local government in a manner consistent with the requirements of s. 163.3225. Once the campus development agreement is executed, it is binding upon the university board of trustees and host local government. A copy of the executed campus development agreement must be sent to the state land planning agency within 14 days after the date of execution.
- (16) If, within 180 days following the host local government's receipt of the proposed campus development agreement, the university board of trustees and host local government cannot reach agreement on the provisions of the campus development agreement, the following procedures for resolving the matter must be followed:
- (a) The matter must be submitted to the state land planning agency, which has 60 days to hold informal hearings, if necessary.
- (b) In deciding upon a proper resolution, the state land planning agency shall consider the nature of the issues in dispute, the compliance of the parties with this section, the extent of the conflict between the parties, the comparative hardships, and the public interest involved. In resolving the matter, the state land planning agency may prescribe, by order, the contents of the campus development agreement.
- (17) Disputes that arise in the implementation of an executed campus development agreement must be resolved as follows:
- (a) Each party shall select one mediator and notify the other in writing of the selection. Thereafter, within 15 days after their selection, the two mediators selected by the parties shall select a neutral, third mediator to complete the mediation panel.
- (b) Each party is responsible for all costs and fees payable to the mediator selected by it and shall equally bear responsibility for the costs and fees payable to the third mediator for services rendered and costs expended in connection with resolving disputes pursuant to the campus development agreement.
- (c) Within 10 days after the selection of the mediation panel, proceedings must be convened by the panel to resolve the issues in dispute.
- (d) Within 60 days after the convening of the panel, the panel shall issue a report containing a recommended resolution of the issues in dispute.
- (e) If either the university board of trustees or local government rejects the recommended resolution of the issues in dispute, the disputed issues must be resolved pursuant to the procedures provided by subsection (16).

(18) Once the campus development agreement is executed, all campus development may proceed without further review by the host local government if it is consistent with the adopted campus master plan and associated campus development agreement.

(19) A campus development agreement may be amended under subsections (10)-(16):

(a) In conjunction with any amendment to the campus master plan subject to the requirements in subsection (9).

(b) If either party delays by more than 12 months the construction of a capital improvement identified in the agreement.

(20) Any party to a campus development agreement or aggrieved or adversely affected person, as defined in s. 163.3215(2), may file an action for injunctive relief in the circuit court where the host local government is located to enforce the terms of a campus development agreement or to challenge compliance of the agreement with this section. This action shall be the sole and exclusive remedy of an adversely affected person other than a party to the agreement to enforce any rights or obligations arising from a development agreement.

(21) State and regional environmental program requirements remain applicable, except that this section supersedes all other sections of part II of chapter 163 and s. 380.06 except as provided in this section.

(22) In consultation with the state land planning agency, the Board of Governors shall adopt a single, uniform set of regulations to administer subsections (3)-(6). The regulations must set specific schedules and procedures for the development and adoption of campus master plans. Before adopting the regulations, the Board of Governors must obtain written verification from the state land planning agency that the regulations satisfy the minimum statutory criteria required by subsections (3)-(6). The state land planning agency shall provide the verification within 45 days after receiving a copy of the regulations.

(23) Until the campus master plan and campus development agreement for an institution have been finalized, any dispute between the university board of trustees and a local government relating to campus development for that institution shall be resolved by the process established in subsection (8).

History.—s. 825, ch. 2002-387; s. 1, ch. 2005-284; s. 120, ch. 2006-1; s. 31, ch. 2010-78.

1013.31 Educational plant survey; localized need assessment; PECO project funding.—

(1) At least every 5 years, each board shall arrange for an educational plant survey, to aid in formulating plans for housing the educational program and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus, including consideration of the local comprehensive plan. The Department of Education shall document the need for additional career and adult education programs and the continuation of existing programs before facility construction or renovation related to career or adult education may be included in the educational plant survey of a school district or ¹community college that delivers career or adult education programs. Information used by the Department of Education to establish facility needs must include, but need not be limited to, labor market data, needs analysis, and information submitted by the school district or ¹community college.

(a) *Survey preparation and required data.*—Each survey shall be conducted by the board or an agency employed by the board. Surveys shall be reviewed and approved by the board, and a file copy shall be submitted to the Department of Education or the Chancellor of the State University System, as appropriate. The survey report shall include at least an inventory of existing educational and ancillary plants, including safe access facilities; recommendations for existing educational and ancillary plants; recommendations for new educational or ancillary plants, including the general location of each in coordination with the land use plan and safe access facilities; campus master plan update and detail for ¹community colleges; the utilization of school plants based on an extended school day or year-round operation; and such other information as may be required by the Department of Education. This report may be amended, if conditions warrant, at the request of the department or commissioner.

(b) *Required need assessment criteria for district, ¹community college, state university, and Florida School for the Deaf and the Blind plant surveys.*—Educational plant surveys must use uniform data sources and criteria specified in this paragraph. Each revised educational plant survey and each new educational plant survey supersedes previous surveys.

1. The school district's survey must be submitted as a part of the district educational facilities plan defined in s. 1013.35. To ensure that the data reported to the Department of Education as required by this section is correct, the department shall annually conduct an onsite review of 5 percent of the facilities reported for each school district completing a new survey that year. If the department's review finds the data reported by a district is less than 95 percent accurate, within 1 year from the time of notification by the department the district must submit revised reports correcting its data. If a district fails to correct its reports, the commissioner may direct that future fixed capital outlay funds be withheld until such time as the district has corrected its reports so that they are not less than 95 percent accurate.

2. Each survey of a special facility, joint-use facility, or cooperative career education facility must be based on capital outlay full-time equivalent student enrollment data prepared by the department for school districts and ¹community colleges and by the Chancellor of the State University System for universities. A survey of space needs of a joint-use facility shall be based upon the respective space needs of the school districts, ¹community colleges, and universities, as appropriate. Projections of a school district's facility space needs may not exceed the norm space and occupant design criteria established by the State Requirements for Educational Facilities.

3. Each ¹community college's survey must reflect the capacity of existing facilities as specified in the inventory maintained by the Department of Education. Projections of facility space needs must comply with standards for determining space needs as specified by rule of the State Board of Education. The 5-year projection of capital outlay student enrollment must be consistent with the annual report of capital outlay full-time student enrollment prepared by the Department of Education.

4. Each state university's survey must reflect the capacity of existing facilities as specified in the inventory maintained and validated by the Chancellor of the State University System. Projections of facility space needs must be consistent with standards for determining space

needs as specified by regulation of the Board of Governors. The projected capital outlay full-time equivalent student enrollment must be consistent with the 5-year planned enrollment cycle for the State University System approved by the Board of Governors.

5. The district educational facilities plan of a school district and the educational plant survey of a ¹community college, state university, or the Florida School for the Deaf and the Blind may include space needs that deviate from approved standards for determining space needs if the deviation is justified by the district or institution and approved by the department or the Board of Governors, as appropriate, as necessary for the delivery of an approved educational program.

(c) *Review and validation.*—The Department of Education shall review and validate the surveys of school districts and ¹community colleges, and the Chancellor of the State University System shall review and validate the surveys of universities, and any amendments thereto for compliance with the requirements of this chapter and shall recommend those in compliance for approval by the State Board of Education or the Board of Governors, as appropriate. Annually, the department shall perform an in-depth analysis of a representative sample of each survey of recommended needs for five districts selected by the commissioner from among districts with the largest need-to-revenue ratio. For the purpose of this subsection, the need-to-revenue ratio is determined by dividing the total 5-year cost of projects listed on the district survey by the total 5-year fixed capital outlay revenue projections from state and local sources as determined by the department. The commissioner may direct fixed capital outlay funds to be withheld from districts until such time as the survey accurately projects facilities needs.

(d) *Periodic update of Florida Inventory of School Houses.*—School districts shall periodically update their inventory of educational facilities as new capacity becomes available and as unsatisfactory space is eliminated. The State Board of Education shall adopt rules to determine the time frame in which districts must provide a periodic update.

(2) Only the district school superintendent, ¹community college president, or the university president shall certify to the Department of Education a project's compliance with the requirements for expenditure of PECO funds prior to release of funds.

(a) Upon request for release of PECO funds for planning purposes, certification must be made to the Department of Education that the need for and location of the facility are in compliance with the board-approved survey recommendations, that the project meets the definition of a PECO project and the limiting criteria for expenditures of PECO funding, and that the plan is consistent with the local government comprehensive plan.

(b) Upon request for release of construction funds, certification must be made to the Department of Education that the need and location of the facility are in compliance with the board-approved survey recommendations, that the project meets the definition of a PECO project and the limiting criteria for expenditures of PECO funding, and that the construction documents meet the requirements of the Florida Building Code for educational facilities construction or other applicable codes as authorized in this chapter.

History.—s. 14, ch. 2002-296; s. 826, ch. 2002-387; s. 128, ch. 2003-1; s. 18, ch. 2003-391; s. 136, ch. 2004-357; s. 2, ch. 2006-132; s. 178, ch. 2007-217; s. 32, ch. 2010-78.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.32 Exception to recommendations in educational plant survey.—An exception to the recommendations in the educational plant survey may be allowed if a board considers that it will be advantageous to the welfare of the educational system or that it will make possible a substantial saving of funds. A board, upon determining that an exception is warranted, must present a full statement, in writing, setting forth all the facts to the Commissioner of Education.

History.—s. 827, ch. 2002-387.

1013.33 Coordination of planning with local governing bodies.—

(1) It is the policy of this state to require the coordination of planning between boards and local governing bodies to ensure that plans for the construction and opening of public educational facilities are facilitated and coordinated in time and place with plans for residential development, concurrently with other necessary services. Such planning shall include the integration of the educational facilities plan and applicable policies and procedures of a board with the local comprehensive plan and land development regulations of local governments. The planning must include the consideration of allowing students to attend the school located nearest their homes when a new housing development is constructed near a county boundary and it is more feasible to transport the students a short distance to an existing facility in an adjacent county than to construct a new facility or transport students longer distances in their county of residence. The planning must also consider the effects of the location of public education facilities, including the feasibility of keeping central city facilities viable, in order to encourage central city redevelopment and the efficient use of infrastructure and to discourage uncontrolled urban sprawl. In addition, all parties to the planning process must consult with state and local road departments to assist in implementing the Safe Paths to Schools program administered by the Department of Transportation.

(2)(a) The school board, county, and nonexempt municipalities located within the geographic area of a school district shall enter into an interlocal agreement that jointly establishes the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated. The interlocal agreements shall be submitted to the state land planning agency and the Office of Educational Facilities in accordance with a schedule published by the state land planning agency.

(b) The schedule must establish staggered due dates for submission of interlocal agreements that are executed by both the local government and district school board, commencing on March 1, 2003, and concluding by December 1, 2004, and must set the same date for

all governmental entities within a school district. However, if the county where the school district is located contains more than 20 municipalities, the state land planning agency may establish staggered due dates for the submission of interlocal agreements by these municipalities. The schedule must begin with those areas where both the number of districtwide capital-outlay full-time-equivalent students equals 80 percent or more of the current year's school capacity and the projected 5-year student growth rate is 1,000 or greater, or where the projected 5-year student growth rate is 10 percent or greater.

(c) If the student population has declined over the 5-year period preceding the due date for submittal of an interlocal agreement by the local government and the district school board, the local government and district school board may petition the state land planning agency for a waiver of one or more of the requirements of subsection (3). The waiver must be granted if the procedures called for in subsection (3) are unnecessary because of the school district's declining school age population, considering the district's 5-year work program prepared pursuant to s. 1013.35. The state land planning agency may modify or revoke the waiver upon a finding that the conditions upon which the waiver was granted no longer exist. The district school board and local governments must submit an interlocal agreement within 1 year after notification by the state land planning agency that the conditions for a waiver no longer exist.

(d) Interlocal agreements between local governments and district school boards adopted pursuant to s. 163.3177 before the effective date of subsections (2)-(9) must be updated and executed pursuant to the requirements of subsections (2)-(9), if necessary. Amendments to interlocal agreements adopted pursuant to subsections (2)-(9) must be submitted to the state land planning agency within 30 days after execution by the parties for review consistent with subsections (3) and (4). Local governments and the district school board in each school district are encouraged to adopt a single interlocal agreement in which all join as parties. The state land planning agency shall assemble and make available model interlocal agreements meeting the requirements of subsections (2)-(9) and shall notify local governments and, jointly with the Department of Education, the district school boards of the requirements of subsections (2)-(9), the dates for compliance, and the sanctions for noncompliance. The state land planning agency shall be available to informally review proposed interlocal agreements. If the state land planning agency has not received a proposed interlocal agreement for informal review, the state land planning agency shall, at least 60 days before the deadline for submission of the executed agreement, renotify the local government and the district school board of the upcoming deadline and the potential for sanctions.

(3) At a minimum, the interlocal agreement must address interlocal agreement requirements in s. 163.3180(13)(g), except for exempt local governments as provided in s. 163.3177(12), and must address the following issues:

(a) A process by which each local government and the district school board agree and base their plans on consistent projections of the amount, type, and distribution of population growth and student enrollment. The geographic distribution of jurisdiction-wide growth forecasts is a major objective of the process.

(b) A process to coordinate and share information relating to existing and planned public school facilities, including school renovations and closures, and local government plans for development and redevelopment.

(c) Participation by affected local governments with the district school board in the process of evaluating potential school closures, significant renovations to existing schools, and new school site selection before land acquisition. Local governments shall advise the district school board as to the consistency of the proposed closure, renovation, or new site with the local comprehensive plan, including appropriate circumstances and criteria under which a district school board may request an amendment to the comprehensive plan for school siting.

(d) A process for determining the need for and timing of onsite and offsite improvements to support new construction, proposed expansion, or redevelopment of existing schools. The process shall address identification of the party or parties responsible for the improvements.

(e) A process for the school board to inform the local government regarding the effect of comprehensive plan amendments on school capacity. The capacity reporting must be consistent with laws and rules regarding measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. 1013.35.

(f) Participation of the local governments in the preparation of the annual update to the school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 1013.35.

(g) A process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency.

(h) A procedure for the resolution of disputes between the district school board and local governments, which may include the dispute resolution processes contained in chapters 164 and 186.

(i) An oversight process, including an opportunity for public participation, for the implementation of the interlocal agreement.

(4)(a) The Office of Educational Facilities shall submit any comments or concerns regarding the executed interlocal agreement to the state land planning agency within 30 days after receipt of the executed interlocal agreement. The state land planning agency shall review the executed interlocal agreement to determine whether it is consistent with the requirements of subsection (3), the adopted local government comprehensive plan, and other requirements of law. Within 60 days after receipt of an executed interlocal agreement, the state land planning agency shall publish a notice of intent in the Florida Administrative Weekly and shall post a copy of the notice on the agency's Internet site. The notice of intent must state that the interlocal agreement is consistent or inconsistent with the requirements of subsection (3) and this subsection as appropriate.

(b) The state land planning agency's notice is subject to challenge under chapter 120; however, an affected person, as defined in s. 163.3184(1)(a), has standing to initiate the administrative proceeding, and this proceeding is the sole means available to challenge the consistency of an interlocal agreement required by this section with the criteria contained in subsection (3) and this subsection. In order to

have standing, each person must have submitted oral or written comments, recommendations, or objections to the local government or the school board before the adoption of the interlocal agreement by the district school board and local government. The district school board and local governments are parties to any such proceeding. In this proceeding, when the state land planning agency finds the interlocal agreement to be consistent with the criteria in subsection (3) and this subsection, the interlocal agreement must be determined to be consistent with subsection (3) and this subsection if the local government's and school board's determination of consistency is fairly debatable. When the state land planning agency finds the interlocal agreement to be inconsistent with the requirements of subsection (3) and this subsection, the local government's and school board's determination of consistency shall be sustained unless it is shown by a preponderance of the evidence that the interlocal agreement is inconsistent.

(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (3) or this subsection, the state land planning agency shall forward it to the Administration Commission, which may impose sanctions against the local government pursuant to s. 163.3184(11) and may impose sanctions against the district school board by directing the Department of Education to withhold an equivalent amount of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.

(5) If an executed interlocal agreement is not timely submitted to the state land planning agency for review, the state land planning agency shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a notice to show cause why sanctions should not be imposed for failure to submit an executed interlocal agreement by the deadline established by the agency. The agency shall forward the notice and the responses to the Administration Commission, which may enter a final order citing the failure to comply and imposing sanctions against the local government and district school board by directing the appropriate agencies to withhold at least 5 percent of state funds pursuant to s. 163.3184(11) and by directing the Department of Education to withhold from the district school board at least 5 percent of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.

(6) Any local government transmitting a public school element to implement school concurrency pursuant to the requirements of s. 163.3180 before the effective date of this section is not required to amend the element or any interlocal agreement to conform with the provisions of subsections (2)-(8) if the element is adopted prior to or within 1 year after the effective date of subsections (2)-(8) and remains in effect.

(7) Except as provided in subsection (8), municipalities meeting the exemption criteria in s. 163.3177(12) are exempt from the requirements of subsections (2), (3), and (4).

(8) At the time of the evaluation and appraisal report, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under s. 163.3177(12). If the municipality continues to meet these criteria, the municipality shall continue to be exempt from the interlocal agreement requirement. Each municipality exempt under s. 163.3177(12) must comply with the provisions of subsections (2)-(8) within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

(9) A board and the local governing body must share and coordinate information related to existing and planned school facilities; proposals for development, redevelopment, or additional development; and infrastructure required to support the school facilities, concurrent with proposed development. A school board shall use information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136 when preparing the district educational facilities plan pursuant to s. 1013.35, as modified and agreed to by the local governments, when provided by interlocal agreement, and the Office of Educational Facilities, in consideration of local governments' population projections, to ensure that the district educational facilities plan not only reflects enrollment projections but also considers applicable municipal and county growth and development projections. The projections must be apportioned geographically with assistance from the local governments using local government trend data and the school district student enrollment data. A school board is precluded from siting a new school in a jurisdiction where the school board has failed to provide the annual educational facilities plan for the prior year required pursuant to s. 1013.35 unless the failure is corrected.

(10) The location of educational facilities shall be consistent with the comprehensive plan of the appropriate local governing body developed under part II of chapter 163 and consistent with the plan's implementing land development regulations.

(11) To improve coordination relative to potential educational facility sites, a board shall provide written notice to the local government that has regulatory authority over the use of the land consistent with an interlocal agreement entered pursuant to subsections (2)-(8) at least 60 days prior to acquiring or leasing property that may be used for a new public educational facility. The local government, upon receipt of this notice, shall notify the board within 45 days if the site proposed for acquisition or lease is consistent with the land use categories and policies of the local government's comprehensive plan. This preliminary notice does not constitute the local government's determination of consistency pursuant to subsection (12).

(12) As early in the design phase as feasible and consistent with an interlocal agreement entered pursuant to subsections (2)-(8), but no later than 90 days before commencing construction, the district school board shall in writing request a determination of consistency with the local government's comprehensive plan. The local governing body that regulates the use of land shall determine, in writing within 45 days after receiving the necessary information and a school board's request for a determination, whether a proposed educational facility is consistent with the local comprehensive plan and consistent with local land development regulations. If the determination is affirmative, school construction may commence and further local government approvals are not required, except as provided in this section. Failure of the local governing body to make a determination in writing within 90 days after a district school board's request for a determination of consistency shall be considered an approval of the district school board's application. Campus master plans and development agreements must comply with the provisions of ss. 1013.30 and 1013.63.

(13) A local governing body may not deny the site applicant based on adequacy of the site plan as it relates solely to the needs of the school. If the site is consistent with the comprehensive plan's land use policies and categories in which public schools are identified as allowable uses, the local government may not deny the application but it may impose reasonable development standards and conditions in accordance with s. 1013.51(1) and consider the site plan and its adequacy as it relates to environmental concerns, health, safety and welfare, and effects on adjacent property. Standards and conditions may not be imposed which conflict with those established in this chapter or the Florida Building Code, unless mutually agreed and consistent with the interlocal agreement required by subsections (2)-(8).

(14) This section does not prohibit a local governing body and district school board from agreeing and establishing an alternative process for reviewing a proposed educational facility and site plan, and offsite impacts, pursuant to an interlocal agreement adopted in accordance with subsections (2)-(8).

(15) Existing schools shall be considered consistent with the applicable local government comprehensive plan adopted under part II of chapter 163. If a board submits an application to expand an existing school site, the local governing body may impose reasonable development standards and conditions on the expansion only, and in a manner consistent with s. 1013.51(1). Standards and conditions may not be imposed which conflict with those established in this chapter or the Florida Building Code, unless mutually agreed. Local government review or approval is not required for:

- (a) The placement of temporary or portable classroom facilities; or
- (b) Proposed renovation or construction on existing school sites, with the exception of construction that changes the primary use of a facility, includes stadiums, or results in a greater than 5 percent increase in student capacity, or as mutually agreed upon, pursuant to an interlocal agreement adopted in accordance with subsections (2)-(8).

History.—s. 23, ch. 2002-296; s. 828, ch. 2002-387; s. 129, ch. 2003-1; s. 18, ch. 2005-290; s. 15, ch. 2010-70.

1013.35 School district educational facilities plan; definitions; preparation, adoption, and amendment; long-term work programs.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Adopted educational facilities plan" means the comprehensive planning document that is adopted annually by the district school board as provided in subsection (2) and that contains the educational plant survey.

(b) "District facilities work program" means the 5-year listing of capital outlay projects adopted by the district school board as provided in subparagraph (2)(a)2. and paragraph (2)(b) as part of the district educational facilities plan, which is required in order to:

1. Properly maintain the educational plant and ancillary facilities of the district.
2. Provide an adequate number of satisfactory student stations for the projected student enrollment of the district in K-12 programs in accordance with the goal in s. 1013.21.

(c) "Tentative educational facilities plan" means the comprehensive planning document prepared annually by the district school board and submitted to the Office of Educational Facilities and the affected general-purpose local governments.

(2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL FACILITIES PLAN.—

(a) Annually, prior to the adoption of the district school budget, each district school board shall prepare a tentative district educational facilities plan that includes long-range planning for facilities needs over 5-year, 10-year, and 20-year periods. The plan must be developed in coordination with the general-purpose local governments and be consistent with the local government comprehensive plans. The school board's plan for provision of new schools must meet the needs of all growing communities in the district, ranging from small rural communities to large urban cities. The plan must include:

1. Projected student populations apportioned geographically at the local level. The projections must be based on information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136, where available, as modified by the district based on development data and agreement with the local governments and the Office of Educational Facilities. The projections must be apportioned geographically with assistance from the local governments using local development trend data and the school district student enrollment data.

2. An inventory of existing school facilities. Any anticipated expansions or closures of existing school sites over the 5-year, 10-year, and 20-year periods must be identified. The inventory must include an assessment of areas proximate to existing schools and identification of the need for improvements to infrastructure, safety, including safe access routes, and conditions in the community. The plan must also provide a listing of major repairs and renovation projects anticipated over the period of the plan.

3. Projections of facilities space needs, which may not exceed the norm space and occupant design criteria established in the State Requirements for Educational Facilities.

4. Information on leased, loaned, and donated space and relocatables used for conducting the district's instructional programs.

5. The general location of public schools proposed to be constructed over the 5-year, 10-year, and 20-year time periods, including a listing of the proposed schools' site acreage needs and anticipated capacity and maps showing the general locations. The school board's identification of general locations of future school sites must be based on the school siting requirements of s. 163.3177(6)(a) and policies in the comprehensive plan which provide guidance for appropriate locations for school sites.

6. The identification of options deemed reasonable and approved by the school board which reduce the need for additional permanent student stations. Such options may include, but need not be limited to:

- a. Acceptable capacity;
- b. Redistricting;
- c. Busing;

- d. Year-round schools;
 - e. Charter schools;
 - f. Magnet schools; and
 - g. Public-private partnerships.
7. The criteria and method, jointly determined by the local government and the school board, for determining the impact of proposed development to public school capacity.
- (b) The plan must also include a financially feasible district facilities work program for a 5-year period. The work program must include:
- 1. A schedule of major repair and renovation projects necessary to maintain the educational facilities and ancillary facilities of the district.
 - 2. A schedule of capital outlay projects necessary to ensure the availability of satisfactory student stations for the projected student enrollment in K-12 programs. This schedule shall consider:
 - a. The locations, capacities, and planned utilization rates of current educational facilities of the district. The capacity of existing satisfactory facilities, as reported in the Florida Inventory of School Houses must be compared to the capital outlay full-time-equivalent student enrollment as determined by the department, including all enrollment used in the calculation of the distribution formula in s. 1013.64.
 - b. The proposed locations of planned facilities, whether those locations are consistent with the comprehensive plans of all affected local governments, and recommendations for infrastructure and other improvements to land adjacent to existing facilities. The provisions of ss. 1013.33(12), (13), and (14) and 1013.36 must be addressed for new facilities planned within the first 3 years of the work plan, as appropriate.
 - c. Plans for the use and location of relocatable facilities, leased facilities, and charter school facilities.
 - d. Plans for multitrack scheduling, grade level organization, block scheduling, or other alternatives that reduce the need for additional permanent student stations.
 - e. Information concerning average class size and utilization rate by grade level within the district which will result if the tentative district facilities work program is fully implemented.
 - f. The number and percentage of district students planned to be educated in relocatable facilities during each year of the tentative district facilities work program. For determining future needs, student capacity may not be assigned to any relocatable classroom that is scheduled for elimination or replacement with a permanent educational facility in the current year of the adopted district educational facilities plan and in the district facilities work program adopted under this section. Those relocatable classrooms clearly identified and scheduled for replacement in a school-board-adopted, financially feasible, 5-year district facilities work program shall be counted at zero capacity at the time the work program is adopted and approved by the school board. However, if the district facilities work program is changed and the relocatable classrooms are not replaced as scheduled in the work program, the classrooms must be reentered into the system and be counted at actual capacity. Relocatable classrooms may not be perpetually added to the work program or continually extended for purposes of circumventing this section. All relocatable classrooms not identified and scheduled for replacement, including those owned, lease-purchased, or leased by the school district, must be counted at actual student capacity. The district educational facilities plan must identify the number of relocatable student stations scheduled for replacement during the 5-year survey period and the total dollar amount needed for that replacement.
 - g. Plans for the closure of any school, including plans for disposition of the facility or usage of facility space, and anticipated revenues.
 - h. Projects for which capital outlay and debt service funds accruing under s. 9(d), Art. XII of the State Constitution are to be used shall be identified separately in priority order on a project priority list within the district facilities work program.
 - 3. The projected cost for each project identified in the district facilities work program. For proposed projects for new student stations, a schedule shall be prepared comparing the planned cost and square footage for each new student station, by elementary, middle, and high school levels, to the low, average, and high cost of facilities constructed throughout the state during the most recent fiscal year for which data is available from the Department of Education.
 - 4. A schedule of estimated capital outlay revenues from each currently approved source which is estimated to be available for expenditure on the projects included in the district facilities work program.
 - 5. A schedule indicating which projects included in the district facilities work program will be funded from current revenues projected in subparagraph 4.
 - 6. A schedule of options for the generation of additional revenues by the district for expenditure on projects identified in the district facilities work program which are not funded under subparagraph 5. Additional anticipated revenues may include effort index grants, SIT Program awards, and Classrooms First funds.
- (c) To the extent available, the tentative district educational facilities plan shall be based on information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136.
- (d) Provision shall be made for public comment concerning the tentative district educational facilities plan.
- (e) The district school board shall coordinate with each affected local government to ensure consistency between the tentative district educational facilities plan and the local government comprehensive plans of the affected local governments during the development of the tentative district educational facilities plan.

(f) Commencing on October 1, 2002, and not less than once every 5 years thereafter, the district school board shall contract with a qualified, independent third party to conduct a financial management and performance audit of the educational planning and construction activities of the district. An audit conducted by the Office of Program Policy Analysis and Government Accountability and the Auditor General pursuant to s. 1008.35 satisfies this requirement.

(3) SUBMITTAL OF TENTATIVE DISTRICT EDUCATIONAL FACILITIES PLAN TO LOCAL GOVERNMENT.—The district school board shall submit a copy of its tentative district educational facilities plan to all affected local governments prior to adoption by the board. The affected local governments shall review the tentative district educational facilities plan and comment to the district school board on the consistency of the plan with the local comprehensive plan, whether a comprehensive plan amendment will be necessary for any proposed educational facility, and whether the local government supports a necessary comprehensive plan amendment. If the local government does not support a comprehensive plan amendment for a proposed educational facility, the matter shall be resolved pursuant to the interlocal agreement when required by ss. 163.3177(6)(h), 163.31777, and 1013.33(2). The process for the submittal and review shall be detailed in the interlocal agreement when required pursuant to ss. 163.3177(6)(h), 163.31777, and 1013.33(2).

(4) ADOPTED DISTRICT EDUCATIONAL FACILITIES PLAN.—Annually, the district school board shall consider and adopt the tentative district educational facilities plan completed pursuant to subsection (2). Upon giving proper notice to the public and local governments and opportunity for public comment, the district school board may amend the plan to revise the priority of projects, to add or delete projects, to reflect the impact of change orders, or to reflect the approval of new revenue sources which may become available. The adopted district educational facilities plan shall:

(a) Be a complete, balanced, and financially feasible capital outlay financial plan for the district.

(b) Set forth the proposed commitments and planned expenditures of the district to address the educational facilities needs of its students and to adequately provide for the maintenance of the educational plant and ancillary facilities, including safe access ways from neighborhoods to schools.

(5) EXECUTION OF ADOPTED DISTRICT EDUCATIONAL FACILITIES PLAN.—The first year of the adopted district educational facilities plan shall constitute the capital outlay budget required in s. 1013.61. The adopted district educational facilities plan shall include the information required in subparagraphs (2)(b)1., 2., and 3., based upon projects actually funded in the plan.

History.—s. 17, ch. 2002-296; s. 830, ch. 2002-387; s. 130, ch. 2003-1; s. 16, ch. 2010-70.

1013.351 Coordination of planning between the Florida School for the Deaf and the Blind and local governing bodies.—

(1) As used in this section, the term:

(a) "Board of Trustees" means the Board of Trustees of the Florida School for the Deaf and the Blind.

(b) "Local government" means the municipality or county in which the school is located.

(c) "School" means the Florida School for the Deaf and the Blind.

(2) It is the policy of this state to require the board of trustees to coordinate planning for new facilities with local governments to ensure that plans for site acquisition, construction, and opening of new facilities of the school are facilitated, concurrent with other necessary services. The planning shall include the integration of the educational plant survey for the school and applicable policies and procedures of the board of trustees with the local comprehensive plan and land development regulations of the local governments. The planning must consider the effect of the location of new facilities to be located on property acquired on or after January 1, 1998, including the efficient use of local infrastructure, the proximity of the proposed new facilities to the school's existing campus, and the effect and impact of any property proposed to be acquired by the school after the effective date of this act. In addition, all parties to the planning process must consult with state and local road departments to assist in implementing the Safe Paths to Schools Program administered by the Department of Transportation.

(3) The board of trustees and the municipality in which the school is located may enter into an interlocal agreement to establish the specific ways in which the plans and processes of the board of trustees and the local government are to be coordinated. If the school and local government enter into an interlocal agreement, the agreement must be submitted to the state land planning agency and the Office of Educational Facilities.

(4) At a minimum, an interlocal agreement must address the following issues:

(a) The process by which each local government and the board of trustees will agree and base their plans on consistent projections of the growth and needs of the school's student enrollment.

(b) A process to coordinate and share information relating to planned expansions of the school's facilities.

(c) Participation by affected local governments when the board of trustees is evaluating potential land acquisitions before the land acquisition occurs and when the board of trustees proposes uses for property acquired by the board of trustees on or after January 1, 1998. The local governments shall advise the board of trustees as to the consistency of any future land acquisitions and the uses proposed by the school for lands acquired on or after January 1, 1998, including appropriate circumstances and criteria under which the board of trustees may request an amendment to the comprehensive plan for the expansion of the school's campus or for school facilities to be located on property acquired by the board of trustees on or after January 1, 1998.

(d) A process for determining the need for and timing of onsite and offsite improvements to support new facilities that are to be located on property acquired by the board of trustees on or after January 1, 1998, except new facilities for which a construction contract was entered on or before the effective date of this act. The process shall address identification of the party or parties responsible for the improvements.

(e) A process for the board of trustees to inform local governments of the school's enrollment demographics and its capacity to meet it. The capacity reporting must identify how the board of trustees will meet the demands for enrollment at the school, based on the educational plant survey required by s. 1013.31.

(f) A process for determining where and how joint use of the school or local government facilities can be shared for mutual benefit and efficiency.

(g) A procedure for resolving disputes between the board of trustees and local governments, which may include the dispute resolution processes contained in chapters 164 and 186.

The board of trustees and the local governments may choose not to include a provision meeting the requirements of paragraph (e). However, this decision may be made only after a public hearing on the proposed decision, which may include the public hearing at which the board of trustees or the local governments adopt the interlocal agreements. An interlocal agreement entered into under this section must be consistent with the adopted comprehensive plan and land development regulations of the local governments.

(5)(a) The Office of Educational Facilities shall submit any comments or concerns regarding the executed interlocal agreements to the state land planning agency no later than 30 days after receipt of the executed interlocal agreements. The state land planning agency shall review the executed interlocal agreements to determine whether they are consistent with the requirements of subsection (4), the adopted local government comprehensive plans, and other requirements of law. Not later than 60 days after receipt of an executed interlocal agreement, the state land planning agency shall publish a notice of intent in the Florida Administrative Weekly. The notice of intent must state that the interlocal agreement is consistent or inconsistent with the requirements of subsection (4) and this subsection as appropriate.

(b)1. The state land planning agency's notice is subject to challenge under chapter 120. However, an affected person, as defined in s. 163.3184, has standing to initiate the administrative proceeding, and this proceeding is the sole means available to challenge the consistency of an interlocal agreement with the criteria contained in subsection (4) and this subsection. In order to have standing, a person must have submitted oral or written comments, recommendations, or objections to the appropriate local government or the board of trustees before the adoption of the interlocal agreement by the board of trustees and local government. The board of trustees and the appropriate local government are parties to any such proceeding.

2. In the administrative proceeding, if the state land planning agency finds the interlocal agreement to be consistent with the criteria in subsection (4) and this subsection, the interlocal agreement must be determined to be consistent with subsection (4) and this subsection if the local government and board of trustees is fairly debatable.

3. If the state land planning agency finds the interlocal agreement to be inconsistent with the requirements of subsection (4) and this subsection, the determination of consistency by the local government and board of trustees shall be sustained unless it is shown by a preponderance of the evidence that the interlocal agreement is inconsistent.

(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (4) or this subsection, the state land planning agency shall identify the issues in dispute and submit the matter to the Administration Commission for final action. The report to the Administration Commission must list each issue in dispute, describe the nature and basis for each dispute, identify alternative resolutions of each dispute, and make recommendations. After receiving the report from the state land planning agency, the Administration Commission shall take action to resolve the issues. In deciding upon a proper resolution, the Administration Commission shall consider the nature of the issues in dispute, the compliance of the parties with this section, the extent of the conflict between the parties, the comparative hardships, and the public interest involved. In resolving the matter, the Administration Commission may prescribe, by order, the contents of the interlocal agreement which shall be executed by the board of trustees and the local government.

(6) An interlocal agreement may be amended under subsections (2)-(5):

(a) In conjunction with updates to the school's educational plant survey prepared under s. 1013.31; or

(b) If either party delays by more than 12 months the construction of a capital improvement identified in the agreement.

(7) This section does not prohibit a local governing body and the board of trustees from agreeing and establishing an alternative process for reviewing proposed expansions to the school's campus and offsite impacts, under the interlocal agreement adopted in accordance with subsections (2)-(6).

(8) School facilities within the geographic area or the campus of the school as it existed on or before January 1, 1998, are consistent with the local government's comprehensive plan developed under part II of chapter 163 and consistent with the plan's implementing land development regulations.

(9) To improve coordination relative to potential educational facility sites, the board of trustees shall provide written notice to the local governments consistent with the interlocal agreements entered under subsections (2)-(6) at least 60 days before the board of trustees acquires any additional property. The local government shall notify the board of trustees no later than 45 days after receipt of this notice if the site proposed for acquisition is consistent with the land use categories and policies of the local government's comprehensive plan. This preliminary notice does not constitute the local government's determination of consistency under subsection (10).

(10) As early in the design phase as feasible, but no later than 90 days before commencing construction, the board of trustees shall request in writing a determination of consistency with the local government's comprehensive plan and local development regulations for the proposed use of any property acquired by the board of trustees on or after January 1, 1998. The local governing body that regulates the use of land shall determine, in writing, no later than 45 days after receiving the necessary information and a school board's request for a determination, whether a proposed use of the property is consistent with the local comprehensive plan and consistent with local land

development regulations. If the local governing body determines the proposed use is consistent, construction may commence and additional local government approvals are not required, except as provided in this section. Failure of the local governing body to make a determination in writing within 90 days after receiving the board of trustees' request for a determination of consistency shall be considered an approval of the board of trustees' application. This subsection does not apply to facilities to be located on the property if a contract for construction of the facilities was entered on or before the effective date of this act.

(11) Disputes that arise in the implementation of an executed interlocal agreement or in the determinations required pursuant to subsection (9) or subsection (10) must be resolved in accordance with chapter 164.

History.—s. 5, ch. 2004-331.

1013.355 Educational facilities benefit districts.—

(1) It is the intent of the Legislature to encourage and authorize public cooperation among district school boards, affected local general purpose governments, and benefited private interests in order to implement financing for timely construction and maintenance of school facilities, including facilities identified in individual district facilities work programs or proposed by charter schools. It is the further intent of the Legislature to provide efficient alternative mechanisms and incentives to allow for sharing costs of educational facilities necessary to accommodate new growth and development among public agencies, including district school boards, affected local general purpose governments, and benefited private development interests.

(2) The Legislature hereby authorizes the creation of educational facilities benefit districts pursuant to interlocal cooperation agreements between a district school board and all local general purpose governments within whose jurisdiction a district is located. The purpose of educational facilities benefit districts is to assist in financing the construction and maintenance of educational facilities.

(3)(a) An educational facilities benefit district may be created pursuant to this act and chapters 125, 163, 166, and 189. An educational facilities benefit district charter may be created by a county or municipality by entering into an interlocal agreement, as authorized by s. 163.01, with the district school board and any local general purpose government within whose jurisdiction a portion of the district is located and adoption of an ordinance that includes all provisions contained within s. 189.4041. The creating entity shall be the local general purpose government within whose boundaries a majority of the educational facilities benefit district's lands are located.

(b) Creation of any educational facilities benefit district shall be conditioned upon the consent of the district school board, all local general purpose governments within whose jurisdiction any portion of the educational facilities benefit district is located, and all landowners within the district. The membership of the governing board of any educational facilities benefit district shall include representation of the district school board, each cooperating local general purpose government, and the landowners within the district. In the case of an educational facilities benefit district's decision to create a charter school, the board of directors of the charter school may constitute the members of the governing board for the educational facilities benefit district.

(4) The educational facilities benefit district shall have, and its governing board may exercise, the following powers:

(a) To finance and construct educational facilities within the district's boundaries.

(b) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of real and personal property or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(c) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to the public bidding or competitive negotiations required of local general purpose governments.

(d) To borrow money and accept gifts; to apply for unused grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(e) To adopt resolutions and policies prescribing the powers, duties, and functions of the officers of the district, the conduct of the business of the district, and the maintenance of records and documents of the district.

(f) To maintain an office at such place or places as it may designate within the district or within the boundaries of the local general purpose government that created the district.

(g) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for use of the district to carry out any of the purposes authorized by this act.

(h) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness pursuant to this act for periods not longer than 30 years, provided such bonds, certificates, warrants, notes, or other indebtedness shall only be guaranteed by non-ad valorem assessments legally imposed by the district and other available sources of funds provided in this act and shall not pledge the full faith and credit of any local general purpose government or the district school board.

(i) To cooperate with or contract with other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act and to accept funding from local and state agencies as provided in this act.

(j) To levy, impose, collect, and enforce non-ad valorem assessments, as defined by s. 197.3632(1)(d), pursuant to this act, chapters 125 and 166, and ss. 197.3631, 197.3632, and 197.3635.

(k) To exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(5) As an alternative to the creation of an educational facilities benefit district, the Legislature hereby recognizes and encourages the consideration of community development district creation pursuant to chapter 190 as a viable alternative for financing the construction and maintenance of educational facilities as described in this act. Community development districts are granted the authority to determine, order, levy, impose, collect, and enforce non-ad valorem assessments for such purposes pursuant to this act and chapters 170, 190, and 197. This authority is in addition to any authority granted community development districts under chapter 190. Community development districts are therefore deemed eligible for the financial enhancements available to educational facilities benefit districts providing for financing the construction and maintenance of educational facilities pursuant to s. 1013.356. In order to receive such financial enhancements, a community development district must enter into an interlocal agreement with the district school board and affected local general purpose governments that specifies the obligations of all parties to the agreement. Nothing in this act or in any interlocal agreement entered into pursuant to this act requires any change in the method of election of a board of supervisors of a community development district provided in chapter 190.

History.—s. 18, ch. 2002-296.

1013.356 Local funding for educational facilities benefit districts or community development districts.—Upon confirmation by a district school board of the commitment of revenues by an educational facilities benefit district or community development district necessary to construct and maintain an educational facility contained within an individual district facilities work program or proposed by an approved charter school or a charter school applicant, the following funds shall be provided to the educational facilities benefit district or community development district annually, beginning with the next fiscal year after confirmation until the district's financial obligations are completed:

(1) All educational facilities impact fee revenue collected for new development within the educational facilities benefit district or community development district. Funds provided under this subsection shall be used to fund the construction and capital maintenance costs of educational facilities.

(2) For construction and capital maintenance costs not covered by the funds provided under subsection (1), an annual amount contributed by the district school board equal to one-half of the remaining costs of construction and capital maintenance of the educational facility. Any construction costs above the cost-per-student criteria established for the SIT Program in s. 1013.72(2) shall be funded exclusively by the educational facilities benefit district or the community development district. Funds contributed by a district school board shall not be used to fund operational costs.

Educational facilities funded pursuant to this act may be constructed on land that is owned by any person after the district school board has acquired from the owner of the land a long-term lease for the use of this land for a period of not less than 40 years or the life expectancy of the permanent facilities constructed thereon, whichever is longer. All interlocal agreements entered into pursuant to this act shall provide for ownership of educational facilities funded pursuant to this act to revert to the district school board if such facilities cease to be used for public educational purposes prior to 40 years after construction or prior to the end of the life expectancy of the educational facilities, whichever is longer.

History.—s. 19, ch. 2002-296; s. 131, ch. 2003-1.

1013.357 Educational facilities benefit district or community development district facility utilization.—The student population of all facilities funded pursuant to this act shall, to the greatest extent possible, reflect the racial, ethnic, and socioeconomic balance of the school district pursuant to state and federal law. However, to the extent allowable pursuant to state and federal law, the interlocal agreement providing for the establishment of the educational facilities benefit district or the interlocal agreement between the community development district and the district school board and affected local general purpose governments may provide for the district school board to establish school attendance zones that allow students residing within a reasonable distance of facilities financed through the interlocal agreement to attend such facilities.

History.—s. 20, ch. 2002-296.

1013.36 Site planning and selection.—

(1) Before acquiring property for sites, each district school board and community college board of trustees shall determine the location of proposed educational centers or campuses. In making this determination, the board shall consider existing and anticipated site needs and the most economical and practicable locations of sites. The board shall coordinate with the long-range or comprehensive plans of local, regional, and state governmental agencies to assure the consistency of such plans. Boards are encouraged to locate district educational facilities proximate to urban residential areas to the extent possible, and shall seek to collocate district educational facilities with other public facilities, such as parks, libraries, and community centers, to the extent possible and to encourage using elementary schools as focal points for neighborhoods.

(2) Each new site selected must be adequate in size to meet the educational needs of the students to be served on that site by the original educational facility or future expansions of the facility through renovation or the addition of relocatables.

(3) Sites recommended for purchase or purchased must meet standards prescribed in law and such supplementary standards as the State Board of Education prescribes to promote the educational interests of the students. Each site must be well drained and suitable for outdoor educational purposes as appropriate for the educational program or collocated with facilities to serve this purpose. As provided in

s. 333.03, the site must not be located within any path of flight approach of any airport. Insofar as is practicable, the site must not adjoin a right-of-way of any railroad or through highway and must not be adjacent to any factory or other property from which noise, odors, or other disturbances, or at which conditions, would be likely to interfere with the educational program. To the extent practicable, sites must be chosen which will provide safe access from neighborhoods to schools.

(4) It shall be the responsibility of the board to provide adequate notice to appropriate municipal, county, regional, and state governmental agencies for requested traffic control and safety devices so they can be installed and operating prior to the first day of classes or to satisfy itself that every reasonable effort has been made in sufficient time to secure the installation and operation of such necessary devices prior to the first day of classes. It shall also be the responsibility of the board to review annually traffic control and safety device needs and to request all necessary changes indicated by such review.

(5) Each board may request county and municipal governments to construct and maintain sidewalks and bicycle trails within a 2-mile radius of each educational facility within the jurisdiction of the local government. When a board discovers or is aware of an existing hazard on or near a public sidewalk, street, or highway within a 2-mile radius of a school site and the hazard endangers the life or threatens the health or safety of students who walk, ride bicycles, or are transported regularly between their homes and the school in which they are enrolled, the board shall, within 24 hours after discovering or becoming aware of the hazard, excluding Saturdays, Sundays, and legal holidays, report such hazard to the governmental entity within the jurisdiction of which the hazard is located. Within 5 days after receiving notification by the board, excluding Saturdays, Sundays, and legal holidays, the governmental entity shall investigate the hazardous condition and either correct it or provide such precautions as are practicable to safeguard students until the hazard can be permanently corrected. However, if the governmental entity that has jurisdiction determines upon investigation that it is impracticable to correct the hazard, or if the entity determines that the reported condition does not endanger the life or threaten the health or safety of students, the entity shall, within 5 days after notification by the board, excluding Saturdays, Sundays, and legal holidays, inform the board in writing of its reasons for not correcting the condition. The governmental entity, to the extent allowed by law, shall indemnify the board from any liability with respect to accidents or injuries, if any, arising out of the hazardous condition.

(6) If the school board and local government have entered into an interlocal agreement pursuant to s. 1013.33(2) and either s. 163.3177 (6)(h)4. or s. 163.31777 or have developed a process to ensure consistency between the local government comprehensive plan and the school district educational facilities plan, site planning and selection must be consistent with the interlocal agreements and the plans.

History.—s. 22, ch. 2002-296; s. 831, ch. 2002-387; s. 132, ch. 2003-1.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.365 Schools on contaminated site prohibited.—

(1) DEFINITIONS.—For purposes of this section, the following terms shall have the same meaning as provided in the definitions in s. 376.301: "contaminant," "contaminated site," "discharge," "engineering controls," "hazardous substances," "institutional controls," "pollutants," and "site rehabilitation."

(2) LEGISLATIVE INTENT.—The Legislature finds:

(a) Steps should be taken to eliminate or reduce the risk to student health posed by attendance at K-12 schools located on or adjacent to a contaminated site.

(b) District school boards have a duty and a responsibility to ensure the safety of school children while attending K-12 schools and engaging in extracurricular activities on school properties.

(c) Ensuring student safety includes preventing, eliminating, or reducing exposure to contaminants that may exist at or adjacent to K-12 school properties.

(3) K-12 SCHOOL SITING LIMITATIONS; PROHIBITIONS.—No K-12 school shall be built on or adjacent to a known contaminated site unless steps have been taken to ensure that children attending the school or playing on school property will not be exposed to contaminants in the air, water, or soil at levels that present a threat to human health or the environment.

(4) DUTIES OF DISTRICT SCHOOL BOARD.—Before taking title to real property upon which a K-12 school may be built or initiating action to locate a K-12 school on real property already owned by the school district, the district school board shall conduct appropriate due diligence including all appropriate inquiry into the previous ownership and use of the property consistent with good commercial or customary practice in an effort to determine the existence of any potential air, water, or soil contamination that may exist on or adjacent to the proposed K-12 school site. The district school board is encouraged to contact the Department of Environmental Protection to obtain any information about contaminated sites on or adjacent to a proposed K-12 school site. Any evidence of a discharge of pollutants or hazardous substances on or adjacent to a proposed K-12 school site shall prompt the district school board to conduct further investigation using at least a Phase II Environmental Audit, in accordance with standards established by the American Society for Testing and Materials (ASTM), that includes air, water, and soil sampling. If the results of the environmental audit confirm the presence of contaminants or pollution on or adjacent to the proposed K-12 school site at concentrations that pose a threat to human health or the environment, then the district school board shall conduct appropriate site rehabilitation in accordance with the provisions of subsection (5) before initiating K-12 school construction at the site.

(5) CORRECTIVE ACTION.—The Department of Environmental Protection may use risk-based corrective action cleanup criteria as described in ss. 376.3071, 376.3078, and 376.81, and in chapter 62-777, Florida Administrative Code, in reviewing and approving site rehabilitation conducted by district school boards pursuant to this section.

History.—s. 832, ch. 2002-387.

B. Building Codes and Construction for Educational Facilities

1013.37 State uniform building code for public educational facilities construction.

1013.371 Conformity to codes.

1013.372 Education facilities as emergency shelters.

1013.38 Boards to ensure that facilities comply with building codes and life safety codes.

1013.39 Building construction standards; exemptions.

1013.40 Planning and construction of community college facilities; property acquisition.

1013.41 SMART schools; Classrooms First; legislative purpose.

1013.42 School Infrastructure Thrift (SIT) Program Act.

1013.44 Low-energy use design; solar energy systems; swimming pool heaters.

1013.45 Educational facilities contracting and construction techniques.

1013.451 Life-cycle costs comparison.

1013.37 State uniform building code for public educational facilities construction.—

(1) UNIFORM BUILDING CODE.—A uniform statewide building code for the planning and construction of public educational and ancillary plants by district school boards and community college district boards of trustees shall be adopted by the Florida Building Commission within the Florida Building Code, pursuant to s. 553.73. Included in this code must be flood plain management criteria in compliance with the rules and regulations in 44 C.F.R. parts 59 and 60, and subsequent revisions thereto which are adopted by the Federal Emergency Management Agency. It is also the responsibility of the department to develop, as a part of the uniform building code, standards relating to:

(a) Prefabricated facilities or factory-built facilities that are designed to be portable, relocatable, demountable, or reconstructible; are used primarily as classrooms; and do not fall under the provisions of ss. 320.822-320.862. Such standards must permit boards to contract with the Department of Community Affairs for factory inspections by certified building code inspectors to certify conformance with applicable law and rules. The standards must comply with the requirements of s. 1013.20 for relocatable facilities intended for long-term use as classroom space, and the relocatable facilities shall be designed subject to missile impact criteria of s. 423(24)(d)(1) of the Florida Building Code when located in the windborne debris region.

(b) The sanitation of educational and ancillary plants and the health of occupants of educational and ancillary plants.

(c) The safety of occupants of educational and ancillary plants as provided in s. 1013.12, except that the firesafety criteria shall be established by the State Fire Marshal in cooperation with the Florida Building Commission and the department and such firesafety requirements must be incorporated into the Florida Fire Prevention Code.

(d) Accessibility for children, notwithstanding the provisions of s. 553.512.

(e) The performance of life-cycle cost analyses on alternative architectural and engineering designs to evaluate their energy efficiencies.

1. The life-cycle cost analysis must consist of the sum of:

a. The reasonably expected fuel costs over the life of the building which are required to maintain illumination, water heating, temperature, humidity, ventilation, and all other energy-consuming equipment in a facility; and

b. The reasonable costs of probable maintenance, including labor and materials, and operation of the building.

2. For computation of the life-cycle costs, the department shall develop standards that must include, but need not be limited to:

a. The orientation and integration of the facility with respect to its physical site.

b. The amount and type of glass employed in the facility and the directions of exposure.

c. The effect of insulation incorporated into the facility design and the effect on solar utilization of the properties of external surfaces.

d. The variable occupancy and operating conditions of the facility and subportions of the facility.

e. An energy-consumption analysis of the major equipment of the facility's heating, ventilating, and cooling system; lighting system; and hot water system and all other major energy-consuming equipment and systems as appropriate.

3. Life-cycle cost criteria published by the Department of Education for use in evaluating projects.

4. Standards for construction materials and systems based on life-cycle costs that consider initial costs, maintenance costs, custodial costs, operating costs, and life expectancy. The standards may include multiple acceptable materials. It is the intent of the Legislature to require district school boards to comply with these standards when expending funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund and to prohibit district school boards from expending local capital outlay revenues for any project that includes materials or systems that do not comply with these standards, unless the district school board submits evidence that alternative materials or systems meet or exceed standards developed by the department.

It is not a purpose of the Florida Building Code to inhibit the use of new materials or innovative techniques; nor may it specify or prohibit materials by brand names. The code must be flexible enough to cover all phases of construction so as to afford reasonable protection for the public safety, health, and general welfare. The department may secure the service of other state agencies or such other assistance as it finds desirable in recommending to the Florida Building Commission revisions to the code.

(2) APPROVAL.—

(a) Before a contract has been let for the construction, the department, the district school board, the ¹community college board, or its authorized review agent must approve the phase III construction documents. A district school board or a ¹community college board may reuse prototype plans on another site, provided the facilities list and phase III construction documents have been updated for the new site and for compliance with the Florida Building Code and the Florida Fire Prevention Code and any laws relating to firesafety, health and sanitation, casualty safety, and requirements for the physically handicapped which are in effect at the time a construction contract is to be awarded.

(b) In reviewing plans for approval, the department, the district school board, the ¹community college board, or its review agent as authorized in s. 1013.38, shall take into consideration:

1. The need for the new facility.
2. The educational and ancillary plant planning.
3. The architectural and engineering planning.
4. The location on the site.
5. Plans for future expansion.
6. The type of construction.
7. Sanitary provisions.
8. Conformity to Florida Building Code standards.
9. The structural design and strength of materials proposed to be used.
10. The mechanical design of any heating, air-conditioning, plumbing, or ventilating system. Typical heating, ventilating, and air-conditioning systems preapproved by the department for specific applications may be used in the design of educational facilities.
11. The electrical design of educational plants.
12. The energy efficiency and conservation of the design.
13. Life-cycle cost considerations.
14. The design to accommodate physically handicapped persons.
15. The ratio of net to gross square footage.
16. The proposed construction cost per gross square foot.
17. Conformity with the Florida Fire Prevention Code.

(c) The district school board or the ¹community college board may not occupy a facility until the project has been inspected to verify compliance with statutes, rules, and codes affecting the health and safety of the occupants. Verification of compliance with rules, statutes, and codes for nonoccupancy projects such as roofing, paving, site improvements, or replacement of equipment may be certified by the architect or engineer of record, and verification of compliance for other projects may be made by an inspector certified by the department or certified pursuant to chapter 468 who is not the architect or engineer of record. The board shall maintain a record of the project's completion and permanent archive of phase III construction documents, including any addenda and change orders to the project. The boards shall provide project data to the department, as requested, for purposes and reports needed by the Legislature.

(3) REVIEW PROCEDURE.—The Commissioner of Education shall cooperate with the Florida Building Commission in addressing all questions, disputes, or interpretations involving the provisions of the Florida Building Code which govern the construction of public educational and ancillary facilities, and any objections to decisions made by the inspectors or the department must be submitted in writing.

(4) BIENNIAL REVIEW AND UPDATE; DISSEMINATION.—The department shall biennially review and recommend to the Florida Building Commission updates and revisions to the provisions of the Florida Building Code which govern the construction of public educational and ancillary facilities. The department shall publish and make available to each board at no cost copies of the State Requirements for Educational Facilities and each amendment and revision thereto. The department shall make additional copies available to all interested persons at a price sufficient to recover costs.

(5) LOCAL LEGISLATION PROHIBITED.—After June 30, 1985, pursuant to s. 11(a)(21), Art. III of the State Constitution, there shall not be enacted any special act or general law of local application which proposes to amend, alter, or contravene any provisions of the State Building Code adopted under the authority of this section.

(6) Notwithstanding the requirements of s. 22, chapter 2008-227, Laws of Florida, the standards for new school construction, remodeling, and renovation projects shall be limited to the minimum standards for construction of educational facilities contained in s. 423 of the Florida Building Code and the State Requirements for Educational Facilities contained in rules adopted by the Department of Education. This subsection expires July 1, 2010.

History.—s. 834, ch. 2002-387; s. 38, ch. 2009-59.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.371 Conformity to codes.—

(1) CONFORMITY TO FLORIDA BUILDING CODE AND FLORIDA FIRE PREVENTION CODE REQUIRED FOR APPROVAL.—

(a) Except as otherwise provided in paragraph (b), all public educational and ancillary plants constructed by a board must conform to the Florida Building Code and the Florida Fire Prevention Code, and the plants are exempt from all other state building codes; county, municipal, or other local amendments to the Florida Building Code and local amendments to the Florida Fire Prevention Code; building permits, and assessments of fees for building permits, except as provided in s. 553.80; ordinances; road closures; and impact fees or service availability fees. Any inspection by local or state government must be based on the Florida Building Code and the Florida Fire Prevention Code. Each board shall provide for periodic inspection of the proposed educational plant during each phase of construction to determine compliance with the State Requirements for Educational Facilities.

(b) A board may comply with the Florida Building Code and the Florida Fire Prevention Code and the administration of the codes when constructing ancillary plants that are not attached to educational facilities, if those plants conform to the space size requirements established in the codes.

(c) A board may not approve any plans for the construction, renovation, remodeling, or demolition of any educational or ancillary plants unless these plans conform to the requirements of the Florida Building Code and the Florida Fire Prevention Code. Each board may adopt policies for delegating to the district school superintendent, community college president, or university president authority for submitting documents to the department and for awarding contracts subsequent to and consistent with board approval of the scope, timeframes, funding source, and budget of a survey-recommended project.

(2) ENFORCEMENT BY BOARD.—It is the responsibility of each board to ensure that all plans and educational and ancillary plants meet the standards of the Florida Building Code and the Florida Fire Prevention Code and to provide for the enforcement of these codes in the areas of its jurisdiction. Each board shall provide for the proper supervision and inspection of the work. Each board may employ a chief building official or inspector and such other inspectors, who have been certified pursuant to chapter 468, and such personnel as are necessary to administer and enforce the provisions of this code. Boards may also use local building department inspectors who are certified by the department to enforce this code. Plans or facilities that fail to meet the standards of the Florida Building Code or the Florida Fire Prevention Code may not be approved. When planning for and constructing an educational, auxiliary, or ancillary facility, a board must use construction materials and systems that meet standards adopted pursuant to s. 1013.37(1)(e)3. and 4. If the planned or actual construction of a facility deviates from the adopted standards, the board must, at a public hearing, quantify and compare the costs of constructing the facility with the proposed deviations and in compliance with the adopted standards and the Florida Building Code. The board must explain the reason for the proposed deviations and compare how the total construction costs and projected life-cycle costs of the facility or component system of the facility would be affected by implementing the proposed deviations rather than using materials and systems that meet the adopted standards.

(3) ENFORCEMENT BY DEPARTMENT.—As a further means of ensuring that all educational and ancillary facilities constructed or materially altered or added to conform to the Florida Building Code standards or Florida Fire Prevention Code standards, each board that undertakes the construction, renovation, remodeling, purchasing, or lease-purchase of any educational plant or ancillary facility, the cost of which exceeds \$200,000, may submit plans to the department for approval.

History.—s. 835, ch. 2002-387.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.372 Education facilities as emergency shelters.—

(1) The Department of Education shall, in consultation with boards and county and state emergency management offices, include within the standards to be developed under this subsection public shelter design criteria to be incorporated into the Florida Building Code. The new criteria must be designed to ensure that appropriate new educational facilities can serve as public shelters for emergency management purposes. A facility, or an appropriate area within a facility, for which a design contract is entered into after the effective date of the inclusion of the public shelter criteria in the code must be built in compliance with the amended code unless the facility or a part of it is exempted from using the new shelter criteria due to its location, size, or other characteristics by the applicable board with the concurrence of the applicable local emergency management agency or the Department of Community Affairs. Any educational facility located or proposed to be located in an identified category 1, 2, or 3 evacuation zone is not subject to the requirements of this subsection. If the regional planning council region in which the county is located does not have a hurricane evacuation shelter deficit, as determined by the Department of Community Affairs, educational facilities within the planning council region are not required to incorporate the public shelter criteria.

(2) By January 31 of each even-numbered year, the Department of Community Affairs shall prepare and submit a statewide emergency shelter plan to the Governor and the Cabinet for approval. The plan must identify the general location and square footage of existing shelters, by regional planning council region, and the general location and square footage of needed shelters, by regional planning council region, during the next 5 years. The plan must identify the types of public facilities that should be constructed to comply with emergency-shelter criteria and must recommend an appropriate and available source of funding for the additional cost of constructing emergency-shelter space within these public facilities. After the approval of the plan, a board may not be required to build more emergency-shelter space than identified as needed in the plan, and decisions pertaining to exemptions pursuant to subsection (1) must be guided by the plan.

(3) The provisions of s. 1013.74 apply to university facilities as emergency shelters.
History.—s. 836, ch. 2002-387.

1013.38 Boards to ensure that facilities comply with building codes and life safety codes.—

(1) Boards shall ensure that all new construction, renovation, remodeling, day labor, and maintenance projects conform to the appropriate sections of the Florida Building Code, Florida Fire Prevention Code, or, where applicable as authorized in other sections of law, other building codes, and life safety codes.

(2) Boards may provide compliance as follows:

(a) Boards or consortia may individually or cooperatively provide review services under the insurance risk management oversight through the use of board employees or consortia employees, registered pursuant to chapter 471, chapter 481, or part XII of chapter 468.

(b) Boards may elect to review construction documents using their own employees registered pursuant to chapter 471, chapter 481, or part XII of chapter 468.

(c) Boards may submit phase III construction documents for review to the department.

(d) Boards or consortia may contract for plan review services directly with engineers and architects registered pursuant to chapter 471 or chapter 481.

(3) The Department of Management Services may, upon request, provide facilities services for the Florida School for the Deaf and the Blind, the Division of Blind Services, and public broadcasting. As used in this section, the term “facilities services” means project management, code and design plan review, and code compliance inspection for projects as defined in s. 287.017(5).

History.—s. 837, ch. 2002-387; s. 42, ch. 2010-151.

1013.39 Building construction standards; exemptions.—Universities are exempt from local amendments to the Florida Building Code and the Florida Fire Prevention Code.

History.—s. 838, ch. 2002-387.

1013.40 Planning and construction of ¹community college facilities; property acquisition.—

(1) The need for ¹community college facilities shall be established by a survey conducted pursuant to this chapter. The facilities recommended by such survey must be approved by the State Board of Education, and the projects must be constructed according to the provisions of this chapter and State Board of Education rules.

(2) No ¹community college may expend public funds for the acquisition of additional property without the specific approval of the Legislature.

(3) No facility may be acquired or constructed by a ¹community college or its direct-support organization if such facility requires general revenue funds for operation or maintenance upon project completion or in subsequent years of operation, unless prior approval is received from the Legislature.

(4) The campus of a ¹community college within a municipality designated as an area of critical state concern, as defined in s. 380.05, and having a comprehensive plan and land development regulations containing a building permit allocation system that limits annual growth, may construct dormitories for up to 100 beds for ¹community college students. Such dormitories shall be exempt from the building permit allocation system and may be constructed up to 45 feet in height provided that they are otherwise consistent with the comprehensive plan, the ¹community college has a hurricane evacuation plan that requires all dormitory occupants to be evacuated 48 hours in advance of tropical force winds, and that transportation is provided for dormitory occupants during an evacuation.

History.—s. 839, ch. 2002-387; s. 4, ch. 2008-213.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser’s bill to substitute the term “Florida College System institution” for the terms “Florida college,” “community college,” and “junior college” where those terms appear in the Florida K-20 Education Code.

1013.41 SMART schools; Classrooms First; legislative purpose.—

(1) SMART SCHOOLS.—“SMART schools” are schools that are soundly made, accountable, reasonable, and thrifty. It is the purpose of the Legislature to provide a balanced and principle-based plan for a functional, safe, adequate, and thrifty learning environment for Florida’s K-12 students through SMART schools. The plan must be balanced in serving all school districts and must also be balanced between the operating and capital sides of the budget. The principles upon which the plan is based are less government, lower taxes, increased responsibility of school districts, increased freedom through local control, and family and community empowerment.

(2) CLASSROOMS FIRST.—It is the purpose of the Legislature to substantially increase the state’s investment in school construction in an equitable, fair, and reasonable way.

(3) SCHOOL DISTRICT EDUCATIONAL FACILITIES PLAN.—It is the purpose of the Legislature to create s. 1013.35, requiring each school district annually to adopt an educational facilities plan that provides an integrated long-range facilities plan, including the survey of projected needs and the 5-year work program. The purpose of the educational facilities plan is to keep the district school board, local governments, and the public fully informed as to whether the district is using sound policies and practices that meet the essential needs of students and that warrant public confidence in district operations. The educational facilities plan will be monitored by the Office of Educational Facilities, which will also apply performance standards pursuant to s. 1013.04.

(4) OFFICE OF EDUCATIONAL FACILITIES.—It is the purpose of the Legislature to require the Office of Educational Facilities to assist school districts in building SMART schools utilizing functional and frugal practices. The Office of Educational Facilities must review district facilities work programs and projects and identify districts qualified for incentive funding available through School Infrastructure Thrift Program awards; identify opportunities to maximize design and construction savings; develop school district facilities work program performance standards; and provide for review and recommendations to the Governor, the Legislature, and the State Board of Education.

(5) EFFORT INDEX GRANTS.—It is the purpose of the Legislature to create s. 1013.73, in order to provide grants from state funds to assist school districts that have provided a specified level of local effort funding.

(6) SCHOOL INFRASTRUCTURE THRIFT (SIT) PROGRAM AWARDS.—It is the purpose of the Legislature to convert the SIT Program established in ss. 1013.42 and 1013.72 to an incentive award program to encourage functional, frugal facilities and practices. History.—s. 15, ch. 2002-296; s. 840, ch. 2002-387; s. 17, ch. 2010-70.

1013.42 School Infrastructure Thrift (SIT) Program Act.—

(1) This section and s. 1013.72 may be cited as the “School Infrastructure Thrift Program Act.”

(2) The School Infrastructure Thrift (SIT) Program is established within the Department of Education, and the State Board of Education may adopt rules as necessary to operate the program. To facilitate the program’s purposes, the department shall aggressively seek the elimination or revision of obsolete, excessively restrictive, or unnecessary laws, rules, and regulations for the purpose of reducing the cost of constructing educational facilities and related costs without sacrificing safety or quality of construction. Such efforts must include, but are not limited to, the elimination of duplicate or overlapping inspections; the relaxation of requirements relating to the life cycle of buildings, landscaping, operable glazing, operable windows, radon testing, and firesafety when lawful, safe, and cost-beneficial; and other cost savings identified as lawful, safe, and cost-beneficial.

(3) The SIT Program is designed as:

(a) An incentive program to reward districts for savings realized through functional, frugal construction.

(b) A recognition program to provide an annual SMART school of the year recognition award to the district that builds the highest quality functional, frugal school.

(4) Funds shall be appropriated to the SIT Program on an annual basis as determined by the Legislature. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, undisbursed balances of appropriations to the SIT Program shall not revert. It is the intent of the Legislature to continue funding the SIT Program with funds available through frugal government operation and agency savings.

(5) Participating school districts may seek SIT Program awards beginning July 1, 1997, for projects commenced after or for projects underway at that time, if the projects comply with s. 1013.72.

(6)(a) Each school district may submit to the Office of Educational Facilities, with supporting data, its request, based on eligibility pursuant to s. 1013.72 for an award of SIT Program dollars.

(b) The Office of Educational Facilities shall examine the supporting data from each school district and shall report to the commissioner each district’s eligibility pursuant to s. 1013.72. The office shall make recommendations, ranked in order of priority, for SIT Program awards to eligible districts. Priority shall be based on a review of the evaluations conducted under s. 1013.04, district facilities work programs, and proposed construction projects.

(c) The criteria for SIT Program evaluation and recommendation for awards must be based on the school district’s eligibility pursuant to s. 1013.72 and the balance of dollars in the SIT Program.

(7) Awards from the SIT Program shall be made by the commissioner from funds appropriated by the Legislature. An award funded by an appropriation from the General Revenue Fund may be used for any lawful capital outlay expenditure. An award funded by an appropriation of the proceeds of bonds issued pursuant to s. 1013.70 may be used only for bondable capital outlay projects.

History.—s. 841, ch. 2002-387; s. 18, ch. 2010-70.

1013.44 Low-energy use design; solar energy systems; swimming pool heaters.—

(1)(a) Passive design elements and low-energy usage features shall be included in the design and construction of new educational facilities. Operable glazing consisting of at least 5 percent of the floor area shall be placed in each classroom located on the perimeter of the building. For a relocatable classroom, the area of operable glazing and the area of exterior doors, together, shall consist of at least 5 percent of the floor area. Operable glazing is not required in community colleges, auxiliary facilities, music rooms, gyms, locker and shower rooms, special laboratories requiring special climate control, and large group instruction areas having a capacity of more than 100 persons.

(b) In the remodeling and renovation of educational facilities which have existing natural ventilation, adequate sources of natural ventilation shall be retained, or a combination of natural and low-energy usage mechanical equipment shall be provided that will permit the use of the facility without air-conditioning or heat when ambient conditions are moderate. However, the Commissioner of Education is authorized to waive this requirement when environmental conditions, particularly noise and pollution factors, preclude the effective use of natural ventilation.

(2) Each new educational facility for which the projected demand for hot water exceeds 1,000 gallons a day shall be constructed, whenever economically and physically feasible, with a solar energy system as the primary energy source for the domestic hot water system of the facility. The solar energy system shall be sized so as to provide at least 65 percent of the estimated needs of the facility. Sizing shall be determined by generally recognized simulation models, such as F-chart and SOLCOST, or by sizing tables generated by the Florida Solar Energy Center.

(3) If swimming and wading pools constructed as an integral part of an educational facility or plant are heated, such pools shall, whenever feasible, be heated by either a waste heat recovery system or a solar energy system.

History.—s. 843, ch. 2002-387.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.45 Educational facilities contracting and construction techniques.—

(1) Boards may employ procedures to contract for construction of new facilities, or for additions, remodeling, renovation, maintenance, or repairs to existing facilities, that will include, but not be limited to:

(a) Competitive bids.

(b) Design-build pursuant to s. 287.055.

(c) Selecting a construction management entity, pursuant to s. 255.103 or the process provided by s. 287.055, that would be responsible for all scheduling and coordination in both design and construction phases and is generally responsible for the successful, timely, and economical completion of the construction project. The construction management entity must consist of or contract with licensed or registered professionals for the specific fields or areas of construction to be performed, as required by law. At the option of the board, the construction management entity, after having been selected, may be required to offer a guaranteed maximum price or a guaranteed completion date; in which case, the construction management entity must secure an appropriate surety bond pursuant to s. 255.05 and must hold construction subcontracts. The criteria for selecting a construction management entity shall not unfairly penalize an entity that has relevant experience in the delivery of construction projects of similar size and complexity by methods of delivery other than construction management.

(d) Selecting a program management entity, pursuant to s. 255.103 or the process provided by s. 287.055, that would act as the agent of the board and would be responsible for schedule control, cost control, and coordination in providing or procuring planning, design, and construction services. The program management entity must consist of or contract with licensed or registered professionals for the specific areas of design or construction to be performed as required by law. The program management entity may retain necessary design professionals selected under the process provided in s. 287.055. At the option of the board, the program management entity, after having been selected, may be required to offer a guaranteed maximum price or a guaranteed completion date, in which case the program management entity must secure an appropriate surety bond pursuant to s. 255.05 and must hold design and construction subcontracts. The criteria for selecting a program management entity shall not unfairly penalize an entity that has relevant experience in the delivery of construction programs of similar size and complexity by methods of delivery other than program management.

(e) Day-labor contracts not exceeding \$280,000 for construction, renovation, remodeling, or maintenance of existing facilities. Beginning January 2009, this amount shall be adjusted annually based upon changes in the Consumer Price Index.

(2) For the purposes of this section, "day-labor contract" means a project constructed using persons employed directly by a board or by contracted labor.

(3) Contractors, design-build firms, contract management entities, program management entities, or any other person under contract to construct facilities or major additions to facilities may use any construction techniques allowed by contract and not prohibited by law, including, but not limited to, those techniques known as fast-track construction scheduling, use of components, and systems building process.

(4) Except as otherwise provided in this section and s. 481.229, the services of a registered architect must be used for the development of plans for the erection, enlargement, or alteration of any educational facility. The services of a registered architect are not required for a minor renovation project for which the construction cost is less than \$50,000 or for the placement or hookup of relocatable educational facilities that conform with standards adopted under s. 1013.37. However, boards must provide compliance with building code requirements and ensure that these structures are adequately anchored for wind resistance as required by law. A district school board shall reuse existing construction documents or design criteria packages if such reuse is feasible and practical. If a school district's 5-year educational facilities work plan includes the construction of two or more new schools for students in the same grade group and program, such as elementary, middle, or high school, the district school board shall require that prototype design and construction be used for the construction of these schools. Notwithstanding s. 287.055, a board may purchase the architectural services for the design of educational or ancillary facilities under an existing contract agreement for professional services held by a district school board in the State of Florida, provided that the purchase is to the economic advantage of the purchasing board, the services conform to the standards prescribed by rules of the State Board of Education, and such reuse is not without notice to, and permission from, the architect of record whose plans or design criteria are being reused. Plans shall be reviewed for compliance with the State Requirements for Educational Facilities. Rules adopted under this section must establish uniform prequalification, selection, bidding, and negotiation procedures applicable to construction management contracts and the design-build process. This section does not supersede any small, woman-owned or minority-owned business enterprise preference program adopted by a board. Except as otherwise provided in this section, the negotiation procedures applicable to construction management contracts and the design-build process must conform to the requirements of s. 287.055. A board may not modify any rules regarding construction management contracts or the design-build process.

History.—s. 844, ch. 2002-387; s. 15, ch. 2008-142; s. 3, ch. 2008-213; s. 5, ch. 2009-227; s. 131, ch. 2010-5.

1013.451 Life-cycle costs comparison.—

(1) In order to ensure that the construction of new and expanded education facilities provides the best long-term value, school districts shall compare the following life-cycle costs of materials used by competing providers when constructing or expanding school capacity:

- (a) The anticipated annual energy consumption;
- (b) The relative resistance to damage by wind loads and associated debris;
- (c) The resistance to wood-destroying organisms;
- (d) The perpetual maintenance costs;
- (e) The resistance to fire; and
- (f) A comparison of the annual insurance costs.

(2) School districts may rely on the information provided by contractors if the contractor's analysis is based on the best currently available methods, including those of the National Institute of Standards and Technology, the Department of Housing and Urban Development, and other federal and state agencies and technical or professional societies.

History.—s. 52, ch. 2003-391.

C. Contracting for Educational Facilities

1013.46 Advertising and awarding contracts; prequalification of contractor.

1013.47 Substance of contract; contractors to give bond; penalties.

1013.48 Changes in construction requirements after award of contract.

1013.49 Toxic substances in construction, repair, or maintenance of educational facilities.

1013.50 Final payment to contractor.

1013.502 A Business-Community (ABC) school facilities; standards.

1013.51 Expenditures authorized for certain infrastructure.

1013.512 Land Acquisition and Facilities Advisory Board.

1013.46 Advertising and awarding contracts; prequalification of contractor.—

(1)(a) As soon as practicable after any bond issue has been voted upon and authorized or funds have been made available for the construction, remodeling, renovation, demolition, or otherwise for the improvement, of any educational or ancillary plant, and after plans for the work have been approved, the board, if competitively bidding the project pursuant to s. 1013.45, after advertising the same in the manner prescribed by law or rule, shall award the contract for the building or improvements to the lowest responsible bidder. However, if after taking all deductive alternates, the bid of the lowest responsible bidder exceeds the construction budget for the project established at the phase III submittal, the board may declare an emergency. After stating the reasons why an emergency exists, the board may negotiate the construction contract or modify the contract, including the specifications, with the lowest responsible bidder and, if the contract is modified, shall resubmit the documents to the authorized review authority for review to confirm that the project remains in compliance with building and fire codes. The board may reject all bids received and may readvertise, calling for new bids.

(b) Each board may declare an emergency pursuant to this subsection. A situation created by fire, storm, or other providential cause resulting in:

1. Imminent danger to life or safety; or
2. Overcrowding of students

constitutes an emergency.

(c) As an option, any county, municipality, or board may set aside up to 10 percent of the total amount of funds allocated for the purpose of entering into construction capital project contracts with minority business enterprises, as defined in s. 287.094. Such contracts shall be competitively bid only among minority business enterprises. The set-aside shall be used to redress present effects of past discriminatory practices and shall be subject to periodic reassessment to account for changing needs and circumstances.

(2) Boards shall prequalify bidders for construction contracts. Boards shall require that all construction or capital improvement bids be accompanied by evidence that the bidder holds an appropriate certificate or license or that the prime contractor has a current valid license.

History.—s. 846, ch. 2002-387; s. 179, ch. 2007-217.

1013.47 Substance of contract; contractors to give bond; penalties.—Each board shall develop contracts consistent with this chapter and statutes governing public facilities. Such a contract must contain the drawings and specifications of the work to be done and the material to be furnished, the time limit in which the construction is to be completed, the time and method by which payments are to be made upon the contract, and the penalty to be paid by the contractor for any failure to comply with the terms of the contract. The board may require the contractor to pay a penalty for any failure to comply with the terms of the contract and may provide an incentive for early completion. Upon accepting a satisfactory bid, the board shall enter into a contract with the party or parties whose bid has been accepted. The contractor shall furnish the board with a performance and payment bond as set forth in s. 255.05. A board or other public entity may not require a contractor to secure a surety bond under s. 255.05 from a specific agent or bonding company. Notwithstanding any other provision of this section, if 25 percent or more of the costs of any construction project is paid out of a trust fund established pursuant to '31 U.S.C. s. 1243(a)(1), laborers

and mechanics employed by contractors or subcontractors on such construction will be paid wages not less than those prevailing on similar construction projects in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. A person, firm, or corporation that constructs any part of any educational plant, or addition thereto, on the basis of any unapproved plans or in violation of any plans approved in accordance with the provisions of this chapter and rules of the State Board of Education or regulations of the Board of Governors relating to building standards or specifications is subject to forfeiture of bond and unpaid compensation in an amount sufficient to reimburse the board for any costs that will need to be incurred in making any changes necessary to assure that all requirements are met and is also guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for each separate violation.

History.—s. 847, ch. 2002-387; s. 180, ch. 2007-217; s. 33, ch. 2010-78.

¹Note.—This section no longer exists at this location.

1013.48 Changes in construction requirements after award of contract.—The board may, at its option and by written policy duly adopted and entered in its official minutes, authorize the superintendent or president or other designated individual to approve change orders in the name of the board for preestablished amounts. Approvals shall be for the purpose of expediting the work in progress and shall be reported to the board and entered in its official minutes. For accountability, the school district shall monitor and report the impact of change orders on its district educational facilities plan pursuant to s. 1013.35.

History.—s. 27, ch. 2002-296; s. 848, ch. 2002-387.

1013.49 Toxic substances in construction, repair, or maintenance of educational facilities.—

(1) All toxic substances enumerated in the Florida Substance List established pursuant to ¹s. 442.103 that are to be used in the construction, repair, or maintenance of educational facilities have restricted usage provisions.

(2) Before any such substance may be used, the contractor shall notify the district school superintendent or public postsecondary institution president in writing at least 3 working days prior to using the substance. The notification shall contain:

- (a) The name of the substance to be used;
- (b) Where the substance is to be used; and
- (c) When the substance is to be used.

A copy of a material safety data sheet as defined in ¹s. 442.102 shall be attached to the notification for each such substance.

History.—s. 849, ch. 2002-387.

¹Note.—Repealed by s. 14, ch. 99-240; confirmed by s. 9, ch. 2001-65.

1013.50 Final payment to contractor.—

(1) The final payment to the contractor shall not be made until the construction project has been inspected by the architect or other person designated by the board for that purpose and until he or she has issued a written certificate that the project has been constructed in accordance with the approved plans and specifications and approved change orders and until the board, acting on these recommendations, has accepted the project. After acceptance by the board, a duplicate copy of this written certificate, duly certified as having been accepted by the board, as well as other related data on contract costs and total costs per student station, space inventory update, and other related building information must be filed with the department for budget and cost reporting purposes.

(2) Boards shall have full authority and responsibility for all decisions regarding educational and ancillary plant construction contracts, change orders, and payments.

History.—s. 850, ch. 2002-387.

1013.502 A Business-Community (ABC) school facilities; standards.—Notwithstanding any local government ordinance or regulation, any business or corporation may expand the square footage or floor area of its current or proposed facility to accommodate an ABC school, as described under s. 1013.721. Facilities constructed to house an ABC school must comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to s. 1013.37 and must meet state and local health, environmental, and safety laws and codes.

History.—s. 22, ch. 2003-391; s. 7, ch. 2006-301.

1013.51 Expenditures authorized for certain infrastructure.—

(1)(a) Subject to exemption from the assessment of fees pursuant to s. 1013.37(1), education boards, boards of county commissioners, municipal boards, and other agencies and boards of the state may expend funds, separately or collectively, by contract or agreement, for the placement, paving, or maintaining of any road, byway, or sidewalk if the road, byway, or sidewalk is contiguous to or runs through the property of any educational plant or for the maintenance or improvement of the property of any educational plant or of any facility on such property. Expenditures may also be made for sanitary sewer, water, stormwater, and utility improvements upon, or contiguous to, and for the installation, operation, and maintenance of traffic control and safety devices upon, or contiguous to, any existing or proposed educational plant.

(b) A board may pay its proportionate share of the cost of onsite and offsite system improvements necessitated by the educational facility development, but a board is not required to pay for or install any improvements that exceed those required to meet the onsite and

offsite needs of a new public educational facility or an expanded site. Development exactions assessed against school boards or community college districts may not exceed the proportionate share of the cost of system improvements necessitated by the educational facility development and may not address existing facility or service backlogs or deficits.

(c) The boards of county commissioners, municipal boards, and other agencies and boards of the state may plant or maintain trees, flowers, shrubbery, and beautifying plants upon the grounds of any educational plant, upon approval of the superintendent or president or the designee of either of them. Payment by a board for any improvement set forth in this section shall be authorized in any amounts agreed to by the board. Any payments so authorized to be made are not mandatory unless the specific improvement and costs have been agreed to prior to the improvement's being made.

(2) The provisions of any law, municipal ordinance, or county ordinance to the contrary notwithstanding, the provisions of this section regulate the levying of assessments for special benefits on school or community college districts and the directing of the payment thereof. Any municipal ordinance or county ordinance making provision to the contrary is void.

(3) Notwithstanding any other law, if a board agrees to construct or upgrade water or sewer facilities, or otherwise provide, construct, upgrade, or maintain offsite infrastructure beyond its proportionate share of responsibility, the local government that issues development approvals shall assure that the board is reimbursed for the additional costs incurred, to the extent that other development occurs which demands use of such infrastructure.

(4) Expenditure for infrastructure for universities shall be as authorized in s. 1013.30.

History.—s. 851, ch. 2002-387.

Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.512 Land Acquisition and Facilities Advisory Board.—

(1) The Legislature recognizes that effective land acquisition and facilities operations are essential components of Florida district school boards' ability to provide facilities to accommodate the growing student population in the state. To support and assist the school districts, it is appropriate for the Legislature to make advisory resources available to aid districts in meeting those needs.

(2) If the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA) or the Auditor General determines in a review or examination that significant deficiencies exist in a school district's land acquisition and facilities operational processes, he or she shall certify to the President of the Senate, the Speaker of the House of Representatives, the Legislative Budget Commission, and the Governor that the deficiency exists. Upon recommendation by the Governor, the Legislative Budget Commission shall approve or disapprove the placement of school district funds in reserve until the deficiencies are corrected.

(3) After receipt of that certification, the President of the Senate, the Speaker of the House of Representatives, and the Governor shall name a Land Acquisition and Facilities Advisory Board to provide expert advice and assist in improving the district's land acquisition and facilities operational processes. Each Land Acquisition and Facilities Advisory Board shall consist of seven members and shall possess specific expertise needed to assist the school district in improving its deficient processes. The President of the Senate and the Speaker of the House of Representatives shall each appoint two members, and the Governor shall appoint three members of the advisory board. Membership of each advisory board may be different for each district. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in accordance with s. 112.061.

(4) Within 30 days of its formation, the Land Acquisition and Facilities Advisory Board shall convene in the district and make all reasonable efforts to help the district correct deficiencies noted in the examination or audit of the district. The district must cooperate with the advisory board and provide information as requested.

(5) Within 60 days of convening, the Land Acquisition and Facilities Advisory Board shall assess the district's progress and corrective actions and report to the Commissioner of Education. The advisory board's report must address the release of any funds placed in reserve by the Executive Office of the Governor. Any recommendation from the advisory board for the release of funds shall include a certification that policies established, procedures followed, and expenditures made by the school board related to site acquisition and facilities planning and construction are consistent with recommendations of the Land Acquisition and Facilities Advisory Board and will accomplish corrective action and address recommendations made by the Office of Program Policy Analysis and Government Accountability and the Auditor General. If the advisory board does not recommend release of the funds held in reserve, they shall provide additional assistance and submit a subsequent report 60 days after the previous report.

(6) Upon certification by the advisory board that corrective action has been taken, each Land Acquisition and Facilities Advisory Board shall be disbanded.

History.—s. 10, ch. 2001-86; ss. 8, 9, ch. 2002-402; s. 61, ch. 2005-152.

Note.—Former s. 230.23024.

D. Cooperative Development of Educational Facilities

1013.52 Cooperative development and joint use of facilities by two or more boards.

1013.53 Cooperative development of educational facilities in juvenile justice programs.

1013.54 Cooperative development and use of satellite facilities by private industry and district school boards.

1013.52 Cooperative development and joint use of facilities by two or more boards. —

(1) Two or more boards, including district school boards, ¹community college boards of trustees, the Board of Trustees for the Florida School for the Deaf and the Blind, and university boards of trustees, desiring to cooperatively establish a common educational facility to accommodate students shall:

(a) Jointly request a formal assessment by the Commissioner of Education or the Chancellor of the State University System, as appropriate, of the academic program need and the need to build new joint-use facilities to house approved programs. Completion of the assessment and approval of the project by the State Board of Education, the Board of Governors, the Chancellor of the State University System, or the Commissioner of Education, as appropriate, should be done prior to conducting an educational facilities survey.

(b) Demonstrate the need for construction of new joint-use facilities involving postsecondary institutions by those institutions presenting evidence of the presence of sufficient actual full-time equivalent enrollments in the locale in leased, rented, or borrowed spaces to justify the requested facility for the programs identified in the formal assessment rather than using projected or anticipated future full-time equivalent enrollments as justification. If the decision is made to construct new facilities to meet this demonstrated need, then building plans should consider full-time equivalent enrollment growth facilitated by this new construction and subsequent new program offerings made possible by the existence of the new facilities.

(c) Adopt and submit to the Commissioner of Education, and the Chancellor of the State University System if the joint request involves a state university, a joint resolution of the participating boards indicating their commitment to the utilization of the requested facility and designating the locale of the proposed facility. The joint resolution shall contain a statement of determination by the participating boards that alternate options, including the use of leased, rented, or borrowed space, were considered and found less appropriate than construction of the proposed facility. The joint resolution shall contain assurance that the development of the proposed facility has been examined in conjunction with the programs offered by neighboring public educational facilities offering instruction at the same level. The joint resolution also shall contain assurance that each participating board shall provide for continuity of educational progression. All joint resolutions shall be submitted by August 1 for consideration of funding by the subsequent Legislature.

(d) Submit requests for funding of joint-use facilities projects involving state universities and ¹community colleges for approval by the Commissioner of Education and the Chancellor of the State University System. The Commissioner of Education and the Chancellor of the State University System shall jointly determine the priority for funding these projects in relation to the priority of all other capital outlay projects under their consideration. To be eligible for funding from the Public Education Capital Outlay and Debt Service Trust Fund under the provisions of this section, projects involving both state universities and ¹community colleges shall appear on the 3-year capital outlay priority lists of ¹community colleges and of universities required by s. 1013.64. Projects involving a state university, ¹community college, and a public school, and in which the larger share of the proposed facility is for the use of the state university or the ¹community college, shall appear on the 3-year capital outlay priority lists of the ¹community colleges or of the universities, as applicable.

(e) Include in their joint resolution for the joint-use facilities, comprehensive plans for the operation and management of the facility upon completion. Institutional responsibilities for specific functions shall be identified, including designation of one participating board as sole owner of the facility. Operational funding arrangements shall be clearly defined.

(2) An educational plant survey must be conducted within 90 days after submission of the joint resolution and substantiating data describing the benefits to be obtained, the programs to be offered, and the estimated cost of the proposed project. Upon completion of the educational plant survey, the participating boards may include the recommended projects in their plan as provided in s. 1013.31. Upon approval of the project by the commissioner or the Chancellor of the State University System, as appropriate, 25 percent of the total cost of the project, or the pro rata share based on space utilization of 25 percent of the cost, must be included in the department's legislative capital outlay budget request as provided in s. 1013.60 for educational plants. The participating boards must include in their joint resolution a commitment to finance the remaining funds necessary to complete the planning, construction, and equipping of the facility. Funds from the Public Education Capital Outlay and Debt Service Trust Fund may not be expended on any project unless specifically authorized by the Legislature.

(3) Included in all proposals for joint-use facilities must be documentation that the proposed new campus or new joint-use facility has been reviewed by the State Board of Education or the Board of Governors, as appropriate, and has been formally requested for authorization by the Legislature.

(4) No district school board, ¹community college, or state university shall receive funding for more than one approved joint-use facility per campus in any 3-year period.

History.—s. 853, ch. 2002-387; s. 181, ch. 2007-217.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.53 Cooperative development of educational facilities in juvenile justice programs. —

(1) The Department of Juvenile Justice shall provide early notice to school districts regarding the siting of new juvenile justice facilities. School districts shall include the projected number of students in the districts' annual estimates. School districts must be consulted regarding the types of students expected to be assigned to commitment facilities for education planning and budgeting purposes.

(2) The Department of Juvenile Justice shall notify, in writing, the Department of Education when a request for proposals is issued for the construction or operation of a commitment or detention facility anywhere in the state. The Department of Juvenile Justice shall notify, in writing, the appropriate school district when a request for proposals is issued for the construction or operation of a commitment or detention facility when a county or site is specifically identified.

(3) The Department of Juvenile Justice shall also notify the district school superintendent within 30 days after:

(a) The award of a contract for the construction or operation of a commitment or detention facility within that school district.

(b) Obtaining a permit to begin construction of a new detention or commitment facility within that school district.

History.—s. 854, ch. 2002-387.

1013.54 Cooperative development and use of satellite facilities by private industry and district school boards.—

(1) Each district school board may submit, prior to August 1 of each year, a request to the commissioner for funds from the Public Education Capital Outlay and Debt Service Trust Fund to construct, remodel, or renovate an educational facility within the industrial environment. No district school board may apply for more than one facility per year. Such request shall contain the following provisions:

(a) A detailed description of the satellite site, the site development necessary for new construction, remodeling, or renovation for the accomplishment of the project, and the facility to be constructed. The facility shall be located on a site owned by the business and leased to the district school board at no cost. However, the minimum agreement shall be for a period of at least 5 years. The amounts provided by the state and the district school board shall be considered full consideration for the lease. If the lease agreement is terminated early, the business shall reimburse the district school board an amount determined by multiplying the amounts contributed by the district school board and the state by a fraction the numerator of which is the number of months remaining in the original agreement and the denominator of which is the total number of months of the agreement.

(b) A detailed description and analysis of the educational programs to be offered and the benefits that will accrue to the students through the instructional programs upon completion of the facility.

(c) The estimated number of full-time students whose regularly scheduled daily instructional program will utilize the facility.

(d) The estimated cost of the facility and site development not to exceed the department's average cost of new construction adjusted to the respective county cost index. If a site must be acquired, the estimated cost of the site shall be provided.

(e) A resolution or other appropriate indication of intent to participate in the funding and utilization of the educational facility from private industry. Such indication shall include a commitment by private industry to provide at least one-half of the cost of the facility. The district school board shall provide one-fourth of the cost of the facility, and, if approved, the state shall provide one-fourth of the cost of the facility. Funds from the Public Education Capital Outlay and Debt Service Trust Fund may not be expended on any project unless specifically authorized by the Legislature.

(f) The designation as to which agency is to assume responsibility for the operation, maintenance, and control of the proposed facility.

(g) Documentation by the district school board that a long-term lease for the use of the educational facility for a period of not less than 40 years or the life expectancy of the permanent facility constructed thereon, whichever is longer, has been obtained from private industry.

(2) The commissioner shall appoint a review committee to make recommendations and prioritize requests. If the project is approved by the commissioner, the commissioner shall include up to one-fourth of the cost of the project in the legislative capital outlay budget request, as provided in s. 1013.60, for the funding of capital outlay projects involving both educational and private industry. The commissioner shall prioritize any such projects for each fiscal year and, notwithstanding the provisions of s. 1013.64(3)(c), limit the recommended state funding amount not to exceed 5 percent off the top of the total funds recommended pursuant to s. 1013.64(2) and (3).

(3) Facilities funded pursuant to this section and all existing satellite facilities shall be exempt from ad valorem taxes as long as the facility is used exclusively for public educational purposes.

History.—s. 855, ch. 2002-387.

PART IV FUNDING FOR EDUCATIONAL FACILITIES

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1013.60 Legislative capital outlay budget request. —

(1) The Commissioner of Education shall develop a procedure deemed appropriate in arriving at the amounts required to fund projects as reflected in the integrated, comprehensive budget request required by this section. The official estimates for funds accruing to the Public Education Capital Outlay and Debt Service Trust Fund made by the Revenue Estimating Conference shall be used in determining the budget request pursuant to this section. The commissioner, in consultation with the appropriations committees of the Legislature, shall provide annually an estimate of funds that shall be utilized by ¹community colleges and universities in developing their required 3-year priority lists pursuant to s. 1013.64.

(2) The commissioner shall submit to the Governor and to the Legislature an integrated, comprehensive budget request for educational facilities construction and fixed capital outlay needs for school districts, ¹community colleges, and universities, pursuant to the provisions of s. 1013.64 and applicable provisions of chapter 216. Each ¹community college board of trustees and each university board of trustees shall submit to the commissioner a 3-year plan and data required in the development of the annual capital outlay budget. The information that is approved by the Board of Governors must be submitted to the Commissioner of Education for inclusion in the comprehensive budget request for educational facilities. No further disbursements shall be made from the Public Education Capital Outlay and Debt Service Trust Fund to a board of trustees that fails to timely submit the required data until such board of trustees submits the data.

(3) The commissioner shall submit an integrated, comprehensive budget request to the Executive Office of the Governor and to the Legislature each fiscal year by the submission date specified in s. 216.023(1). Notwithstanding the provisions of s. 216.043, the integrated, comprehensive budget request shall include:

(a) Recommendations for the priority of expenditure of funds in the state system of public education, with reasons for the recommended priorities, and other recommendations which relate to the effectiveness of the educational facilities construction program.

(b) All items in s. 1013.64.

History.—s. 857, ch. 2002-387; s. 182, ch. 2007-217.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.61 Annual capital outlay budget.—Each board shall, each year, adopt a capital outlay budget for the ensuing year in order that the capital outlay needs of the board for the entire year may be well understood by the public. This capital outlay budget shall be a part of the annual budget and shall be based upon and in harmony with the board's capital outlay plan. This budget shall designate the proposed capital outlay expenditures by project for the year from all fund sources. The board may not expend any funds on any project not included in the budget, as amended. Each district school board must prepare its tentative district educational facilities plan as required by s. 1013.35 before adopting the capital outlay budget.

History.—s. 16, ch. 2002-296; s. 858, ch. 2002-387.

1013.62 Charter schools capital outlay funding.—

(1) In each year in which funds are appropriated for charter school capital outlay purposes, the Commissioner of Education shall allocate the funds among eligible charter schools.

(a) To be eligible for a funding allocation, a charter school must:

1.a. Have been in operation for 3 or more years;

b. Be governed by a governing board established in the state for 3 or more years which operates both charter schools and conversion charter schools within the state;

c. Be an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds;

d. Have been accredited by the Commission on Schools of the Southern Association of Colleges and Schools; or

- e. Serve students in facilities that are provided by a business partner for a charter school-in-the-workplace pursuant to s. 1002.33(15)
- (b).
 2. Have financial stability for future operation as a charter school.
 3. Have satisfactory student achievement based on state accountability standards applicable to the charter school.
 4. Have received final approval from its sponsor pursuant to s. 1002.33 for operation during that fiscal year.
 5. Serve students in facilities that are not provided by the charter school's sponsor.

(b) The first priority for charter school capital outlay funding is to allocate to charter schools that received funding in the 2005-2006 fiscal year an allocation of the same amount per capital outlay full-time equivalent student, up to the lesser of the actual number of capital outlay full-time equivalent students in the current year, or the capital outlay full-time equivalent students in the 2005-2006 fiscal year. After calculating the first priority, the second priority is to allocate excess funds remaining in the appropriation in an amount equal to the per capital outlay full-time equivalent student amount in the first priority calculation to eligible charter schools not included in the first priority calculation and to schools in the first priority calculation with growth greater than the 2005-2006 capital outlay full-time equivalent students. After calculating the first and second priorities, excess funds remaining in the appropriation must be allocated to all eligible charter schools.

(c) A charter school's allocation may not exceed one-fifteenth of the cost per student station specified in s. 1013.64(6)(b). Before releasing capital outlay funds to a school district on behalf of the charter school, the Department of Education must ensure that the district school board and the charter school governing board enter into a written agreement that provides for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the district school board, as provided for in subsection (3) if the school terminates operations. Any funds recovered by the state shall be deposited in the General Revenue Fund.

(d) A charter school is not eligible for a funding allocation if it was created by the conversion of a public school and operates in facilities provided by the charter school's sponsor for a nominal fee, or at no charge, or if it is directly or indirectly operated by the school district.

(e) Unless otherwise provided in the General Appropriations Act, the funding allocation for each eligible charter school is determined by multiplying the school's projected student enrollment by one-fifteenth of the cost-per-student station specified in s. 1013.64(6)(b) for an elementary, middle, or high school, as appropriate. If the funds appropriated are not sufficient, the commissioner shall prorate the available funds among eligible charter schools. However, a charter school or charter lab school may not receive state charter school capital outlay funds greater than the one-fifteenth cost per student station formula if the charter school's combination of state charter school capital outlay funds, capital outlay funds calculated through the reduction in the administrative fee provided in s. 1002.33(20), and capital outlay funds allowed in s. 1002.32(9)(e) and (h) exceeds the one-fifteenth cost per student station formula.

(f) Funds shall be distributed on the basis of the capital outlay full-time equivalent membership by grade level, which is calculated by averaging the results of the second and third enrollment surveys. The Department of Education shall distribute capital outlay funds monthly, beginning in the first quarter of the fiscal year, based on one-twelfth of the amount the department reasonably expects the charter school to receive during that fiscal year. The commissioner shall adjust subsequent distributions as necessary to reflect each charter school's actual student enrollment as reflected in the second and third enrollment surveys. The commissioner shall establish the intervals and procedures for determining the projected and actual student enrollment of eligible charter schools.

(2) A charter school's governing body may use charter school capital outlay funds for the following purposes:

- (a) Purchase of real property.
- (b) Construction of school facilities.
- (c) Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- (d) Purchase of vehicles to transport students to and from the charter school.
- (e) Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer.
- (f) Effective July 1, 2008, purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements.
- (g) Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.
- (h) Purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.

Conversion charter schools may use capital outlay funds received through the reduction in the administrative fee provided in s. 1002.33(20) for renovation, repair, and maintenance of school facilities that are owned by the sponsor.

(3) When a charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with district public funds shall revert to the ownership of the district school board, as provided for in s. 1002.33(8)(e) and (f). In the case of a charter lab school, any unencumbered funds and all equipment and property purchased with university public funds shall revert to the ownership of the state university that issued the charter. The reversion of such equipment, property, and furnishings shall focus on recoverable assets, but not on intangible or irrecoverable costs such as rental or leasing fees, normal maintenance, and limited renovations. The reversion of all property secured with public funds is subject to the complete satisfaction of all lawful liens or encumbrances. If there are additional local issues such as the shared use of facilities or partial ownership of facilities or property, these issues shall be agreed to in the charter contract prior to the expenditure of funds.

(4) The Commissioner of Education shall specify procedures for submitting and approving requests for funding under this section and procedures for documenting expenditures.

(5) The annual legislative budget request of the Department of Education shall include a request for capital outlay funding for charter schools. The request shall be based on the projected number of students to be served in charter schools who meet the eligibility requirements of this section. A dedicated funding source, if identified in writing by the Commissioner of Education and submitted along with the annual charter school legislative budget request, may be considered an additional source of funding.

(6) Unless authorized otherwise by the Legislature, allocation and proration of charter school capital outlay funds shall be made to eligible charter schools by the Commissioner of Education in an amount and in a manner authorized by subsection (1).

History.—s. 859, ch. 2002-387; s. 4, ch. 2003-393; s. 8, ch. 2006-27; s. 39, ch. 2009-59; s. 35, ch. 2010-154.

1013.63 University Concurrency Trust Fund.—

(1) The University Concurrency Trust Fund is created within the Department of Education.

(2) The trust fund may be funded each fiscal year as provided in the General Appropriations Act. Moneys in such trust fund shall be for the purpose of funding university offsite improvements required to meet concurrency standards adopted under part II of chapter 163. In addition, in any year in which campus master plans are updated pursuant to s. 1013.30, but no more frequently than once every 5 years, up to 25 percent of the balance in the trust fund for that year may be used to defray the costs incurred in updating those campus master plans.

(3)(a) The trust fund is exempt from the service charges imposed by s. 215.20.

(b) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of the fiscal year shall remain in the trust fund and shall be available for carrying out the purposes of the trust fund.

History.—s. 860, ch. 2002-387; s. 1, ch. 2003-178; s. 2, ch. 2007-17; s. 15, ch. 2008-114.

1013.64 Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(1)(a) Funds for remodeling, renovation, maintenance, repairs, and site improvement for existing satisfactory facilities shall be given priority consideration by the Legislature for appropriations allocated to the boards from the total amount of the Public Education Capital Outlay and Debt Service Trust Fund appropriated. These funds shall be calculated pursuant to the following basic formula: the building value times the building age over the sum of the years' digits assuming a 50-year building life. For modular noncombustible facilities, a 35-year life shall be used, and for relocatable facilities, a 20-year life shall be used. "Building value" is calculated by multiplying each building's total assignable square feet times the appropriate net-to-gross conversion rate found in state board rules and that product times the current average new construction cost. "Building age" is calculated by multiplying the prior year's building age times 1 minus the prior year's sum received from this subsection divided by the prior year's building value. To the net result shall be added the number 1. Each board shall receive the percentage generated by the preceding formula of the total amount appropriated for the purposes of this section.

(b) Each board is prohibited from using the funds received pursuant to this section to supplant funds in the current fiscal year approved operating budget, and all budgeted funds shall be expended at a rate not less than would have been expended had the funds under this section not been received.

(c) Each remodeling, renovation, maintenance, repair, or site improvement project will expand or upgrade current educational plants to prolong the useful life of the plant.

(d) Each board shall maintain fund accounting in a manner which will permit a detailed audit of the funds expended in this program.

(e) Remodeling projects shall be based on the recommendations of a survey pursuant to s. 1013.31.

(f) At least one-tenth of a board's annual allocation provided under this section shall be spent to correct unsafe, unhealthy, or unsanitary conditions in its educational facilities, as required by s. 1013.12, or a lesser amount sufficient to correct all deficiencies cited in its annual comprehensive safety inspection reports. This paragraph shall not be construed to limit the amount a board may expend to correct such deficiencies.

(g) When an existing educational plant is determined to be unsatisfactory pursuant to the survey conducted under s. 1013.31, the board may, by resolution, designate the plant as a historic educational facility and may use funds generated for renovation and remodeling pursuant to this section to restore the facility for use by the board. The board shall agree to pay renovation and remodeling costs in excess of funds which such facility would have generated through the depreciation formula in paragraph (a) had the facility been determined to be satisfactory. The board shall further agree that the plant shall continue to house students. The board may designate a plant as a historic educational facility only if the Division of Historical Resources of the Department of State or the appropriate historic preservation board under chapter 266 certifies that:

1. The plant is listed or determined eligible for listing in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended, 16 U.S.C. s. 470;

2. The plant is designated historic within a certified local district pursuant to s. 48(g)(3)(B)(ii) of the Internal Revenue Code; or

3. The division or historic preservation board otherwise finds that the plant is historically significant.

(h) University boards of trustees may utilize funds appropriated pursuant to this section for replacement of minor facilities provided that such projects do not exceed \$1 million in cost or 10,000 gross square feet in size. Minor facilities may not be replaced from funds provided pursuant to this section unless the board determines that the cost of repair or renovation is greater than or equal to the cost of replacement.

(2)(a) The department shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in an amount determined by the Legislature, to be known as the "Special Facility Construction Account." The Special Facility Construction Account shall be used to provide necessary construction funds to school districts which have urgent construction needs but which lack sufficient resources at present, and cannot reasonably anticipate sufficient resources within the period of the next 3 years, for these purposes from currently authorized sources of capital outlay revenue. A school district requesting funding from the Special Facility Construction Account shall submit one specific construction project, not to exceed one complete educational plant, to the Special Facility Construction Committee. No district shall receive funding for more than one approved project in any 3-year period. The first year of the 3-year period shall be the first year a district receives an appropriation. The department shall encourage a construction program that reduces the average size of schools in the district. The request must meet the following criteria to be considered by the committee:

1. The project must be deemed a critical need and must be recommended for funding by the Special Facility Construction Committee. Prior to developing plans for the proposed facility, the district school board must request a preapplication review by the Special Facility Construction Committee or a project review subcommittee convened by the committee to include two representatives of the department and two staff from school districts not eligible to participate in the program. Within 60 days after receiving the preapplication review request, the committee or subcommittee must meet in the school district to review the project proposal and existing facilities. To determine whether the proposed project is a critical need, the committee or subcommittee shall consider, at a minimum, the capacity of all existing facilities within the district as determined by the Florida Inventory of School Houses; the district's pattern of student growth; the district's existing and projected capital outlay full-time equivalent student enrollment as determined by the department; the district's existing satisfactory student stations; the use of all existing district property and facilities; grade level configurations; and any other information that may affect the need for the proposed project.

2. The construction project must be recommended in the most recent survey or surveys by the district under the rules of the State Board of Education.

3. The construction project must appear on the district's approved project priority list under the rules of the State Board of Education.

4. The district must have selected and had approved a site for the construction project in compliance with s. 1013.36 and the rules of the State Board of Education.

5. The district shall have developed a district school board adopted list of facilities that do not exceed the norm for net square feet occupancy requirements under the State Requirements for Educational Facilities, using all possible programmatic combinations for multiple use of space to obtain maximum daily use of all spaces within the facility under consideration.

6. Upon construction, the total cost per student station, including change orders, must not exceed the cost per student station as provided in subsection (6).

7. There shall be an agreement signed by the district school board stating that it will advertise for bids within 30 days of receipt of its encumbrance authorization from the department.

8. The district shall, at the time of the request and for a continuing period of 3 years, levy the maximum millage against their nonexempt assessed property value as allowed in s. 1011.71(2) or shall raise an equivalent amount of revenue from the school capital outlay surtax authorized under s. 212.055(6). Any district with a new or active project, funded under the provisions of this subsection, shall be required to budget no more than the value of 1.5 mills per year to the project to satisfy the annual participation requirement in the Special Facility Construction Account.

9. If a contract has not been signed 90 days after the advertising of bids, the funding for the specific project shall revert to the Special Facility New Construction Account to be reallocated to other projects on the list. However, an additional 90 days may be granted by the commissioner.

10. The department shall certify the inability of the district to fund the survey-recommended project over a continuous 3-year period using projected capital outlay revenue derived from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 1011.71(2).

11. The district shall have on file with the department an adopted resolution acknowledging its 3-year commitment of all unencumbered and future revenue acquired from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 1011.71(2).

12. Final phase III plans must be certified by the board as complete and in compliance with the building and life safety codes prior to August 1.

(b) The Special Facility Construction Committee shall be composed of the following: two representatives of the Department of Education, a representative from the Governor's office, a representative selected annually by the district school boards, and a representative selected annually by the superintendents.

(c) The committee shall review the requests submitted from the districts, evaluate the ability of the project to relieve critical needs, and rank the requests in priority order. This statewide priority list for special facilities construction shall be submitted to the Legislature in the commissioner's annual capital outlay legislative budget request at least 45 days prior to the legislative session.

(3)(a) Each district school board shall receive an amount from the Public Education Capital Outlay and Debt Service Trust Fund to be calculated by computing the capital outlay full-time equivalent membership as determined by the department. Such membership must include, but is not limited to:

1. K-12 students for whom the school district provides the educational facility, except hospital and homebound part-time students; and

2. Students who are career education students, and adult disabled students and who are enrolled in school district career centers. The capital outlay full-time equivalent membership shall be determined for kindergarten through the 12th grade and for career centers by averaging the unweighted full-time equivalent student membership for the second and third surveys and comparing the results on a school-by-school basis with the Florida Inventory for School Houses. The capital outlay full-time equivalent membership by grade level organization shall be used in making the following calculations: The capital outlay full-time equivalent membership by grade level organization for the 4th prior year must be used to compute the base-year allocation. The capital outlay full-time equivalent membership by grade-level organization for the prior year must be used to compute the growth over the highest of the 3 years preceding the prior year. From the total amount appropriated by the Legislature pursuant to this subsection, 40 percent shall be allocated among the base capital outlay full-time equivalent membership and 60 percent among the growth capital outlay full-time equivalent membership. The allocation within each of these groups shall be prorated to the districts based upon each district's percentage of base and growth capital outlay full-time membership. The most recent 4-year capital outlay full-time equivalent membership data shall be used in each subsequent year's calculation for the allocation of funds pursuant to this subsection. If a change, correction, or recomputation of data during any year results in a reduction or increase of the calculated amount previously allocated to a district, the allocation to that district shall be adjusted correspondingly. If such recomputation results in an increase or decrease of the calculated amount, such additional or reduced amounts shall be added to or reduced from the district's future appropriations. However, no change, correction, or recomputation of data shall be made subsequent to 2 years following the initial annual allocation.

(b) Funds accruing to a district school board from the provisions of this section shall be expended on needed projects as shown by survey or surveys under the rules of the State Board of Education.

(c) A district school board may lease relocatable educational facilities for up to 3 years using nonbonded PECO funds and for any time period using local capital outlay millage.

(d) Funds distributed to the district school boards shall be allocated solely based on the provisions of paragraphs (1)(a) and (2)(a) and paragraph (a) of this subsection. No individual school district projects shall be funded off the top of funds allocated to district school boards.

(4)(a) ¹Community college boards of trustees and university boards of trustees shall receive funds for projects based on a 3-year priority list, to be updated annually, which is submitted to the Legislature in the legislative budget request at least 90 days prior to the legislative session. The State Board of Education shall submit a 3-year priority list for ¹community colleges, and the Board of Governors shall submit a 3-year priority list for universities. The lists shall reflect decisions by the State Board of Education for ¹community colleges and the Board of Governors for state universities concerning program priorities that implement the statewide plan for program growth and quality improvement in education. No remodeling or renovation project shall be included on the 3-year priority list unless the project has been recommended pursuant to s. 1013.31 or is for the purpose of correcting health and safety deficiencies. No new construction project shall be included on the first year of the 3-year priority list unless the educational specifications have been approved by the commissioner for a ¹community college project or by the Board of Governors for a university project, as applicable. The funds requested for a new construction project in the first year of the 3-year priority list shall be in conformance with the scope of the project as defined in the educational specifications. Any new construction project requested in the first year of the 3-year priority list which is not funded by the Legislature shall be carried forward to be listed first in developing the updated 3-year priority list for the subsequent year's capital outlay budget. Should the order of the priority of the projects change from year to year, a justification for such change shall be included with the updated priority list.

(b) ¹Community college boards of trustees and university boards of trustees may lease relocatable educational facilities for up to 3 years using nonbonded PECO funds.

(c) ¹Community college boards of trustees and university boards of trustees shall receive funds for remodeling, renovation, maintenance and repairs, and site improvement for existing satisfactory facilities pursuant to subsection (1).

(5) District school boards shall identify each fund source and the use of each proportionate to the project cost, as identified in the bid document, to assure compliance with this section. The data shall be submitted to the department, which shall track this information as submitted by the boards. PECO funds shall not be expended as indicated in the following:

(a) District school boards shall provide landscaping by local funding sources or initiatives. District school boards are exempt from local landscape ordinances but may comply with the local requirements if such compliance is less costly than compliance with the landscape requirements of the Florida Building Code for public educational facilities.

(b) PECO funds shall not be used for the construction of football fields, bleachers, site lighting for athletic facilities, tennis courts, stadiums, racquetball courts, or any other competition-type facilities not required for physical education curriculum. Regional or intradistrict football stadiums may be constructed with these funds provided a minimum of two high schools and two middle schools are assigned to the facility and the stadiums are survey recommended. Sophisticated auditoria shall be limited to magnet performing arts schools, with all other schools using basic lighting and sound systems as determined by rule. Local funds shall be used for enhancement of athletic and performing arts facilities.

(6)(a) Each district school board must meet all educational plant space needs of its elementary, middle, and high schools before spending funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any ancillary plant or any other new construction, renovation, or remodeling of ancillary space. Expenditures to meet such space needs may include expenditures for site acquisition; new construction of educational plants; renovation, remodeling, and maintenance and repair of existing educational plants, including auxiliary facilities; and the directly related costs of such services of school district personnel. It is not the intent of the Legislature to preclude the use of capital outlay funding

for the labor costs necessary to accomplish the authorized uses for the capital outlay funding. Day-labor contracts or any other educational facilities contracting and construction techniques pursuant to s. 1013.45 are authorized. Additionally, if a school district has salaried maintenance staff whose duties consist solely of performing the labor necessary to accomplish the authorized uses for the capital outlay funding, such funding may be used for those salaries; however, if a school district has salaried staff whose duties consist partially of performing the labor necessary to accomplish the authorized uses for the capital outlay funding, the district shall prorate the portion of salary of each such employee that is based on labor for authorized capital outlay funding, and such funding may be used to pay that portion.

(b)1. A district school board must not use funds from the following sources: Public Education Capital Outlay and Debt Service Trust Fund; School District and Community College District Capital Outlay and Debt Service Trust Fund; Classrooms First Program funds provided in s. 1013.68; effort index grant funds provided in s. 1013.73; nonvoted 1.5-mill levy of ad valorem property taxes provided in s. 1011.71(2); Classrooms for Kids Program funds provided in s. 1013.735; District Effort Recognition Program funds provided in s. 1013.736; or High Growth District Capital Outlay Assistance Grant Program funds provided in s. 1013.738 for any new construction of educational plant space with a total cost per student station, including change orders, that equals more than:

- a. \$17,952 for an elementary school,
- b. \$19,386 for a middle school, or
- c. \$25,181 for a high school,

(January 2006) as adjusted annually to reflect increases or decreases in the Consumer Price Index.

2. A district school board must not use funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any new construction of an ancillary plant that exceeds 70 percent of the average cost per square foot of new construction for all schools.

(c) Except as otherwise provided, new construction initiated by a district school board after June 30, 1997, must not exceed the cost per student station as provided in paragraph (b).

(d) The department shall:

1. Compute for each calendar year the statewide average construction costs for facilities serving each instructional level, for relocatable educational facilities, for administrative facilities, and for other ancillary and auxiliary facilities. The department shall compute the statewide average costs per student station for each instructional level.

2. Annually review the actual completed construction costs of educational facilities in each school district. For any school district in which the total actual cost per student station, including change orders, exceeds the statewide limits established in paragraph (b), the school district shall report to the department the actual cost per student station and the reason for the school district's inability to adhere to the limits established in paragraph (b). The department shall collect all such reports and shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31 of each year a summary of each school district's spending in excess of the cost per student station provided in paragraph (b) as reported by the school districts.

Cost per student station includes contract costs, legal and administrative costs, fees of architects and engineers, furniture and equipment, and site improvement costs. Cost per student station does not include the cost of purchasing or leasing the site for the construction or the cost of related offsite improvements.

(e) The restrictions of this subsection on the cost per student station of new construction do not apply to a project funded entirely from proceeds received by districts through provisions of ss. 212.055 and 1011.73 and s. 9, Art. VII of the State Constitution, if the school board approves the project by majority vote.

(7) Notwithstanding subsection (2), the district school board of Wakulla County shall contribute 1 mill in the 2009-2010 fiscal year and 0.5 mill in the 2010-2011 fiscal year to the cost of currently funded special facilities construction projects. The district school board of Liberty County shall contribute 1 mill for each of the fiscal years 2009-2010 through 2011-2012 to the cost of currently funded special facilities construction projects. If funds are made available in the General Appropriations Act for the 2009-2010 fiscal year for the district school board of Calhoun County from the Special Facilities Construction Account, the district school board shall contribute 1.125 mills for each of the fiscal years from 2009-2010 through 2012-2013 to the cost of funded special facilities construction projects.

History.—s. 861, ch. 2002-387; s. 26, ch. 2003-391; s. 137, ch. 2004-357; s. 24, ch. 2005-290; s. 9, ch. 2006-27; s. 3, ch. 2007-60; ss. 37, 38, ch. 2007-73; s. 183, ch. 2007-217; s. 14, ch. 2009-3; s. 40, ch. 2009-59; s. 28, ch. 2010-70.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.65 Educational and ancillary plant construction funds; Public Education Capital Outlay and Debt Service Trust Fund; allocation of funds.—

(1) The commissioner, through the department, shall administer the Public Education Capital Outlay and Debt Service Trust Fund. The commissioner shall allocate or reallocate funds as authorized by the Legislature. Copies of each allocation or reallocation shall be provided to members of the State Board of Education and the Board of Governors and to the chairs of the House of Representatives and Senate appropriations committees. The commissioner shall provide for timely encumbrances of funds for duly authorized projects. Encumbrances may include proceeds to be received under a resolution approved by the State Board of Education authorizing the issuance of public education capital outlay bonds pursuant to s. 9(a)(2), Art. XII of the State Constitution, s. 215.61, and other applicable law. The

commissioner shall provide for the timely disbursement of moneys necessary to meet the encumbrance authorizations of the boards. Records shall be maintained by the department to identify legislative appropriations, allocations, encumbrance authorizations, disbursements, transfers, investments, sinking funds, and revenue receipts by source. The Department of Education shall pay the administrative costs of the Public Education Capital Outlay and Debt Service Trust Fund from the funds which comprise the trust fund.

(2)(a) The Public Education Capital Outlay and Debt Service Trust Fund shall be comprised of the following sources, which are hereby appropriated to the trust fund:

1. Proceeds, premiums, and accrued interest from the sale of public education bonds and that portion of the revenues accruing from the gross receipts tax as provided by s. 9(a)(2), Art. XII of the State Constitution, as amended, interest on investments, and federal interest subsidies.

2. General revenue funds appropriated to the fund for educational capital outlay purposes.

3. All capital outlay funds previously appropriated and certified forward pursuant to s. 216.301.

(b) Any funds required by law to be segregated or maintained in separate accounts shall be segregated or maintained in such manner that the relationship between program and revenue source is retained. Nothing in this subsection shall be construed so as to limit the use by the Public Education Capital Outlay and Debt Service Trust Fund of the resources of funds so segregated or maintained.

(3) Upon the request of each board, the department shall distribute to the board an amount sufficient to cover capital outlay disbursements anticipated from encumbrance authorizations for the following month. For projects costing in excess of \$50,000, contracts shall be approved and signed before any disbursements are authorized.

(4) The department may authorize each board to enter into contracts for a period exceeding 1 year, within amounts appropriated and budgeted for fixed capital outlay needs; but any contract so made shall be executory only for the value of the services to be rendered, or agreed to be paid for, in succeeding fiscal years. This subsection shall be incorporated verbatim in all executory contracts of a board.

(5) No board shall, during any fiscal year, expend any money, incur any liability, or enter into any contract which, by its terms, involves expenditure of money in excess of the amounts appropriated and budgeted or in excess of the cash that will be available to meet the disbursement requirements. Prior to entering into an executory, or any other, contract, a board shall obtain certification from the department that moneys will be available to meet the disbursement requirements. Any contract, verbal or written, made in violation of this subsection shall be null and void, and no payment shall be made thereon.

(6) The State Board of Administration is authorized to invest the trust funds of any state-supported retirement system, and any other state funds available for loans, to the trust fund at a rate of interest that is no less favorable than would have been received had such moneys been invested in accordance with authorized practices.

(7) Boards and entities authorized to participate in the trust fund are district school boards, the community college boards of trustees, the Trustees of the Florida School for the Deaf and the Blind, and university boards of trustees and other units of the state system of public education, and other educational entities for which funds are authorized by the Legislature.

(8) The department shall make a monthly report, by project, of requests for encumbrance authorization from each agency. Each project shall be tracked in the following manner:

(a) The date the request is received;

(b) The anticipated encumbrance date requested by the agency;

(c) The date the project is eligible for encumbrance authorization; and

(d) The date the encumbrance authorization is issued.

(9) The department shall make a monthly report:

(a) Showing the amount of cash disbursed to the agency from each appropriated allocation and the amount of cash disbursed by the agency to vendors or contractors from each appropriated allocation, by month.

(b) Showing updated adjustments to the budget fiscal year forecast for appropriations, encumbrances, disbursements, and cash available for encumbrance status.

History.—s. 862, ch. 2002-387; s. 25, ch. 2005-290; s. 4, ch. 2007-60; s. 184, ch. 2007-217.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.66 Financing of approved capital projects.—

(1) Capital projects are to be financed in accordance with s. 9(a)(2), Art. XII of the State Constitution, as amended, or from other legally available state funds or grants, donations, or matching funds, or by a combination of such funds.

(2) The sum designated annually by the Legislature is the maximum sum to be expended from funds accruing under s. 9(a)(2), Art. XII of the State Constitution, as amended, and from funds accruing under s. 1013.65(2). However, funds appropriated from this source and remaining unexpended from previously authorized capital projects, along with grants, donations, and matching funds from other sources, may be added to such maximum sums for any item or category.

(3) No transfers between appropriations shall be made without prior approval under the provisions of chapter 216.

(4) To the extent that appropriations authority for entitlements from previous years was used for advanced funding, that authority is hereby restored to the projects for which appropriations were made by the Legislature in those previous years.

History.—s. 863, ch. 2002-387.

1013.67 Commissioner to provide for encumbrances of funds.—The Commissioner of Education shall provide for timely encumbrances of funds for duly authorized projects. Encumbrances may include proceeds to be received under a resolution approved by the State Board of Education authorizing the issuance of 1997 school capital outlay bonds pursuant to s. 11(d), Art. VII of the State Constitution, s. 1013.70, and other applicable law.

History.—s. 864, ch. 2002-387.

1013.68 Classrooms First Program; uses.—

(1) The Commissioner of Education shall allocate funds appropriated for the Classrooms First Program among the district school boards. It is the intent of the Legislature that this program be administered as nearly as practicable in the same manner as the capital outlay program authorized under s. 9(d), Art. XII of the State Constitution. Each district school board's share of the annual appropriation for the Classrooms First Program must be calculated according to the following formula, but the share of each district shall, at a minimum, be at least equal to the amount required for all payments of the district relating to bonds issued by the state on its behalf:

(a) Twenty-five percent of the appropriation shall be prorated to the districts based on each district's percentage of base capital outlay full-time equivalent membership; and 65 percent shall be based on each district's percentage of growth capital outlay full-time equivalent membership as specified for the allocation of funds from the Public Education Capital Outlay and Debt Service Trust Fund by s. 1013.64(3).

(b) Ten percent of the appropriation must be allocated among district school boards according to the allocation formula in s. 1013.64(1)(a).

(2) A district school board shall expend the funds received pursuant to this section only to:

(a) Construct, renovate, remodel, repair, or maintain educational facilities;

(b) Pay debt service on bonds issued pursuant to this section, the proceeds of which must be expended for new construction, remodeling, renovation, and major repairs. Bond proceeds shall be expended first for providing permanent classroom facilities. Bond proceeds shall not be expended for any other facilities until all unmet needs for permanent classrooms and auxiliary facilities as defined in s. 1013.01 have been satisfied; or

(c) Provide loans to other school districts for new school construction pursuant to subsection (6).

However, if more than 9 percent of a district's total square feet is more than 50 years old, the district must spend at least 25 percent of its allocation on the renovation, major repair, or remodeling of existing schools, except that districts with fewer than 10,000 full-time equivalent students are exempt from this requirement.

(3) Each district school board that pledges moneys under paragraph (2)(b) shall notify the Department of Education of its election at a time set by the department. The Department of Education shall review the proposal of each district school board for compliance with this section and shall forward all approved proposals to the Division of Bond Finance with a request to issue bonds on behalf of the approved school districts. The Division of Bond Finance shall pool the pledges from all school districts making the election in that year and shall issue the bonds on behalf of the districts for a period not to exceed the distributions to be received under s. 24.121(2). The bonds must be issued in accordance with s. 11(d), Art. VII of the State Constitution, and each project to be constructed with the proceeds of bonds is hereby approved as provided in s. 11(f), Art. VII of the State Constitution. The bonds shall be issued pursuant to the State Bond Act to the extent not inconsistent with this section.

(4) Bonds issued under this section must be validated as prescribed by chapter 75. The complaint for the validation must be filed in the circuit court of the county where the seat of state government is situated; the notice required to be published by s. 75.06 must be published only in the county where the complaint is filed; and the complaint and order of the circuit court must be served only on the state attorney of the circuit in which the action is pending. The state covenants with holders of bonds issued under this section that it will not take any action that will materially and adversely affect the rights of such holders so long as such bonds are outstanding. The state does hereby additionally authorize the establishment of a covenant in connection with the bonds which provides that any additional funds received by the state from new or enhanced lottery programs, video gaming, or other similar activities will first be available for payments relating to bonds pledging revenues available pursuant to s. 24.121(2), prior to use for any other purpose.

(5) A school district may only receive a distribution for use pursuant to paragraph (2)(a) if the district school board certifies to the Commissioner of Education that the district has no unmet need for permanent classroom facilities in its 5-year capital outlay work plan. If the work plan contains such unmet needs, the district must use its distribution for the payment of bonds pursuant to paragraph (2)(b). If the district does not require its full bonded distribution to eliminate such unmet need, it may bond only that portion of its allocation necessary to meet the needs.

(6) School districts may enter into interlocal agreements to lend their Classrooms First Program funds as provided in paragraph (2)(c). A school district or multiple school districts that receive cash proceeds may, after considering their own new construction needs outlined in their 5-year district facilities work program, lend their Classrooms First Program funds to another school district that has need for new facilities. The interlocal agreement must be approved by the Commissioner of Education and must outline the amount of the funds to be lent, the term of the loan, the repayment schedule, and any interest amount to be repaid in addition to the principal amount of the loan.

History.—s. 6, ch. 2001-374; s. 865, ch. 2002-387; s. 133, ch. 2003-1.

1013.69 Full bonding required to participate in programs.—Any district with unused bonding capacity in its Capital Outlay and Debt Service Trust Fund allocation that certifies in its district educational facilities plan that it will not be able to meet all of its need for new

student stations within existing revenues must fully bond its Capital Outlay and Debt Service Trust Fund allocation before it may participate in Classrooms First, the School Infrastructure Thrift (SIT) Program, or the Effort Index Grants Program.

History.—s. 21, ch. 2002-296; s. 866, ch. 2002-387.

1013.70 The 1997 School Capital Outlay Bond Program.—There is hereby established the 1997 School Capital Outlay Bond Program.

(1) The issuance of revenue bonds payable from the first lottery revenues transferred to the Educational Enhancement Trust Fund each fiscal year, as provided by s. 24.121(2), is authorized to finance or refinance the construction, acquisition, reconstruction, or renovation of educational facilities. Such bonds shall be issued pursuant to and in compliance with the provisions of s. 11(d), Art. VII of the State Constitution, the provisions of the State Bond Act, ss. 215.57-215.83, as amended, and the provisions of this section. The state does hereby covenant with the holders of such revenue bonds that it will not take any action which will materially and adversely affect the rights of such holders so long as bonds authorized by this section are outstanding. The state does hereby additionally authorize the establishment of a covenant in connection with the bonds which provides that any additional funds received by the state from new or enhanced lottery programs, video gaming, or other similar activities will first be available for payments relating to bonds pledging revenues available pursuant to s. 24.121(2), prior to use for any other purpose.

(2) The bonds shall be issued by the Division of Bond Finance of the State Board of Administration on behalf of the Department of Education in such amount as shall be requested by resolution of the State Board of Education. However, debt service and other amounts payable with respect to the bonds issued pursuant to this section shall not exceed \$35 million in any state fiscal year.

(3) Proceeds available from bond sales shall be deposited in the Educational Enhancement Trust Fund within the Department of Education.

(4) The facilities to be financed with the proceeds of such bonds are designated as state fixed capital outlay projects for purposes of s. 11(d), Art. VII of the State Constitution, and the specific facilities to be financed shall be determined by the Department of Education in accordance with state law and appropriations from the Educational Enhancement Trust Fund. Each educational facility to be financed with the proceeds of the bonds issued pursuant to this section is hereby approved as required by s. 11(f), Art. VII of the State Constitution.

(5) Bonds issued pursuant to this section shall be validated in the manner provided by chapter 75. The complaint for such validation shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

History.—s. 867, ch. 2002-387.

1013.71 Lottery Capital Outlay and Debt Service Trust Fund.—

(1)(a) The Lottery Capital Outlay and Debt Service Trust Fund is hereby created, to be administered by the Department of Education. Funds shall be credited to the trust fund from legislative appropriations and interest earnings. The purpose of the trust fund is to maintain and account for lottery funds appropriated for fixed capital outlay and debt service separately from lottery funds appropriated for current operations.

(b) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund and shall be available for carrying out the purposes of the trust fund.

(2) Lottery funds appropriated for fixed capital outlay and debt service, along with any interest earned thereon, shall be transferred from the Educational Enhancement Trust Fund to the Lottery Capital Outlay and Debt Service Trust Fund.

(3) Pursuant to the provisions of s. 19(f)(3), Art. III of the State Constitution, the trust fund is not subject to termination under s. 19(f)(2), Art. III of the State Constitution.

History.—s. 868, ch. 2002-387.

1013.72 SIT Program award eligibility; maximum cost per student station of educational facilities; frugality incentives; recognition awards.—

(1) It is the intent of the Legislature that district school boards that seek awards of SIT Program funds use due diligence and sound business practices in the design, construction, and use of educational facilities.

(2) A school district may seek an award from the SIT Program, pursuant to this section and s. 1013.42, based on the district's new construction of educational facilities if the cost per student station is less than:

- (a) \$17,952 for an elementary school,
- (b) \$19,386 for a middle school, or
- (c) \$25,181 for a high school,

(January 2006) as adjusted annually by the Consumer Price Index. The award shall be up to 50 percent of such savings, as recommended by the Office of Educational Facilities.

(3) A school district may seek a SMART school of the year recognition award for building the highest quality functional, frugal school. The commissioner may present a trophy or plaque and a cash award to the school recommended by the Office of Educational Facilities for a SMART school of the year recognition award.

History.—s. 869, ch. 2002-387; s. 19, ch. 2010-70.

1013.721 A Business-Community (ABC) School Program.—

(1) In order to increase business partnerships in education, to reduce school and classroom overcrowding throughout the state, to offset the high costs of educational facilities construction, and to use due diligence and sound business practices in using available educational space, the Legislature intends to encourage the formation of partnerships between business and education by creating a Business-Community (ABC) School Program.

(2) "A Business-Community (ABC) School" means a public school that offers instruction to students from kindergarten through third grade. The school may offer instruction in any single grade level or for multiple grade levels. ABC schools shall comply with the constitutional class size requirements.

(3) Each school board shall, through advertisements in local media and other means, request proposals from area businesses to allow the operation of a business and education partnership school in facilities owned or operated by the business. The Department of Education shall require each school board to submit documentation to the department which demonstrates the board's compliance with this advertisement requirement. Each school board shall designate a school district employee as the district's ABC program liaison and shall provide the name and contact information of the liaison to the department by September 1 of each year.

(4) Each school district shall establish an ABC school evaluation committee.

(a) The committee shall be appointed by the school board and be composed of one school district administrator, at least one member of the business community, and at least one member of a local chamber of commerce. The school board shall provide the department with the names and contact information for each member of the committee and notify the department upon any change in membership or contact information.

(b) The committee shall meet at least quarterly and shall provide an annual report to the school board and the superintendent regarding its activities during the preceding school year.

(c) The committee's responsibilities shall include, but need not be limited to:

1. Creating and implementing a strategic marketing plan to inform businesses about the benefits of the ABC school program.
2. Providing technical assistance to businesses seeking to implement an ABC school.
3. Informing the public of the benefits of business and education partnerships.
4. Obtaining feedback from potential business partners on how the ABC program could be improved.
5. Identifying local barriers that preclude this program from operating.
6. Developing proposal evaluation criteria and processes.
7. Sharing information on effective ABC school programs with the department and local communities.

(d) The committee shall evaluate the feasibility of each proposal, including the operating cost, number of students to be served, proposed student-to-teacher ratio, proposed number of years the satellite school would operate, and any other operational or facilities considerations the school board or committee deems appropriate.

(e) The committee shall recommend to the school board those proposals for satellite schools which the committee deems viable and worthy of being established. The school board must take official action on the recommendation of the committee within 60 days after receipt of the recommendation.

(5)(a) First priority for admission of students to an ABC school shall be given to the children of owners and employees of the host business. If additional student capacity remains after those children are admitted, the host business may designate other neighboring businesses whose owners or employees may also participate to generate a viable number of students for the school. The school board shall make the necessary arrangements to accommodate students from other school districts whose parents are associated with the host business or business partners.

(b) Parents shall be responsible for providing transportation to and from school for the students.

(6) A school district and a host business may enter into a multiyear contract for operation of an ABC school. The contract must at least include provisions relating to any cost of facilities modifications, provide for the assignment or waiver of appropriate insurance costs, specify the number of students expected to be served, provide grounds for canceling the lease, and specify the advance notice required before the school may be closed.

(a) The school board shall be responsible for providing the appropriate instructional, support, and administrative staff and textbooks, materials, and supplies. The school district may also agree to operate or contract for the operation of a before-school and after-school program using the donated facilities.

(b) The host business shall provide the appropriate types of space for operating the school. If special facilities, such as restrooms or dining, recreational, or other areas are required, the district may contribute a part of the cost of the construction, remodeling, or renovation for such facilities from capital outlay funds of the district. A multiyear lease for operation of the facility must be agreed to if the school district contributes to the cost of such construction.

History.—s. 21, ch. 2003-391; s. 6, ch. 2006-301; s. 182, ch. 2007-5.

Note.—Former s. 1013.501.

1013.73 Effort index grants for school district facilities.—

(1) The Legislature hereby allocates for effort index grants the sum of \$300 million from the funds appropriated from the Educational Enhancement Trust Fund by s. 46, chapter 97-384, Laws of Florida, contingent upon the sale of school capital outlay bonds. From these funds, the Commissioner of Education shall allocate to the four school districts deemed eligible for an effort index grant the sums of \$7,442,890 to the Clay County School District, \$62,755,920 to the Miami-Dade County Public Schools, \$1,628,590 to the Hendry County

School District, and \$414,950 to the Madison County School District. The remaining funds shall be allocated among the remaining district school boards that qualify for an effort index grant by meeting the local capital outlay effort criteria in paragraph (a) or paragraph (b).

(a) Between July 1, 1995, and June 30, 1999, the school district received direct proceeds from the one-half-cent sales surtax for public school capital outlay authorized by s. 212.055(6) or from the local government infrastructure sales surtax authorized by s. 212.055(2).

(b) The school district met two of the following criteria:

1. Levied the full 2 mills of nonvoted discretionary capital outlay authorized by s. 1011.71(2) during 1995-1996, 1996-1997, 1997-1998, and 1998-1999.
2. Levied a cumulative voted millage for capital outlay and debt service equal to 2.5 mills for fiscal years 1995 through 1999.
3. Received proceeds of school impact fees greater than \$500 per dwelling unit which were in effect on July 1, 1998.
4. Received direct proceeds from either the one-half-cent sales surtax for public school capital outlay authorized by s. 212.055(6) or from the local government infrastructure sales surtax authorized by s. 212.055(2).

(2) It is the intent of the Legislature that this program be administered as nearly as is practicable in the same manner as the capital outlay program authorized under s. 9(d), Art. XII of the State Constitution. Each district school board's share of the appropriation for the effort index grants must be calculated according to the following formula using the same basis as the Classrooms First allocation formula, but the share of each district shall, at a minimum, be at least equal to the amount required for all payments of the district relating to bonds issued by the state on its behalf:

(a) Twenty-five percent of the appropriation shall be prorated to the districts based on each district's percentage of base capital outlay full-time-equivalent membership; and 65 percent shall be based on each district's percentage of growth capital outlay full-time-equivalent membership as specified for the allocation of funds from the Public Education Capital Outlay and Debt Service Trust Fund by s. 1013.64(3).

(b) Ten percent of the appropriation must be allocated among district school boards according to the allocation formula in s. 1013.64(1)(a).

(3) A district school board shall expend the funds received under this section only to:

(a) Construct, renovate, remodel, repair, or maintain educational facilities; or

(b) Pay debt service on bonds issued under this section, the proceeds of which must be expended for new construction, remodeling, renovation, and major repairs. Bond proceeds shall be expended first for providing permanent classroom facilities and related auxiliary facilities. Bond proceeds may not be expended for any other facilities until all unmet needs for permanent classrooms and auxiliary facilities as defined in s. 1013.01 have been satisfied.

However, if more than 9 percent of a district's total square feet is more than 50 years old, the district must spend at least 25 percent of its allocation on the renovation, major repair, or remodeling of existing schools, except that districts having fewer than 10,000 full-time equivalent students are exempt from this requirement.

(4) Each district school board that pledges moneys under paragraph (3)(b) shall notify the Department of Education of its election at a time set by the department. The Department of Education shall review the proposal of each district school board for compliance with this section and shall forward all approved proposals to the Division of Bond Finance with a request to issue bonds on behalf of the approved school districts.

(5) A district school board that chooses to pledge allocations from the Classrooms First Program for the issuance of bonds must encumber those bond proceeds before pledging funds for the payment of debt service on bonds issued pursuant to this section.

(6) A school district may receive a distribution for use pursuant to paragraph (3)(a) only if the district school board certifies to the Commissioner of Education that the district has no unmet need for permanent classroom facilities in its 5-year capital outlay work plan. If the work plan contains such unmet needs, the district must use its distribution for the payment of bonds under paragraph (3)(b). If the district does not require its full bonded distribution to eliminate such unmet needs, it may bond only that portion of its allocation necessary to meet the needs.

History.—s. 870, ch. 2002-387; s. 76, ch. 2004-41; s. 194, ch. 2008-4; s. 20, ch. 2010-70.

1013.735 Classrooms for Kids Program.—

(1) ALLOCATION.—The department shall allocate funds appropriated for the Classrooms for Kids Program. It is the intent of the Legislature that this program be administered as nearly as practicable in the same manner as the capital outlay program authorized under s. 9(a), Art. XII of the State Constitution. Each district school board's share of the annual appropriation for the Classrooms for Kids Program must be calculated according to the following formula:

(a) Twenty-five percent of the appropriation shall be prorated to the districts based on each district's percentage of K-12 base capital outlay full-time equivalent membership, and 65 percent shall be based on each district's percentage of K-12 growth capital outlay full-time equivalent membership as specified for the allocation of funds from the Public Education Capital Outlay and Debt Service Trust Fund by s. 1013.64(3).

(b) Ten percent of the appropriation must be allocated among district school boards according to the allocation formula in s. 1013.64(1)(a), excluding adult vocational technical facilities.

(2) DISTRICT PARTICIPATION.—In order to participate in the Classrooms for Kids Program, a district school board shall:

(a) Enter into an interlocal agreement pursuant to s. 1013.33.

(b) Certify that the district's inventory of facilities listed in the Florida Inventory of School Houses is accurate and up-to-date pursuant to s. 1013.31.

(3) USE OF FUNDS.—In order to increase capacity to reduce class size, a district school board shall expend the funds received pursuant to this section only to:

- (a) Construct, renovate, remodel, or repair educational facilities that are in excess of projects identified in the district's 5-year work program adopted prior to March 15, 2003; or
- (b) Purchase or lease-purchase relocatable facilities that are in excess of relocatables identified in the district's 5-year work program adopted prior to March 15, 2003.

History.—s. 4, ch. 2003-391; s. 4, ch. 2004-42.

1013.736 District Effort Recognition Program.—

(1) RECOGNITION FUNDS.—From funds appropriated by the Legislature, district effort recognition capital outlay grants shall be made to eligible school districts in accordance with the provisions of this section and the General Appropriations Act. The funds appropriated in this section are not subject to the provisions of s. 216.301.

(2) ELIGIBILITY.—Annually, the Department of Education shall determine each district's compliance with the provisions of s. 1003.03 and determine the district's eligibility to receive a district effort recognition grant for local school facilities projects pursuant to this section. Districts shall be eligible for a district effort recognition grant based upon participation in any of the following:

- (a) The district levies a half-cent school capital outlay surtax authorized in s. 212.055(6).
- (b) The district participates in the levy of the local government infrastructure sales surtax authorized in s. 212.055(2).
- (c) The district levies voted millage for capital outlay purposes as authorized in s. 9, Art. VII of the State Constitution.

(3) DISTRICT EFFORT RECOGNITION PROGRAM.—The department shall annually calculate a district effort amount for each district by September 1 after each fiscal year. The total amount of revenue for the prior year from each revenue levied as described in subsection (2) shall be divided by the number of months for which revenue was received and multiplied by the number of authorized months remaining in each voter referendum. The amount so determined for each revenue levied shall be totaled. The Department of Revenue shall report the amount of voter-approved revenue described in paragraphs (2)(a) and (b). The district shall report the amount of revenue described in paragraph (2)(b) identified for district fixed capital outlay in the prior fiscal year. To determine the amount of revenue levied pursuant to paragraph (2)(c), the district shall annually report to the Department of Education the outstanding debt service by bond series and date of maturity. The total of annual debt service to maturity remaining as of July 1 of each year shall be added to the other revenues levied pursuant to paragraphs (2)(a) and (b) in determining the total district effort amount. Only the amount of voter-approved revenue described in paragraph (2)(b) which has been identified for district fixed capital outlay from the prior fiscal year shall be used in the calculation.

(4) ALLOCATION AND DISTRIBUTION OF FUNDS.—The department shall allocate the annual amount of funds provided among all eligible districts based upon the district's proportion of the funds as determined in subsection (3). Funds shall be distributed once a district has encumbered the funds.

(5) USE OF FUNDS.—School districts that do not meet the constitutional class size maximums described in s. 1003.03(1) must use the funds for capital outlay to reduce class size. School districts that meet the constitutional class size maximum may use the funds for any lawful capital outlay purpose.

History.—s. 5, ch. 2003-391.

1013.737 The Class Size Reduction Lottery Revenue Bond Program.—There is established the Class Size Reduction Lottery Revenue Bond Program.

(1) The issuance of revenue bonds is authorized to finance or refinance the construction, acquisition, reconstruction, or renovation of educational facilities. Such bonds shall be issued pursuant to and in compliance with the provisions of s. 11(d), Art. VII of the State Constitution, the provisions of the State Bond Act, ss. 215.57-215.83, as amended, and the provisions of this section.

(2) The bonds are payable from, and secured by a first lien on, the first lottery revenues transferred to the Educational Enhancement Trust Fund each fiscal year, as provided by s. 24.121(2), and do not constitute a general obligation of, or a pledge of the full faith and credit of, the state.

(3) The state hereby covenants with the holders of such revenue bonds that it will not take any action that will materially and adversely affect the rights of such holders so long as bonds authorized by this section are outstanding. The state does hereby additionally authorize the establishment of a covenant in connection with the bonds which provides that any additional funds received by the state from new or enhanced lottery programs; video gaming; banking card games, including baccarat, chemin de fer, or blackjack; electronic or electromechanical facsimiles of any game of chance; casino games; slot machines; or other similar activities will first be available for payments relating to bonds pledging revenues available pursuant to s. 24.121(2), prior to use for any other purpose.

(4) The bonds shall be issued by the Division of Bond Finance of the State Board of Administration on behalf of the Department of Education in such amount as shall be requested by resolution of the State Board of Education. However, the total principal amount of bonds, excluding refunding bonds, issued pursuant to this section shall not exceed amounts specifically authorized in the General Appropriations Act.

(5) Proceeds available from the sale of the bonds shall be deposited in the Lottery Capital Outlay and Debt Service Trust Fund within the Department of Education.

(6) The facilities to be financed with the proceeds of such bonds are designated as state fixed capital outlay projects for purposes of s. 11(d), Art. VII of the State Constitution, and the specific facilities to be financed shall be determined in accordance with state law and appropriations from the Educational Enhancement Trust Fund. Projects shall be funded from the Lottery Capital Outlay and Debt Service

Trust Fund. Each educational facility to be financed with the proceeds of the bonds issued pursuant to this section is hereby approved as required by s. 11(f), Art. VII of the State Constitution.

(7) Any complaint for validation of such bonds is required to be filed only in the circuit court of the county where the seat of state government is situated. The notice required to be published by s. 75.06 is required to be published only in the county where the complaint is filed, and the complaint and order of the circuit court need be served only on the state attorney of the circuit in which the action is pending.

(8) The Commissioner of Education shall provide for timely encumbrances of funds for duly authorized projects. Encumbrances may include proceeds to be received under a resolution approved by the State Board of Education authorizing issuance of class size reduction lottery bonds pursuant to s. 11(d), Art. VII of the State Constitution, this section, and other applicable law.

History.—s. 6, ch. 2003-391; s. 3, ch. 2009-170.

1013.738 High Growth District Capital Outlay Assistance Grant Program.—

(1) Subject to funds provided in the General Appropriations Act, the High Growth District Capital Outlay Assistance Grant Program is hereby established. Funds provided pursuant to this section may only be used to construct new student stations.

(2) In order to qualify for a grant, a school district must meet the following criteria:

(a) The district must have levied the full 2 mills of nonvoted discretionary capital outlay millage authorized in s. 1011.71(2) for each of the past 4 fiscal years.

(b) Fifty percent of the revenue derived from the 2-mill nonvoted discretionary capital outlay millage for the past 4 fiscal years, when divided by the district's growth in capital outlay FTE students over this period, produces a value that is less than the average cost per student station calculated pursuant to s. 1013.72(2), and weighted by statewide growth in capital outlay FTE students in elementary, middle, and high schools for the past 4 fiscal years.

(c) The district must have equaled or exceeded twice the statewide average of growth in capital outlay FTE students over this same 4-year period.

(d) The Commissioner of Education must have released all funds allocated to the district from the Classrooms First Program authorized in s. 1013.68, and these funds were fully expended by the district as of February 1 of the current fiscal year.

(e) The total capital outlay FTE students of the district is greater than 15,000 students.

(3) The funds provided in the General Appropriations Act shall be allocated pursuant to the following methodology:

(a) For each eligible district, the Department of Education shall calculate the value of 50 percent of the revenue derived from the 2-mill nonvoted discretionary capital outlay millage for the past 4 fiscal years divided by the increase in capital outlay FTE students for the same period.

(b) The Department of Education shall determine, for each eligible district, the amount that must be added to the value calculated pursuant to paragraph (a) to produce the weighted average value per student station calculated pursuant to paragraph (2)(b).

(c) The value calculated for each eligible district pursuant to paragraph (b) shall be multiplied by the average increase in capital outlay FTE students for the past 4 fiscal years to determine the maximum amount of a grant that may be awarded to a district pursuant to this section.

(d) In the event the funds provided in the General Appropriations Act are insufficient to fully fund the maximum grants calculated pursuant to paragraph (c), the Department of Education shall allocate the funds based on each district's prorated share of the total maximum award amount calculated for all eligible districts.

History.—s. 37, ch. 2005-290; s. 5, ch. 2007-60.

1013.74 University authorization for fixed capital outlay projects.—

(1) Notwithstanding the provisions of chapter 216, including s. 216.351, a university may accomplish fixed capital outlay projects consistent with the provisions of this section. Projects authorized by this section shall not require educational plant survey approval as prescribed in this chapter.

(2) The following types of projects may be accomplished pursuant to this section:

(a) Construction of any new buildings, or remodeling of existing buildings, when funded from nonstate sources such as federal grant funds, private gifts, grants, or lease arrangements if such grants or gifts are given for the specific purpose of construction;

(b) The replacement of any buildings destroyed by fire or other calamity;

(c) Construction of projects financed as provided in s. 1010.62;

(d) Construction of new facilities or remodeling of existing facilities to meet needs for research, provided that such projects are financed pursuant to s. 1004.22; or

(e) Construction of facilities or remodeling of existing facilities to meet needs as determined by the university, provided that the amount of funds for any such project does not exceed \$1 million, and the trust funds, other than the funds used to accomplish projects contemplated in this subsection, are authorized and available for such purposes.

(3) Other than those projects currently authorized, no project proposed by a university which is to be funded from Capital Improvement Trust Fund fees or building fees shall be submitted to the Board of Governors for approval without prior consultation with the student government association of that university. The Board of Governors may adopt regulations which are consistent with this requirement.

(4) The university board of trustees shall, in consultation with local and state emergency management agencies, assess existing facilities to identify the extent to which each campus has public hurricane evacuation shelter space. The board shall submit to the Governor

and the Legislature by August 1 of each year a 5-year capital improvements program that identifies new or retrofitted facilities that will incorporate enhanced hurricane resistance standards and that can be used as public hurricane evacuation shelters. Enhanced hurricane resistance standards include fixed passive protection for window and door applications to provide mitigation protection, security protection with egress, and energy efficiencies that meet standards required in the 130-mile-per-hour wind zone areas. The board must also submit proposed facility retrofit projects to the Department of Community Affairs for assessment and inclusion in the annual report prepared in accordance with s. 252.385(3). Until a regional planning council region in which a campus is located has sufficient public hurricane evacuation shelter space, any campus building for which a design contract is entered into subsequent to July 1, 2001, and which has been identified by the board, with the concurrence of the local emergency management agency or the Department of Community Affairs, to be appropriate for use as a public hurricane evacuation shelter, must be constructed in accordance with public shelter standards.

(5) Projects accomplished pursuant to this section are subject to the requirements of s. 1010.62.

History.—s. 871, ch. 2002-387; s. 171, ch. 2004-5; s. 77, ch. 2004-41; s. 185, ch. 2007-217; s. 34, ch. 2010-78.

1013.75 Cooperative funding of career center facilities.—

(1) Each district school board operating a designated career center may submit, prior to August 1 of each year, a request to the commissioner for funds from the Public Education Capital Outlay and Debt Service Trust Fund to plan, construct, and equip a career center facility identified as being critical to the economic development and the workforce needs of the school district. Prior to submitting a request, each school district shall:

(a) Adopt and submit to the commissioner a resolution indicating its commitment to fund the planning, construction, and equipping of the proposed facility at 40 percent of the requested project amount. The resolution shall also designate the locale of the proposed facility. If funds from a private or noneducational public entity are to be committed to the project, then a joint resolution shall be required.

(b) Except as provided in paragraph (5)(b), levy the maximum millage against the nonexempt assessed property value as provided in s. 1011.71(2).

(c) Certify to the Office of Workforce and Economic Development that the project has been survey recommended.

(d) Certify to the Office of Workforce and Economic Development that final phase III construction documents comply with applicable building codes and life safety codes.

(e) Sign an agreement that the district school board shall advertise for bids within 90 days of receiving an encumbrance authorization from the department.

(f) If a construction contract has not been signed 90 days after the advertising of bids, certify to the Office of Workforce and Economic Development and the department the cause for delay. Upon request, an additional 90 days may be granted by the commissioner.

(2) The Office of Workforce and Economic Development shall establish the need for additional career education programs and the continuation of existing programs before facility construction or renovation related to career education can be included in the educational plant survey. Information used by the Office of Workforce and Economic Development to establish facility needs shall include, but not be limited to, labor market needs analysis and information submitted by the school districts.

(3) The total cost of the proposed facility shall be determined by the district school board using established state board averages for determining new construction cost.

(4)(a) A career education construction committee shall be composed of the following: three representatives from the Department of Education and one representative from the Executive Office of the Governor.

(b) The committee shall review and evaluate the requests submitted from the school districts and rank the requests in priority order in accordance with statewide critical needs. This statewide priority list shall be submitted to the commissioner.

(c) The commissioner's legislative capital outlay budget request may include up to 2 percent of the new construction allocation to public schools for career capital outlay projects recommended by the career education construction committee.

(5)(a) Upon approval of a project, the commissioner shall include up to 60 percent of the total cost of the project in the legislative capital outlay budget request as provided in s. 1013.60 for educational plants. The participating district school board shall provide 40 percent of the total cost of the project. When practical, the district school board shall solicit and encourage a private or noneducational public entity to commit to finance a portion of the funds to complete the planning, construction, and equipping of the facility. If a site does not exist, the purchase price or, if donated, the assessed value of a site may be included in meeting the funding requirements of the district school board, a private or noneducational public entity, or the educational agency. The value of existing sites, intended to satisfy any portion of the funding requirement of a private or noneducational public entity, shall be determined by an independent appraiser under contract with the board. The size of the site to adequately provide for the implementation of the proposed educational programs shall be determined by the board. Funds from the Public Education Capital Outlay and Debt Service Trust Fund may not be expended on any project unless specifically authorized by the Legislature.

(b) In the event that a school district is not levying the maximum millage against the nonexempt assessed property value pursuant to paragraph (1)(b), state and school district funding pursuant to paragraph (a) shall be reduced by the same proportion as the millage actually being levied bears to the maximum allowable millage.

History.—s. 872, ch. 2002-387; s. 138, ch. 2004-357.

1013.76 Multiyear capital improvement contracts.—Any provision of chapters 1010 and 1011 to the contrary notwithstanding, school districts are authorized to award capital improvement contracts involving expenditures to be incurred for a period of more than 1 year on

the basis of voter-authorized and unissued general obligation bonding authority, provided that sufficient funds are available to, and budgeted by, the school district to pay actual disbursements during any fiscal year.

History.—s. 873, ch. 2002-387.

1013.78 Approval required for certain university-related facility acquisitions.—

(1) No university or university direct-support organization shall construct, accept, or purchase facilities for which the state will be asked for operating funds unless there has been prior approval for construction or acquisition granted by the Legislature.

(2) Legislative approval shall not be required for renovations, remodeling, replacement of existing facilities, or construction of minor projects as defined in s. 1013.64, except to the extent required pursuant to s. 1010.62.

History.—s. 874, ch. 2002-387; s. 186, ch. 2007-217.

1013.79 University Facility Enhancement Challenge Grant Program.—

(1) The Legislature recognizes that the universities do not have sufficient physical facilities to meet the current demands of their instructional and research programs. It further recognizes that, to strengthen and enhance universities, it is necessary to provide facilities in addition to those currently available from existing revenue sources. It further recognizes that there are sources of private support that, if matched with state support, can assist in constructing much-needed facilities and strengthen the commitment of citizens and organizations in promoting excellence throughout the state universities. Therefore, it is the intent of the Legislature to establish a trust fund to provide the opportunity for each university to receive support for challenge grants for instructional and research-related capital facilities within the university.

(2) There is established the Alec P. Courtelis University Facility Enhancement Challenge Grant Program for the purpose of assisting universities build high priority instructional and research-related capital facilities, including common areas connecting such facilities. The associated foundations that serve the universities shall solicit gifts from private sources to provide matching funds for capital facilities. For the purposes of this act, private sources of funds shall not include any federal, state, or local government funds that a university may receive.

(3)(a) There is established the Alec P. Courtelis Capital Facilities Matching Trust Fund to facilitate the development of high priority instructional and research-related capital facilities, including common areas connecting such facilities, within a university. All appropriated funds deposited into the trust fund shall be invested pursuant to s. 17.61. Interest income accruing to that portion of the trust fund shall increase the total funds available for the challenge grant program.

(b) Effective July 1, 2009, the Alec P. Courtelis Capital Facilities Matching Trust Fund is terminated.

(c) The State Board of Education shall pay any outstanding debts and obligations of the terminated fund as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated funds from various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

(d) By June 30, 2008, all private funds and associated interest earnings held in the Alec P. Courtelis Capital Facilities Matching Trust Fund shall be transferred to the originating university's individual program account.

(4) Each university shall establish, pursuant to s. 1011.42, a facilities matching grant program account as a depository for private contributions provided under this section. Once a project is under contract, funds appropriated as state matching funds may be transferred to the university's account once the Board of Governors certifies receipt of the private matching funds pursuant to subsection (5). State funds that are not needed as matching funds for the project for which appropriated shall be transferred, together with any accrued interest, back to the state fund from which such funds were appropriated. The transfer of unneeded state funds shall occur within 30 days after final completion of the project or within 30 days after a determination that the project will not be completed. The Public Education Capital Outlay and Debt Service Trust Fund or the Capital Improvement Trust Fund shall not be used as the source of the state match for private contributions. Interest income accruing from the private donations shall be returned to the participating foundation upon completion of the project.

(5) A project may not be initiated unless all private funds for planning, construction, and equipping the facility have been received and deposited in the separate university program account designated for this purpose. However, these requirements do not preclude the university from expending funds derived from private sources to develop a prospectus, including preliminary architectural schematics or models, for use in its efforts to raise private funds for a facility, and for site preparation, planning, and construction. The Board of Governors shall establish a method for validating the receipt and deposit of private matching funds. The Legislature may appropriate the state's matching funds in one or more fiscal years for the planning, construction, and equipping of an eligible facility. Each university shall notify all donors of private funds of a substantial delay in the availability of state matching funds for this program.

(6) To be eligible to participate in the Alec P. Courtelis University Facility Enhancement Challenge Grant Program, a university shall raise a contribution equal to one-half of the total cost of a facilities construction project from private nongovernmental sources which shall be matched by a state appropriation equal to the amount raised for a facilities construction project subject to the General Appropriations Act.

(7) If the state's share of the required match is insufficient to meet the requirements of subsection (6), the university shall renegotiate the terms of the contribution with the donors. If the project is terminated, each private donation, plus accrued interest, reverts to the foundation for remittance to the donor.

(8) By October 15 of each year, the Board of Governors shall transmit to the Legislature a list of projects that meet all eligibility requirements to participate in the Alec P. Courtelis University Facility Enhancement Challenge Grant Program and a budget request that includes the recommended schedule necessary to complete each project.

(9) In order for a project to be eligible under this program, it must be included in the university 5-year capital improvement plan and must receive approval from the Board of Governors or the Legislature.

(10) A university's project may not be removed from the approved 3-year PECO priority list because of its successful participation in this program until approved by the Legislature and provided for in the General Appropriations Act. When such a project is completed and removed from the list, all other projects shall move up on the 3-year PECO priority list. A university shall not use PECO funds, including the Capital Improvement Trust Fund fee and the building fee, to complete a project under this section.

(11) The surveys, architectural plans, facility, and equipment shall be the property of the State of Florida. A facility constructed pursuant to this section may be named in honor of a donor at the option of the university and the Board of Governors. No facility shall be named after a living person without prior approval by the Legislature.

History.—s. 875, ch. 2002-387; s. 1977, ch. 2003-261; s. 172, ch. 2004-5; s. 12, ch. 2005-56; s. 2, ch. 2007-61; s. 35, ch. 2009-60; s. 29, ch. 2010-155.

1013.81 ¹Community college indebtedness; bonds and tax anticipation certificates; payment.—

(1) The indebtedness incurred for the benefit of ¹community colleges and represented by bonds or motor vehicle tax anticipation certificates issued from time to time by the State Board of Education, hereinafter called "state board," pursuant to s. 18, Art. XII of the State Constitution of 1885 on behalf of the several former county boards of public instruction shall not be considered by the state board in determining the amount of bonds or motor vehicle tax anticipation certificates which the state board may issue from time to time on behalf of the several school districts under the provisions of s. 9(d), Art. XII of the State Constitution, as amended at the general election held on November 7, 1972, hereinafter called "school capital outlay amendment." Such indebtedness incurred on behalf of ¹community colleges, as described above, shall be considered by the state board in determining the amount of bonds or motor vehicle tax anticipation certificates which the state board may issue from time to time on behalf of the several ¹community college districts under the provisions of the school capital outlay amendment.

(2) The debt service requirements on the indebtedness incurred for the benefit of ¹community colleges and represented by bonds or motor vehicle tax anticipation certificates issued from time to time by the state board on behalf of the several former county boards of public instruction, as described in subsection (1), shall be paid from funds distributable pursuant to the school capital outlay amendment to the credit of the several ¹community college districts, and not from funds distributable pursuant to the school capital outlay amendment to the credit of the several school districts.

(3) Nothing herein shall be construed to authorize the state board to affect adversely or impair the contractual rights created and vested by reason of the prior issuance of bonds or motor vehicle tax anticipation certificates by the state board.

History.—s. 876, ch. 2002-387.

¹Note.—Section 21, ch. 2010-70, directs the Division of Statutory Revision to prepare a reviser's bill to substitute the term "Florida College System institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.

1013.82 Contracts of institutions for supplies, utility services, and building construction exempt from operation of county or municipal ordinance or charter.—

(1) University boards of trustees are authorized to contract for supplies, utility services, and building construction without regulation or restriction by municipal or county charter or ordinance. Contractual arrangements shall be in the best interests of the state and shall give consideration to rates, adequacy of service, and the dependability of the contractor.

(2) Any municipal or county charter, ordinance, or regulation that serves to restrict or prohibit the intent of subsection (1) shall be inoperative.

History.—s. 877, ch. 2002-387.

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The Florida Senate

2010 Florida Statutes (including Special Session A)

<u>TITLE X</u> PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	<u>CHAPTER 121</u> FLORIDA RETIREMENT SYSTEM	<u>VIEW ENTIRE CHAPTER</u>
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121.1122 Purchase of retirement credit for in-state public service and in-state service in accredited nonpublic schools and colleges, including charter schools and charter technical career centers.—Effective January 1, 1998, a member of the Florida Retirement System may purchase creditable service for periods of certain public or nonpublic employment performed in this state, as provided in this section.

(1) PURCHASE OF RETIREMENT CREDIT AUTHORIZED.—Subject to the provisions of subsections (2) and (3), a member of the Florida Retirement System may purchase up to 5 years of retirement credit for:

- (a) Periods of public employment in this state; or
- (b) Periods of employment in charter schools or charter technical career centers or in any nonpublic school or college in this state that is accredited by the Southern Association of Colleges and Schools.

Credit for 1 year of such service may be purchased for each year of creditable service a member completes under the Florida Retirement System.

(2) LIMITATIONS AND CONDITIONS.—

(a) A member is not eligible to receive credit for in-state service under this section until he or she has completed 6 years of creditable service under the Florida Retirement System, excluding service purchased under this section and out-of-state service claimed and purchased under s. 121.1115.

(b) A member may not purchase and receive credit for more than 5 years of creditable service aggregated under this section and s. 121.1115.

(c) Service credit claimed under this section shall be credited only as service in the Regular Class and is subject to s. 112.65.

(d) Service credit may not be purchased under this section if the member is eligible to receive or is receiving a pension or benefit from a retirement or pension plan based on or including the service. Eligibility for or the receipt of contributions to a retirement plan made by the employer on behalf of the employee is considered a benefit.

(e) A member is eligible to receive service credit for in-state service performed after leaving the Florida Retirement System only after completing at least 1 year of creditable service in the Florida Retirement System following the in-state service.

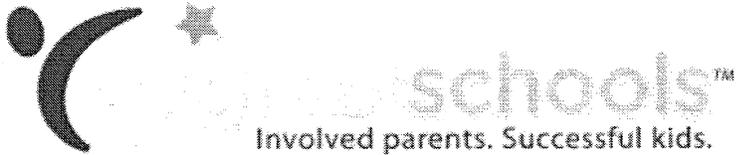
(f) The service claimed must have been service covered by a retirement or pension plan provided by the employer.

(3) COST.—The cost to purchase retirement credit under this section shall be calculated in the same manner as set forth in s. 121.1115 (2) for purchase of credit for out-of-state service.

History.—s. 12, ch. 97-180; s. 2, ch. 98-18; s. 4, ch. 98-302; s. 8, ch. 98-413; s. 11, ch. 2000-169; ss. 42, 43, ch. 2003-399; s. 11, ch. 2009-209.

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Are charter schools better?

A groundbreaking study offers new insights into charters: Are they outperforming traditional public schools, or are they failing their students?

By Carol Lloyd



Charter schools. In some education circles, these two words are enough to ignite a spitting match of statistics and impassioned rhetoric.

They are ruining our school system - they take resources away from public schools!

Since the public school system has abandoned our most needy children, charters are our only hope for reforming public school education.

Research shows that, on average, charter schools don't outperform traditional public schools – they're just another attempt to privatize education!

Test scores don't lie. High-performing charter schools are closing the achievement gap.

On and on the arguments go, drawing on the same old, selectively chosen facts to prove vastly different points of view. Amidst this increasingly heated clamor over charter schools, it's no surprise that many parents respond to the debate with the deer-in-the-headlight stare my friend gave me the other day when the subject came up: "I don't know how I feel about charters," she muttered. "I mean, are they bad or good?"

The good, the bad, and the promising

According to today's groundbreaking report by the California Charter Schools Association, the answer to my friend's question is: both.

"Portrait of the Movement" provides an in-depth analysis of California's 720 charter schools (new schools without data were not included), comparing them to traditional public schools along three important variables: their absolute test scores, their test scores relative to the students' socioeconomic backgrounds, and their improvement over time.

The results, which were released Wednesday, February 23, 2011 with endorsements from Secretary of Education Arne Duncan and reformer Michelle Rhee, offer a glimpse into the complex reality of charter school performance in one of the biggest states in the nation. In addition to a searchable map comparing all charter and public schools in the state, the report includes an interactive scatterplot of charter schools and sortable spreadsheet of all the state's charters.

What emerges is a simple fact: charter schools are not all created equal. But the not-so-simple truth about charters is that compared with traditional schools, they are both *more likely to outperform and more likely to underperform* their predicted outcomes. As CCSA's Myrna Castrejon put it, the report offers "cause for celebration and cause for concern."

Helping some, hurting others?

As a rule of thumb, at public schools the more privileged kids — those in the upper socioeconomic brackets — get the highest scores. The most disadvantaged — those in the lower socioeconomic brackets — attend the lowest-performing schools and score worse. But with charter schools, there are more outliers: some schools are doing substantially worse than comparable public schools. But some charter schools — especially those serving kids from disadvantaged backgrounds — are doing substantially better.

In this sense, the report unpacks the much touted finding that *taken in aggregate*, charter schools aren't better than their traditional counterparts. Such findings were an important caveat that charter schools are no panacea, but broad generalizations about mediocre charter school performance occludes the lessons that exceptional individual charter schools can offer.

As CCSA is eager to underscore, the report's key findings suggest that the charter school experiment shows remarkable promise, even though some of those schools are failing their students.

More excellent outliers than terrible outliers — Over all, there are more outperforming charter schools than underperforming ones. (Charters are four times more likely than non-charters to over-perform their prediction, while only twice as likely to be underperformers.) Given that the low performing schools tend to be smaller than the high performing schools, the positive effect is amplified -- with 2.5 times as many students served in the top performing 5% than the lowest performing 5%.

The right direction — Over time, the number of out-performing charters is increasing, while the number of underperformers is decreasing.

Excellence is replicable — Schools in Charter Management Organizations – like KIPP, Aspire, Alliance — have a better track record of excellence than charters that have no CMO-affiliation.

Classrooms still work — So-called “classroom-based” charter schools outperform non-classroom based charters, which comprise the highly volatile world of virtual academies and home school charters that may not compare well with traditional schools.

Closing the achievement gap — Charter schools serving low-income kids are outperforming comparable traditional schools.

Your takeaways

Does this mean you should run out and find a charter school for your child to attend? Would that choosing a school were so easy! But “charter” shouldn't be taken as a short-hand for good, or even decent. Each school — be it charter, private or public — needs to be assessed carefully according to its merits and your child's needs. What this report *does* elucidate is the varied performance of the vast array of charter schools — from a girl logging onto her computer in her pajamas to a collection of boys dressed in a suits and ties and chanting their multiplication tables military-style.

No doubt, CCSA has a stake in findings that shine a rosy light on all their member schools. But the broad

offerings that make up charter schools, including online homeschool programs to academic-intensive prep-style academies, are far more diverse than the public schools they are compared to — for better and for worse. In the process, CCSA has begun to set its own criteria for what good enough looks like. In the report, it identified 30 charter schools it will not endorse for renewal.

Ultimately, however, the report spells good news for the charter movement. Not because it proves that charters are always better, but because in all their diversity, they offer a picture not only of what works, but what should be avoided. If nothing else, it shines a light toward future success. Many of these schools — among them the CMOs like Alliance that are dedicated to closing the achievement gap — have made extraordinary strides in disproving those who believe that income level equals educational destiny. And that's good news for everyone.

Carol Lloyd is the executive editor of GreatSchools and mother to two raucous daughters, ages 5 and 9.

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OrlandoSentinel.com

RISKY CHOICES

More than 300 tax-supported charter schools sprang up across Florida in the past decade. State officials tout them as a quality education option for students and parents. But many are poor performers,

Vicki McClure and Mary Shanklin

Sentinel Staff Writers

March 25, 2007

Pat and Tammy Rasmussen had no idea they'd sent their son Daniel to one of the lowest-performing schools in Florida -- until he came home one day and said he was helping teach math class.

There had been hints. Richard Milburn Academy in New Port Richey initially had placed Daniel, a high-school junior, in classes he already had taken or did not need for graduation, the parents say. Homework consisted of crossword puzzles. Administrators offered to pay their son \$50 for each friend he persuaded to join.

The couple wanted a public school with small class sizes and rigorous instruction. Instead they chose one for potential dropouts. Only 12 percent of students could read at grade level.

Daniel moved to a regular school, but not before the principal asked whether he could stay because of the "head count," Pat Rasmussen said. The count determined how much state money a school gets -- in Daniel's case, about \$5,000.

"We never would have put him in there had we known," the father said.

Daniel's detour to Richard Milburn was his family's introduction to Florida charter schools, a decade-long exercise in school choice that is supposed to improve the public education of all students.

More than 300 charters teaching about 92,000 students have sprung up, funded by \$1.5 billion in local, state and federal taxes in the past three years alone. Eighty schools are operating in Central Florida.

But a statewide investigation by the Orlando Sentinel found that while many charters serve children well, scores of others offer a poor choice. Key findings, which the Sentinel will detail during four days, include:

Low-performing schools. A disproportionate number of charters are among the worst campuses in Florida. They received about a quarter of the failing grades last year, even though they taught 3 percent of the state's students.

Financial problems. More than half of charters report they are running at a loss, and nearly half had financial

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arrangements with insiders that would not be allowed in regular schools, such as board members renting a facility to the charter or doing business with the school.

Lack of accountability. Forty-three percent of charters did not receive a letter grade from the state in 2006, which means they avoided the primary corrective steps imposed on public schools that do poorly. Some perform dismally year after year without raising any alarm or any push to change.

Little oversight. The state has so few controls on charters that a Pensacola-area school was able to rent out teens for road work for five years. Now lawmakers are making it easier to open more and more charters.

John Winn, who nurtured the charter movement as an adviser to former Gov. Jeb Bush and later state education commissioner, said the system is giving parents what they want: more choices on where they school their children.

"We need to insist on comparable academic accountability through school grading, and we must ensure that all approved charter proposals are of the highest quality," he said.

But Jim Warford, Florida's former chancellor of public schools, said state officials were so busy promoting an alternative to conventional schools that they looked the other way when problems arose.

"I'm not opposed to charter schools or parent choices," he said, but "many times those schools were not held to the same accountability standards as regular public schools."

Marketplace learning

The idea behind charters rests on a belief in the marketplace. Freed from many state laws that apply to regular schools, private operators at charters would create innovative programs that would attract students and parents, the thinking went. Faced with competition, traditional schools would be forced to improve.

What the Sentinel found is a state system that encouraged the schools to grow but made it difficult to curb bad ones. Many charters have academic and financial problems that state and local officials do not have under control.

The rapid growth of the system alarms Panhandle state Sen. Don Gaetz, a former school superintendent who chairs the Education Committee.

"Charter schools were a movement," said Gaetz, a Republican from Niceville, "but now charter schools are an industry. They have lobbyists -- they walk around in thousand-dollar suits, some of them. Some are still struggling, idealistic, mom-and-pop shops, and they need assistance. But the big boys and the mature organizations should be held accountable for how they use public money and how they educate children."

Low or no grades

From the original five schools opened a decade ago -- one of them founded by Bush -- the system grew to 337 facilities last year. Though small in number compared with the 3,200-plus conventional public schools, Florida's charters would constitute the state's eighth-largest school district if grouped together, after Pinellas County. Only California had more charter-school students in 2006.

Though some of Florida's charters focus on special education, vocational instruction or children who might drop out, more than 73 percent of the schools operating last year served students similar to those at regular schools that compete with charters for enrollment and tax money.

Scores on last year's Florida Comprehensive Assessment Test, administered to public-school students in grades three to 11 each year, show charters as a group perform similarly to conventional public schools. Charter

children do slightly better in reading but not as well in math.

On the annual school grades handed out by the state, charters received only a slightly lower percentage of A's, B's and C's than regular schools.

But like the world of conventional schools, the charter realm has its subculture of failure -- a small group of schools with low performance that persists year to year.

Nine percent of charters received D's or F's last year, compared with 5 percent of regular public schools. Five of the 21 F's handed out in 2006 went to schools of choice, including Summit Charter West in Orlando. Only 2 percent of students tested could read at grade level, and only 1 percent were doing math at grade level, scores show.

Enrollment at Summit West dropped by half to about 100 after the school earned the F, its first grade in four years in operation.

But 43 percent of all charters received none last year, making it harder for parents to make informed decisions about a school. Only 20 percent of conventional schools were not graded.

Ungraded charters generally trailed ungraded regular schools in both reading and math scores.

Why no grades?

A bit more than half of the ungraded charters were exempted from grades because they teach potential dropouts, children with disabilities or inmates at juvenile-justice facilities. An additional 44 could not be graded because Florida's formula requires test scores from at least 30 students per grade level.

When a school is too small, "one student's score can weigh too much on the overall performance," said Winn, who recently retired.

State officials also require scores from at least 30 children that can be compared year-to-year, to chart learning gains. This is a typical reason a new school campus goes ungraded, but a few established charters also miss this hurdle.

Because FCAT scores are public records, the Sentinel could determine that many ungraded charters have poor reading and math scores.

At Everglades Preparatory Academy in Palm Beach County, only 3 percent of students met state standards in reading. No ungraded regular school with a similar population had fewer than 40 percent of its students reading at grade level.

Reading scores at Everglades compare poorly even to Jones High in Orlando and Edison High in Miami, two F-rated conventional schools that state officials have repeatedly criticized and prodded to reform.

The state is not pushing as hard for change at Everglades or most other charters without grades.

Carlo Rodriguez, head of Florida's school-choice program, said local school districts -- which monitor goals that charters set as part of their agreements to operate -- are supposed to make sure the ungraded charters perform.

"The school grade does not define the school as a whole," Rodriguez said. "Parents are in that school because they actively want to be there."

But auditors for the Legislature reported last year that two-thirds of charter contracts with districts "lacked essential information" needed to hold them accountable for student performance. More than a dozen charters

failed to specify any academic goals for children, auditors noted.

Choice vs. grades

Among the guiding principles listed in Florida law is that charters should "promote enhanced academic success," provide "innovative learning methods" and offer "increased learning opportunities," especially for the low-performing.

Bryan Hassel, a national education consultant who recently co-authored a nonpartisan study of Florida's charter schools, said not grading so many charters was "unacceptable."

"If they are not being graded, parents and policymakers can't tell how the school and the [charter] sector is doing," Hassel said.

Winn said charters draw such a challenging group of students that it's hard to compare them fairly with regular public schools. He has suggested evaluating charters by students' learning gains, but the state has refused so far to release gains of all individual charter schools.

Last year the Legislature decided that alternative schools could choose to be graded or to be rated based on learning gains. Winn said this will help the public compare alternative charters with similar regular schools.

Lawmakers provided one twist, however: If the campus opts not to be graded, its student scores must be included in the grade calculation of the regular school the children otherwise would be attending. The change could hold conventional schools accountable for charter children they do not teach.

Some charter enthusiasts simply question the need for grades or emphasize the benefits to parents of having choices.

"It's about enriching the lives of those students," said Rene Lewis, executive director of the Florida Consortium of Public Charter Schools, an advocacy group. "It may be the smaller class size, the individual attention, the fact that the teacher knows their name, that they're happier going to school and learning science, art and music."

Phil Handy, the Winter Park businessman who chaired the State Board of Education for more than five years under Bush, said he never expected charters to be better than regular schools.

"I am an advocate of not holding charters to a higher standard," Handy said. He imparted a similar message to charter-school officials who gathered for a December convention in Orlando: "Simply being a choice is enough."

Bush would not be interviewed for this story but said in an e-mail that he favored more accountability for charters.

"In return for more freedom to create their learning environment, they should commit to strong financial controls and transparent and real learning results," the former governor wrote.

Daniel's detour

The Rasmussens knew nothing about Florida charters when they started looking for a school for Daniel in 2004. They'd had good experiences with the independently run campuses in Arizona and called charters listed in the local phone book. They learned that Richard Milburn was the only charter high school in Pasco County.

They liked the school after visiting the campus and meeting the principal. It never came up that it was an alternative school, they told the Sentinel.

Florida calculated learning gains for 2,849 public schools last year. The Richard Milburn campus in Pasco ranked 2,828th, or in the bottom 1 percent.

The company behind Richard Milburn ran six charter schools in Florida last year, including one in Volusia County. All are aimed at problem students. The number of teens reading at grade level last year ranged from zero to 13 percent, FCAT scores show.

The company routinely spent more on administration than instruction at many of its campuses, audits show. Children at the New Port Richey campus told the Sentinel that students were used to vacuum, dispose of garbage and stack chairs because the school had no janitor.

At the South Daytona campus, which opened a year and a half ago in a mall, a reporter visiting last fall found students wandering freely in and out of classes during lessons.

"The kids were commodities," said Mike Wujnovich, a former teacher at Richard Milburn's Sarasota school who now teaches at public Riverview High in Sarasota. "Maybe the Milburns of the world get away with it because the kids are expected to fail," he said.

Districts shut down Richard Milburn's Tampa and Sarasota schools last year for low student achievement.

In Tampa, nearly half of the 42 graduates Richard Milburn reported last year did not earn a diploma or a certificate of completion, district officials found. As for New Port Richey, district officials said they discovered that more children were eligible to graduate than the school identified because transcripts were in disarray.

Sami Karns, 18, said the Richard Milburn school she attended in Sarasota wanted her to stay two more years, even though she took extra courses to finish early.

She will graduate this spring with a diploma from a regular high school and a certification as a nursing assistant.

"If I didn't leave Milburn, I wouldn't be on the path I am today," Karns said.

'Recruiting strategy'

Robert Crosby, founder of the company that runs Richard Milburn, NonPublic Educational Services Inc. of Massachusetts, said his company's strength was getting "at-risk" kids to come to school and pursue a high-school diploma. He said most students at his schools succeed.

All campuses disclose their status as alternative schools, enforce discipline and follow Florida rules for tracking attendance, he insisted.

As for paying students \$50 for each friend who enrolled, Crosby called that a "reasonable incentive" and part of the company's "overall recruiting strategy." Doing crossword puzzles can be valuable because they make students think, and having students help teach classes improves their confidence, he said.

The Pasco principal in 2004 was not available for comment. But Crosby said his school administrators all know the importance of the head count to state funding.

"A charter school is an entrepreneurial activity," he said.

Pasco officials put the Milburn school that Daniel Rasmussen attended on probation last May. They reported finding, among other things, that the campus had no curriculum, no professional guidance counselor and a Spanish teacher who could not speak the language.

The school's charter board voted this month to close the school this summer, citing a hostile work relationship

with the district.

Crosby attributed the two closures last year to anti-charter sentiment.

"Running an alternative school for at-risk kids is difficult," Crosby said. "We can't do it without a positive relationship with the school district."

Other districts, such as Volusia, had more-favorable views of his company, he said.

Chris Colwell, Volusia's deputy superintendent for instructional services, said Richard Milburn had been true to its mission by enrolling troubled students. His office will analyze the academic progress of each student this summer, he said.

"They are a young school for us," Colwell said. "We will know a lot more at the end of the school year."

Meanwhile, Richard Milburn plans to open new schools in Brevard and Lee counties this fall. Crosby said there always would be parents and students unhappy in public education, but that many children like his schools.

Indeed, when Daniel's parents finally decided to pull him out of the school, Daniel balked.

Now a 20-year-old airman first class in Arkansas, he said he wanted to stay because he liked teaching math and preferred the charter's small size.

"I really enjoyed that 'not taking anything home' stuff," Daniel said. "Kids were allowed to do what they pleased."

Bruised by their charter experience, Daniel's parents transferred him to A-rated River Ridge High School for his senior year.

Pat Rasmussen, who said he had graduated from high school unable to read, said the decision caused strife in the family. But he wanted his son to have a proper education.

"I didn't want him to go through what I had to," Rasmussen said. "We had a hard time the last year."

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Many charters have financial arrangements that cut into money for the classroom.

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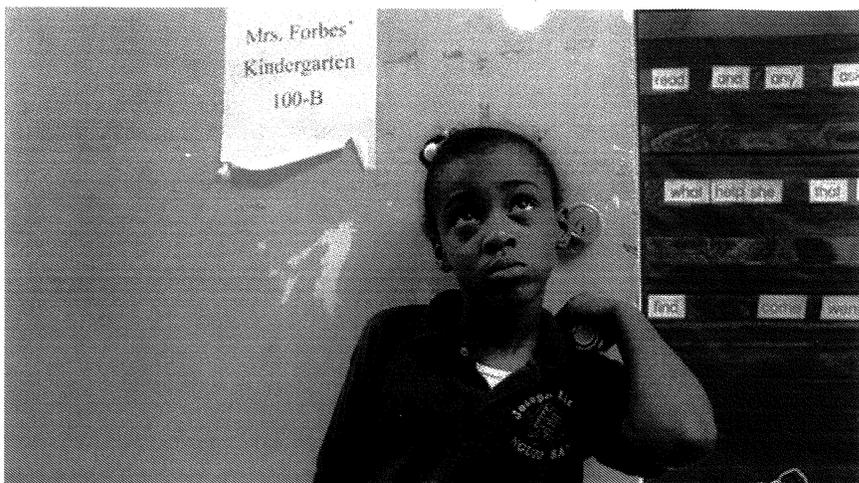
A Panhandle charter rented out students to do road work instead of going to class.

WEDNESDAY

MORE CHARTERS COMING

A new law allows lower standards and looser oversight.

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Ymonnie Irving holds the door to her class earlier this month at Joseph Littles-Nguzo Saba Charter School in West Palm Beach. The struggling, D-rated school owes its founder \$120,000. (photo by Tom Burton/O Orlando Sentinel)

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Deals and debts: Nearly half of Florida's charters had operating deficits

By Mary Shanklin and Vicki McClure | Sentinel Staff Writers

Joseph Littles-Nguzo Saba Charter School has been short on cash since it opened in 1999. One look around the place, and it's obvious.

One hundred thirty students share seven computers. The science-lab equipment consists of two microscopes and a set of scales. Children cannot take home books. The D-rated school spends less than half the money it gets from taxpayers on instruction.

Yet it's paying a \$2,000-a-month pension and providing several life-insurance policies for the school's founder, who no longer works at the school. Though traditional schools could never legally borrow money from individuals, the struggling school is in \$120,000 debt to its founder.

"You talk about a shoestring budget," said the new principal, the Rev. Richard Scott. "We don't even have shoes."

A decade after Florida launched charter schools to give students more choice in where they attend public school, nearly half of the 300-plus charters have operating deficits.

At the same time, more than \$200 million of the \$492 million Florida spent on these privately operated schools in 2005 went to charters that had business relationships with school officials: renting buildings to the charters, selling services to them, hiring relatives as employees.

Then there are the odd expenditures.

Palm Beach County's Survivors Charter Schools had a 10-year, \$100,000 contract for eight season tickets to Miami Dolphins games, which it distributed to the principal and others.

One of the two Survivors campuses also gave the principal \$600 a month to lease a BMW car and paid him \$163,412 a year, according to 2006-07 audits by the Palm Beach County School District.

The Orlando Sentinel found these and other financial details in property records, federal tax reports and hundreds of state-required financial audits filed by charters, which lawmakers exempted from many restrictions on conventional schools. More information turned up in records of school districts that dole out the public money.

Among the findings:

Nearly half of the audited charters had operating deficits in 2005, the latest year of audits released by the state. Total operating losses for these schools exceeded \$37 million. Nearly 100 met one of the criteria for being declared in a state of financial emergency under a law passed last year.

More than 140 schools had intertwined business relationships that would raise questions at traditional schools or at charters in several other states. Most were disclosed by charter auditors, who reviewed each school's finances and reported them as "related-party transactions."

Nearly one in 10 charters spent more on administration than on the classroom.

John Winn, who recently retired as Florida's education commissioner, said that charters need to follow ethical business practices, but most of their financial problems are benign. It would be best if charter board members had no business ties to the school, but it can be difficult to find committed volunteers, he said.

"Some of these groups are small, and it's difficult to get people to share your interests," Winn said. "... I do not see the need for the state to get entangled in those kinds of relationships."

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Overseers who work closely with the schools say problems are common, however.

"There are so many things that charter schools are doing incorrectly because they don't understand the law or they don't understand that these are public dollars," said Palm Beach County charter financial specialist Jeannette Merced, who reviews the operations of about 40 of the independently operated schools, including Joseph Littles-Nguzo Saba.

"Basically they live paycheck by paycheck, and when you look at it, there's no money left for the students."

Rent a major worry

One of the biggest differences between charter and regular schools is also the source of many charter money woes: the need to find a school building.

The tax money charters get to educate students also is their primary source of money for classroom space. Although the state offers building funds for charters, they go primarily to schools with a three-year track record.

That leaves many schools scrambling to pay for space.

When Joseph Littles-Nguzo Saba opened, it had no building. The school bused students to parks, churches and community centers for several months until it had enough money to rent a white, two-story building off Interstate 95.

Funding challenges have opened the door for charter directors, employees and managers to lease buildings they own to their schools. Of the more than \$40 million Florida gave to charter schools for facilities in 2005, about \$4 million went to charters with such arrangements, charter audits show.

More than 60 charters studied by the Sentinel had such financial ties, underscoring the interconnected relationships of some charters and their officers. By contrast, members of a county school board are barred by state law from leasing buildings to their districts.

One controversial case comes from Miami-Dade County, where school-district auditors estimated that officers of the company that manages the Mater Academy charters overcharged the schools about \$1.3 million in rent at the warehouse where classes are held.

Ignacio Zulueta was the manager of the company that bought the school building and charges the charters more than \$3 million a year in rent. His brother Fernando was president of Mater Academies. Both have been officers of Academica Corp., which manages more than 25 South Florida charters, including Mater Academy schools.

Employees of the Mater schools also served on the Academica board of directors. District auditors called it "an interwoven web of governance" that operated with few checks and balances.

"These relationships in turn create weak boards because board members are dependent on Academica for their continued livelihood," auditors wrote.

Academica's chief financial officer characterized the district allegations as baseless and biased, saying there was no evidence that Mater's rents were high. The Mater board could not afford to buy the building and exercised good judgment when it agreed to the lease, stated Ana Martinez, who oversees Academica finances.

Elsewhere in South Florida, Somerset Academy Charter Middle and High schools, Pinecrest Preparatory Academy and the Archimedean Academy also are managed by Academica and pay rent to their own charter trustees, managers or directors, according to the most recent audits released by the state.

Loans bust budgets

Loans are another business tie between some charter directors and their schools. Six charters collectively owed their board members more than a half-million dollars in 2005, the audits showed.

Audits for The Language Academy in Pasco County, which spends less than half of its money on instruction, showed that an unnamed school official was charging it as much as 21 percent interest -- more than double the lending rate available from banks at the time.

Academy Administrator Joyce Nunn said last month the loan had been repaid. Although charters are subject to the public-records law, she refused requests for information about who made the loan.

"I'm not telling you who it was," Nunn said. "I am tired of newspapers dredging up the past instead of focusing on the future."

Charters that go into debt either have to cut services, such as teacher pay, or they have to shift funds from education of children to interest payments, a state auditor general's 2005 report stated.

Dominic Calabro, executive director of Florida TaxWatch, a watchdog group, said charters should be spending their money primarily on instruction instead of space.

"You don't want to create unnecessary and burdensome red tape, but make sure the money is going into instruction," Calabro said.

Not every charter ends up beholden to landlords, however.



When former college administrator Bill Jones launched Manatee School for the Arts in Manatee County nine years ago, he cosigned a loan to help the school pay for classroom space. Today, he doesn't own the building -- the school does. Other charters could do the same thing, he said.

"If you begin to look at it like these are public funds you can play around with, you begin to get in trouble," said Jones, a veteran charter operator.

Churches host charters

Many charters have turned to churches in their quest for space -- a partnership that can pump tax dollars into churches to pay for renovations, expansions and new buildings.

At St. Peter's Missionary Baptist Church in Indian River County, parishioners will soon enjoy the use of a new, multipurpose facility thanks in part to a \$364,875 school-construction grant made on behalf of St. Peter's Academy.

Several charter-board members are associated with the church, which leases space and a bus to the school. No one from the school or the church would comment on the expansion.

In Orlando, Rio Grande Charter School of Excellence shares board members, facilities and funding with New Covenant Baptist Church. The school pays \$96,000 of its state tax money annually to lease land and 10 portable classrooms on church grounds.

Rio Grande also borrowed money from the church to stay in operation during the 2005 budget year, although it owes the church nothing now.

The relationship will become closer as the 8-year-old church launches plans for a new building with space for the school.

"The campus is safe. It's a benefit to the students to have a pleasant environment," Principal Barbara McLean-Smith said. "It's worked well being in common space."

Florida Education Commissioner Jeanine Blomberg said leasing from churches can be a good idea if they have space they are not using.

"When done appropriately, the combined use of space is helpful to both the church and school," she stated in an e-mail to the Sentinel.

That's a problem for University of Florida psychology professor Ira Fischler, president of a group that advocates separation of church and state. He said Florida's constitution is clear in saying that public funds cannot be spent, even indirectly, to support religious organizations.

"The principle of separation is important enough that that we should be especially conservative and careful and lead on the side of separation in deciding what to allow and what to prohibit," Fischler said.

High costs, less instruction

Charter School Institute sits behind the white balustrades, French doors and cobalt-blue tiled roof at Temple Messianique of North Lauderdale, which is in Broward County.

Most students come from Haitian backgrounds, and four-fifths cannot read at grade level. Yet the school is so deep in debt that it spends only 13 percent of its state dollars on instruction, audits show.

Temple Messianique's money troubles mounted when the school was shut down for safety violations in 2004. It ran up a \$206,000 debt to the Broward County School District by continuing to accept tax dollars while it was closed.

"When they closed the school, they were receiving the money as though students were there," said Patrick Reilly, Broward's chief auditor.

The district eventually collected the debt by cutting back on its allotment to the school. And though the school has upgraded its building to be safe, it still owes more than \$1 million, primarily to members of the charter board, audits show.

Unless another group volunteers to sponsor the school, it likely will have to cut deeper into instruction to stay afloat.

"You'd need 1,000 kids for many years to ever pay that loan back," Reilly said.

Joseph Valbrun, founder of the school and president of Temple Messianique, said the church spent \$3 million renovating the school to meet codes. He accuses district officials of

making unreasonable demands and trying to shut down his school.

"We are in so much debt," Valbrun said. "Their intent was to destroy us."

Broward schools safety director Jerry Graziuse said the school district had to make sure students had a safe environment. At one time, he said, the school had more than 20 children crammed into upstairs offices that had only one exit in case of an emergency.



"We were just looking out for the kids," Graziuse said.

Schools fail, money lost

Finances are blamed for a majority of the more than 70 charters that have closed in Florida. When schools fail, their remaining assets belong to the state, but taxpayers seldom recoup much money.

Charlotte County school officials could not recover any public funds when Alpha Center closed in debt after two years in 2001 because the school owed \$500,000 to the Internal Revenue Service.

The county has soured on charters as a result, said Fran Brasseur, the school system's budget director. Next time someone applies for one, the applicant's financial background will get more scrutiny than his or her educational expertise, he said.

After Survivors Charter Schools in Palm Beach County closed last year, more than \$70,000 worth of public property was never found, and school officials refused to relinquish \$50,000 of public funds they earmarked as a legal-defense fund, a recent school-district audit found.

Phil Handy, who chaired the State Board of Education as charter growth bloomed earlier this decade, said it's up to school districts to make sure charters spend tax money responsibly.

"I'm sure there are people in the charter industry that abuse the system," Handy said. "But these matters are relegated to the districts. They're the authorizers. They're the ones responsible for charter schools."

Districts that try to head off financial problems can be blocked in Tallahassee, however.

The Orange County School Board voted against authorizing Discovery Academy several months ago out of concern that its financial plan was unrealistic. The State Board of Education reversed the decision in February, and Discovery plans to open this fall.

Needed: Money to excel

At Joseph Littles-Nguzo Saba charter, Principal Scott says he could buy dozens of new computers or hire a part-time reading coach with the money the school is spending on its retired headmaster.

The money goes to Amefika Geuka, who founded the charter. He said the retirement stipend he gets is a small reward for getting so many children "out of the muck and mire" and a pittance compared with the retirement benefits of principals at traditional schools.

"There is no way of comparing what traditional administrators get to what a person gets who has created a charter school," Geuka said.

But Palm Beach school officials estimated that someone who was on the public payroll at Geuka's estimated salary for eight to 10 years would get about \$500 a month instead of

\$2,000.

Weighed down by the payments, Scott dreams of getting a share of local property taxes. That kind of money, he said, would help him build playgrounds, computer labs and science equipment that would help students succeed.

"How do you say to me, 'I want you to be an A school next year, and I'm not going to give you anything to do this'?" Scott said.

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SENTINEL SPECIAL REPORT CHARTER SCHOOLS: MISSING THE GRADE

CASHING IN ON KIDS

Vicki McClure and Mary Shanklin

Sentinel Staff Writers

March 27, 2007

GONZALEZ

For nearly half a decade, Escambia Charter School hired out a group of students to cut roadside grass and weeds during class time for about 32 hours per week.

The privately run high school made about \$200,000 by paying the children less than required under a state Department of Transportation contract. Meanwhile, it continued accepting tax money from the state Department of Education to teach the children five hours a day.

Until state prosecutors investigated complaints from teachers at the campus north of Pensacola, the falsifying of attendance records, course schedules and grade reports went unchecked.

Even after pleading no contest to grand theft, the school remains open. No more than 12 percent of its students have ever been able to read at grade level, test scores show.

The tale of Escambia Charter illustrates how far a publicly funded "school of choice" can go wrong under the loose oversight system established by state legislators and Gov. Jeb Bush.

Jim Horne, who oversaw charters as Florida education commissioner when Escambia was charged by prosecutors, said he did not remember much about the incident but held the local school district responsible.

"It is a public school that belongs to the district," Horne said.

Charles Thomas, the Escambia County district administrator overseeing charters at the time, said charter officials had represented the road crew as a proper career-training program.

"I had no reason to suspect it until it was brought to our attention," Thomas said.

Jennifer Hurd, Escambia's valedictorian in the year before the criminal charge was filed, remembers that her education was "really, really, really horrible."

"It is a great thing to be valedictorian, but I wasn't really proud of it because of the school," said Hurd, now married and studying to become an emergency medical technician. "Out of seven periods, three teachers would actually teach you something. I could have slept through the entire year if I had wanted to."

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One of the first

Florida has more than 300 charter schools today. Escambia, which opened in 1996, was one of the first five of these public schools freed from the strictures of the state's educational bureaucracy.

Legislators exempted this new breed of public school from many of the state laws and regulations that govern conventional public schools in exchange for what they said would be greater accountability. Individuals or groups would be granted authority to run schools in new, original ways.

As an alternative school, Escambia embodied one of the primary aims of the statute: "expanded learning experiences for students who are identified as academically low achieving." The campus mission was teaching students at risk of dropping out.

Charters were required to set goals and file annual accountability reports with the state. The law allowed county school districts to close charters that missed their goals, but in practice, this has rarely occurred.

The degree of independence granted charters meant that school districts had little say in their day-to-day operations.

The Governor's Office and the State Board of Education reinforced the hands-off approach toward charters, even when problems arose.

"It was symptomatic of their approach and style," said Jim Warford, who was chancellor of the public-school system at the time of the Escambia scandal. "From the top down, 'You are either for us or against us.' To even question means, 'You are against us.' "

Students hit the road

The student work crews started at Escambia Charter in 1999. Stan Callender, the school's chief executive officer, signed a \$250,000 contract with the Transportation Department to tend roadside grass and weeds in Escambia and Santa Rosa counties.

Callender and Principal Jerome Chisolm devised a plan that called for a group of students to work eight hours per day, Monday through Thursday, for up to 15 weeks during school hours, according to state investigators.

The contract paid \$16.25 for each hour a teen worked. The school, however, gave the students only \$10 an hour, prosecutors said.

That meant the school collected about \$40,000 a year from the student labor.

The administrators presented the program to charter-board members and county school-district officials as on-the-job training, investigators said.

Each week, however, Escambia sent false attendance records to the school district showing students were in class, investigators found. Report cards falsely showed that the work-crew members completed the courses.

Callender did not respond to calls seeking comment. But Chisolm said the crew provided an incentive for kids to work hard in school. Students were selected based on their grades.

"It was a great program because a lot of our students learned work ethics and balancing homework," he said. "This was a real-world scenario."

At the school, the road crew was featured in the school yearbook and offered as a reward to good students.

Hurd, who now lives in North Carolina with her husband and two children, said she opted against joining the team because she "wanted to learn something."

She had enrolled in Escambia after becoming pregnant at age 15 and giving birth to her daughter Madison. She wanted to go to college and thought the charter would be better for her than a conventional high school, given her new responsibilities.

What she found were classrooms where students shared old, outdated textbooks and a campus where fights often went undisciplined.

Hurd had struggled to get a B in conventional schools, but at Escambia she earned straight A's with little effort. She hated the campus but stayed for two years.

"My parents were proud of me for making good grades," she said.

Suspicious arise

Concerns about Callender and Chisolm surfaced in July 2003, when a handful of current and former instructors presented a long list of concerns to the charter's board: phony grades; improper spending; uncertified instructors on staff; no student-discipline program; administrators and teachers drinking on campus; and students permitted to sleep on floor during class.

The charter board directed its personnel agency to investigate. The company substantiated some of the claims and recommended further inquiry on others.

Board members took no action. Callender and Chisolm kept their jobs, and the road crew continued.

Artie Davis, one of the former teachers who complained, said Callender had handpicked the board members, and they were reluctant to go against him. State law is silent on how members of these governing boards are to be selected.

"The charter board never did do anything," Davis said. "The district didn't really know what we were doing. Callender was taking more liberties than he should have."

Escambia County school Superintendent Jim Paul sent a letter to the charter board that September saying the district would do its own investigation. Hiring uncertified teachers was a violation of state law, he wrote.

He also said the district would review the school's finances and begin quarterly inspections of the school's facility to ensure the health, welfare and safety of students.

"The fact that these allegations cover such a broad spectrum of areas and identify many disturbing circumstances is cause for concern," Paul wrote.

Thomas, the administrator in charge of monitoring Escambia at the time, said the district could do little more than threaten.

School boards, for instance, cannot withhold tax money from charters to prod changes. Legislators and Bush stiffened the law last year, ordering districts to pay interest to charters if their money is not dispersed within 10 days of receiving it from the state.

Standards for closing charters are high as well, as the district found when it shut down another charter, Gulf Coast High, around the same time.

A Gulf Coast student drowned on a field trip to a beach with no lifeguards, and the school used buses with

documented brake problems. When the school appealed to the State Board of Education, four members backed the district, but three voted to let the school remain open.

Considering the severity of the safety issues at Gulf Coast, the state board's ruling sent a strong message to Thomas: "It makes what Escambia Charter did seem meaningless."

Prosecutors step in

State investigators amassed enough evidence to charge Escambia with one count of organized fraud, a felony, in April 2004.

Thomas said the criminal charge helped him negotiate an end to the student-labor abuses. The road crews were restructured into proper on-the-job training programs. Students attended class the required five hours per day. Grade and attendance reports were no longer falsified.

But Callender, whom state investigators identified as the mastermind of the scheme, remained in charge at the school. Thomas said there was little he could do, because charter governing boards have authority over staff matters.

"We can close them, but we can't require they fire him," said Thomas, who now runs a charter for United Cerebral Palsy.

Assistant State Attorney Russ Edgar made the dismissal of Callender a condition of the school's plea to the lesser charge of grand-theft. He noted that the money the charter earned from student labor happened to cover much of Callender's salary.

He allowed Chisolm to stay because officials thought he had the potential for rehabilitation, he said.

Escambia is one of two charter investigations completed by the State Attorney's Office in that part of the Panhandle. A third charter probe is under way, Edgar said, but he would not identify the campus at this time. Other state attorney's offices have investigated charters in their jurisdictions as well.

"The whole program is rife with problems because there is very little oversight," Edgar said.

Hands-off attitude

Warford, the former public-schools chancellor, said the lack of will to improve oversight of charters came from the Governor's Office down through his appointees. Two Education Department workers who proposed more accountability for charters and other school-choice programs were removed from their posts during his tenure, he said.

A climate was created, he said, where "no one stood up and said anything" to improve monitoring or address the problems in charter schools.

Warford said he pressed his supervisors to explain what they thought accountability meant, if not better oversight.

"The only good answer I got was, 'There is accountability because the parents are free to choose,' " said Warford, who resigned in 2005.

"It was intellectually indefensible that you could take a student out of a high-accountability district school and turn them loose into the wild West of the free market that had no accountability."

Bush would not be interviewed for this story but said in a recent e-mail that he favored "greater accountability"

for charter schools.

School still troubled

Enrollment at Escambia has dropped a quarter, to about 100 students, since the scandal. Only 3 percent of students could read at grade level last year, and less than a quarter could do math proficiently.

The school received nearly \$1 million in tax money last year.

As part of an improvement plan, Escambia is raising salaries to help slow teacher turnover. Low-scoring children have been placed in intensive reading and math classes and are being offered tutoring. The charter also is testing children periodically throughout the year to assess their progress.

Maresha Foster, a first-year biology teacher at Escambia, said she wanted to work at a school where she could make a difference. So far, her experience has been positive, she said.

"The entire staff cares about these children," Foster said. "We are giving the individual care and boundaries that they so need."

Artie Davis, former teacher

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A majority of the new commissioners have backgrounds in real estate, banking or charter management, all industries with an interest in making sure Florida has plenty of the independently run schools.

Though these changes could benefit development interests, they also reflect the continuing tension between charters and the regular public schools that compete with them for students and tax money.

"Don't treat certain things one way in one county and another way in another county," said state Sen. Stephen Wise, R-Jacksonville, a sponsor of the legislation. "Sometimes I think the school districts make up stuff to set roadblocks in front of charter schools."

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For a decade, school districts have handled the approvals of charters. They can block schools from opening or close them down for cause, but their decisions also can be overturned by the State Board of Education. Though most charter closings have involved financial issues, a number of districts, including Polk, Palm Beach, Hillsborough and Duval, have closed them for poor performance.

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High expectations

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