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Report No. 11-02

Special Facility Construction Projects Appear Needed, but Have Excess Capacity

at a glance

The Special Facility Construction Program provides financial assistance to school districts that lack the resources to address urgent construction needs. The Department of Education has followed statutory requirements in administering the program. Although funded projects appeared to be needed, most schools built with program funds were larger than justified given the number of students currently enrolled. Unused student stations resulted in nearly \$108 million in additional construction costs. There are several options the Legislature could consider to improve program effectiveness.

Scope

As directed by the Legislature, this report examines the administration of the Special Facility Construction Account Program and provides options for improving its effectiveness.¹ The report answers three questions.

- Is the process the Department of Education uses to select Special Facility Construction Account projects

consistent with statutory requirements?

- Were school construction projects funded through the program justified by districts' needs?
- What options could the Legislature consider to improve program effectiveness?

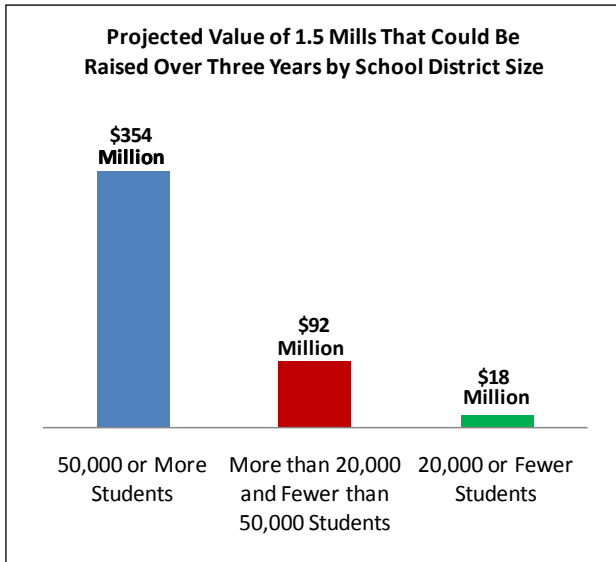
Background

Florida law establishes the Special Facility Construction Account to provide financial assistance to school districts that lack the resources to address urgent construction needs.² These projects typically are located in rural school districts that have an insufficient tax base to fund large construction projects. As shown in Exhibit 1, the state's smaller school districts, which serve 20,000 or fewer students, generally raise considerably less through local discretionary property taxes than larger Florida school districts.

¹ Chapter 2010-154, *Laws of Florida*.

² Section 1013.64(2), *F.S.*

Exhibit 1
The Value of Local Discretionary Property Taxes Raised to Meet Capital Needs Varies Considerably Among School Districts



Note: The information in this exhibit reflects three times the value of the 1.5 mill levied against local non-exempt property tax rolls in 2009-10.

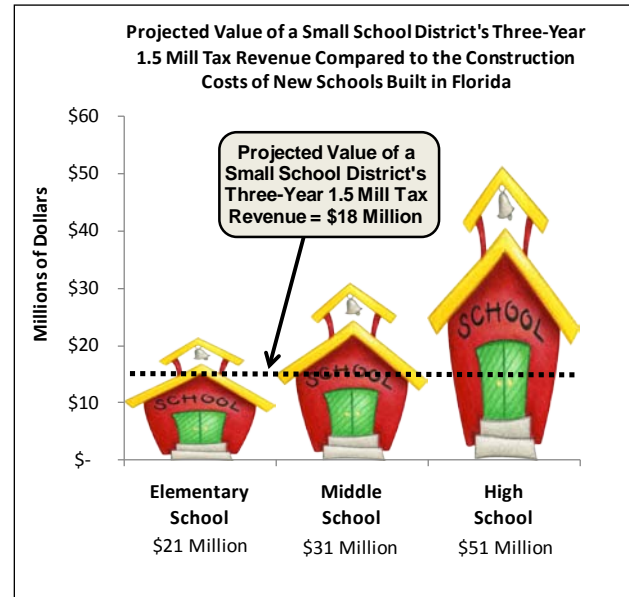
Source: OPPAGA analysis of Department of Education data.

As a result, small school districts may have a difficult time raising the local funds needed to pay for new schools. In 2009-10, discretionary 1.5 mill property tax receipts in small school districts ranged from \$350,000 to \$28 million with an average of \$6 million per district.³ Using the \$6 million as an estimate, a small school district might expect to collect \$18 million over the next three-year period for new schools. Exhibit 2 shows the average costs of building elementary, middle and high schools compared with the \$18 million average discretionary tax revenue. Although the building costs varied substantially within each type of school (for example, elementary school building costs ranged from \$4.6 million to \$34.4 million with an average of \$21 million), the discretionary tax revenues collected could be insufficient to pay for building new schools.⁴

³ The millage rate is the tax rate applied to the assessed property value. Each mill represents \$1 of tax assessment per \$1,000 of assessed property value.

⁴ Average school construction costs are for all schools built in

Exhibit 2
Small School Districts Often Cannot Afford the Cost of a New School with Their Three-Year Property Tax Proceeds



Note: The information in this exhibit reflects three times the value of the 1.5 mill levied against local non-exempt property tax rolls in 2009-10 compared with 2008 costs of construction for each type of school (the most current cost data available from the Department of Education).

Source: OPPAGA analysis of Department of Education data.

To qualify for program funds, districts must submit a request to the Department of Education for a critically needed project and demonstrate that it lacks sufficient capital outlay funding to pay for the project over a three-year period. The district also must certify its three-year commitment of future state and local fixed capital outlay revenue to offset project costs and that the project is a critical need, as provided in s. 1013.64, *Florida Statutes*.

Florida in 2008 (the most recent data available). The actual cost of construction for elementary schools ranged from \$4,653,952 (\$5,731 per student station) to \$34,369,832 (\$33,239 per student station) with a median \$20,459,939 (\$24,370 per student station). Middle schools ranged from \$15,668,548 (\$28,962 per student station) to \$44,806,513 (\$23,337 per student station) with a median \$32,360,651 (\$24,684 per student station). High schools ranged from \$16,385,812 (\$27,039 per student station) to \$83,780,198 (\$27,469 per student station) with a median \$52,792,146 (\$27,469 per student station).

Approved projects receive an off-the-top allocation of state Public Education Capital Outlay (PECO) funding that is allocated annually to all school districts.⁵ Therefore, projects funded through the program reduce the amount of capital outlay funding available to other school districts for new construction projects. Since the program's inception in Fiscal Year 1981-82, 65 projects have been funded in 29 school districts. These projects had a cost of \$870.5 million, of which approximately 68% was from state funds and the remainder derived from local tax receipts.⁶ During the past two fiscal years, the Legislature has not appropriated any Public Education Capital Outlay funding to school districts specifically for new construction projects other than for projects funded through the Special Facilities Construction Account Program. In Fiscal Year 2010-11, the Legislature appropriated \$12.3 million to the program.⁷

Questions and Answers—

Is the process the Department of Education uses to select Special Facility Construction Account projects consistent with statutory requirements?

The department's process to evaluate, select, and prioritize projects is consistent with the program's statutory framework. However,

department files included little documentation of critical program decisions.

The Department of Education reviews requests and verifies that they meet statutory requirements. Based on our interviews of department staff and available documentation, we concluded that the department follows the process established in law when it reviews district requests for Special Facility Construction Account Program funding. Staff within the Department of Education's Office of Educational Facilities conducts a preliminary review of the request to ensure that it includes all certifications and other information required by law. As part of this process, staff verifies that the district's approved educational plant survey recommends the requested project. The survey is a detailed assessment of all district facilities and serves as the major planning tool for budgeting construction and repair of district facilities. Florida law requires districts to conduct this survey at least once every 5 years.⁸

The department then assesses whether the district meets statutory financial requirements to receive project funding. In this process, staff determines whether the district has demonstrated its inability to fund the project over a continuous three-year period. Staff reports that they consider all state and local fixed capital outlay revenue (excluding maintenance funds) the district will receive during the three years following the date of the proposed project. Staff also verifies that the district has levied the maximum allowable local capital improvement millage (currently 1.5 mills) for fixed capital outlay, which demonstrates the district's willingness to raise local capital funds for construction needs.⁹ The department also verifies that the

⁵ The Public Education Capital Outlay and Debt Service Trust Fund derives revenue from gross receipts taxes on utilities. School districts, public colleges, and state universities and other educational agencies may use PECO funds to construct new facilities or maintain, renovate, and/or repair existing facilities. In addition, the state funds educational capital outlay through school district and community college capital outlay and debt service (CO&DS) funds, capital outlay bond issues (COBI bonds), and lottery and general revenue funds. School districts may fund school construction from millage levied against local non-exempt property taxes and/or sales surtaxes that are approved by voters.

⁶ The districts' contribution is derived from each district's three-year annual participation requirement as provided in s. 1013.64 (2)(a)8., *F.S.*

⁷ The Legislature appropriated these funds to be allocated to the second and final year of construction of a new high school in Calhoun County under the Special Facilities Construction Account Program.

⁸ The department approves each district's educational plant survey. The five-year requirement is established in s. 1013.31(1), *F.S.* Due to the complexity of these surveys, the department's Office of Educational Facilities may conduct surveys for a consortium of smaller school districts at no cost to the districts.

⁹ Section 1011.71(2), *F.S.* Prior to 2008-09, the maximum non-voted district discretionary millage was 2.0. The Legislature lowered the maximum to 1.75 mills in Fiscal Years 2008-09 and to 1.50 mills in 2009-10 and 2010-11. Districts applying for

district school board has filed a resolution acknowledging its three-year commitment of future state and local fixed capital outlay revenue to offset project costs. This certification must pledge all unencumbered and future fixed capital outlay revenue to the state to help pay for the project. If the revenue available is less than the estimated project cost, the district is deemed financially qualified for Special Facility Construction Account funds. See Appendix A for the total costs and districts' contributions for the seven projects constructed in the last five years.

If a district meets these financial tests, the department forms a committee of experienced facilities staff and school district administrators, which conducts a pre-application visit to the district to validate that the project meets the critical need criteria defined in Florida law. Department staff and committee members we interviewed indicated that the committee considers the capacity of existing district facilities, its pattern of student growth, and the district's current and projected capital outlay commitments. The committee also considers the district's full-time equivalent student enrollment, existing satisfactory student stations, use of existing district property and facilities, grade level configurations, and any other information that may affect the need for the proposed project.

As required, a final selection committee approves and ranks projects. Projects that pass the above tests are reviewed by a final selection committee that evaluates and ranks each project. The composition of this committee includes members from various groups as specified by law.¹⁰ In this

funding from the Special Facility Construction Account must levy the maximum local capital improvement millage at the time of application. Although districts are not required to levy the maximum prior to their application, doing so enables them to set aside locally generated funds for new construction, renovation, remodeling, and major maintenance projects. Appendix B provides information on the discretionary local capital improvement taxes districts levied in the five years preceding their application for Special Facility Construction Account Program funds.

¹⁰ The committee consists of two department employees, one

process, district representatives are invited to make a presentation on the project and answer questions from committee members. Committee members we spoke with stated that they rely heavily on department staff for guidance and technical assistance during this process, particularly on issues such as the program's legal requirements and whether a district's existing facilities can meet its educational needs.

Committee members indicated that when reviewing and approving projects, they consider the criteria outlined in Florida law, including student enrollment data, and the age and usefulness of district facilities at the time of the request. The committee also considers district desires to consolidate schools to reduce operating costs, the number and age of portable classrooms, and the maintenance history of major systems such as roofing and heating, ventilating, and air conditioning (HVAC). For example, the committee approved a Franklin County School District project to construct a K-12 school that consolidated all of its older public schools and intended to reduce operating costs. The committee also approved a Levy County School District project to build a new middle/high school and replace an outdated high school constructed in 1934 as well as portable classrooms.

When there are multiple projects, the final selection committee then ranks all projects it approves and recommends that the Commissioner of Education include these projects in the department's Legislative Budget Request. To date, the Legislature has funded all committee-recommended projects.

Department records do not adequately document critical decisions. While the department appears to have followed statutory requirements for the program, its files did not always document all relevant factors it and the selection committee considered in their

Governor's office representative, a member selected annually by the district school boards' association, and a member selected by the superintendents' association.

decisions. For example, program files lacked copies of district requests for program funds, information that districts provided to the selection committee such as the reasons why a project was considered a critical need, or scoring sheets or other written materials that supported the department's and selection committee's decisions. Department staff was able to provide some, but not all of this information upon our request. Given the magnitude of state funded projects (\$504 million from Fiscal Years 1998-1999 through 2009-10), and that these projects reduce Public Education Capital Outlay funding available for other school districts, the department should maintain better documentation for its and the committee's funding decisions.

The department acknowledged that final selection committee decisions historically were not always well documented. However, it indicated that it has taken steps to better document these decisions. For instance, the department has developed a form for the final selection committee to use to evaluate whether a proposed project is a critical need. This form, which has been in use since 2007, helps ensure that the final selection committee considers all relevant data and information in its decisions. Recordkeeping could be further improved by requiring that the final selection committee complete scoring sheets or provide other written materials that support its decisions.

Were school construction projects funded through the program justified by districts' needs?

Available data indicates that the construction projects funded through the program were justified by district facility and enrollment needs. However, schools built through the program were often larger than justified given expected student population growth patterns.

Funded projects appear to have been needed. Between 2004-05 and 2008-09, the Department of Education funded seven district requests for Special Facility Construction Account Program awards (see Appendix A), turned down two

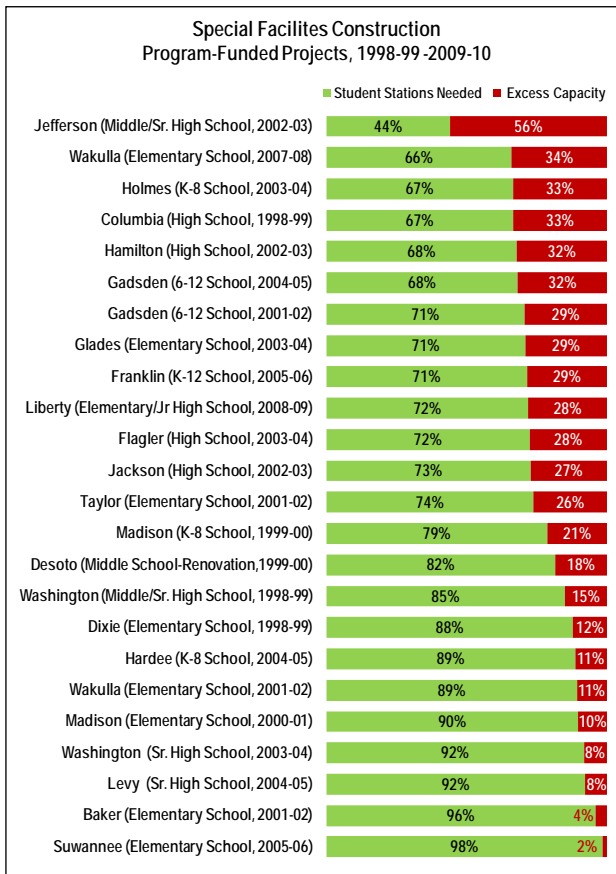
formal requests for funding, and received six informal requests that did not result in formal applications. As required, the funded projects were identified as critical needs in the districts' approved educational plant surveys. Available data indicates that the districts had demonstrated that local tax revenues and state allocations for the subsequent three years were not sufficient to fund the requested project.

Schools built with program funds were larger than needed to serve the projected number of students. Between Fiscal Years 1998-99 and 2009-10, districts received Special Facility Construction Account funds for 25 school projects. As shown in Exhibit 3, each of these projects created more student stations than needed to serve the number of students who were enrolled in the 2009-10 school year.¹¹ Although the department has not established a standard to assess the reasonableness of excess capacity, more than half (13) of these projects had over 25% excess student stations. Department data indicates that the average excess capacity was 23% for all schools built with program funds since 1998-99.¹²

¹¹ Calhoun County School District high school, which was funded in 2009-10, was not included in our review because it was under construction during our fieldwork.

¹² Student stations include classroom space and a prorated share of support space such as libraries, cafeterias, and administrative offices. The Florida Inventory of School Houses uses 100% of all permanent student stations to calculate elementary school capacity because students are generally assigned to one classroom. However, because middle and high school students change classes, student station capacity is calculated at 90% or lower, depending on school size, because all student stations are not expected to be in use at all times.

**Exhibit 3
Projects Constructed with Program Funds Often
Have Considerable Excess Student Stations**



Note: Calhoun County School District high school, which was funded in 2009-10, was not included in this exhibit because it was under construction during our review.

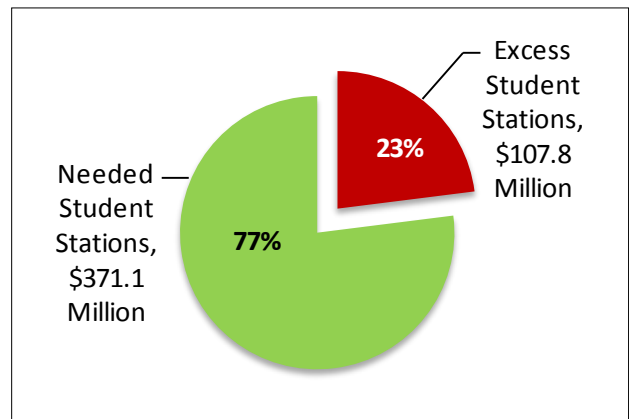
Source: Department of Education.

Department staff and committee members identified two possible reasons why projects resulted in excess capacity. First, the department indicates that the primary reason for the excess capacity is steep declines in student enrollment in some school districts in recent years. Some projects may have been justified by official student population growth projections in educational plant surveys that did not materialize. For example, over the last three school years, student enrollment in many districts has been lower than projected due to the poor economy, which has affected Florida’s overall population growth. Second, the department has generally restricted program funding to projects that build new schools, and

disallowed projects that would add capacity to existing facilities by adding new buildings or classroom wings to existing schools. As a result, school districts have had an incentive to request funds for larger schools than currently needed, as they would not be able to obtain program funds in later years for smaller projects that would accommodate projected student growth as it occurred.

The excess student stations that were unused during the 2009-10 school year had an estimated construction cost of nearly \$108 million (see Exhibit 4).¹³ Districts must also pay ongoing operating costs for the excess space, including utilities, janitorial services, and maintenance expenses.

**Exhibit 4
Nearly \$108 Million in Program Funds Were Used
to Construct Excess Student Stations**



Source: OPPAGA analysis of Department of Education data.

What options could the Legislature consider to improve program effectiveness?

We identified eight options to modify the Special Facility Construction Account Program to improve its effectiveness; the Legislature has previously considered some of these options: 1) clarify the types of projects that are eligible for program funding; 2) clarify the department’s role in making funding decisions, 3) require that the department conduct

¹³ The construction costs for projects completed from 1998 to 2010 multiplied by the percentage of excess capacity represents the cost of excess student stations.

educational plant surveys; 4) require the department to approve final construction plans for program-funded projects; 5) change the membership of the project selection committee; 6) require districts to levy the maximum discretionary millage prior to their application; 7) modify the cost-sharing requirement that districts allocate all local discretionary millage to funded projects; and 8) restrict program funds from paying for cost overruns. These options are presented below and summarized in Exhibit 5.

Option 1: Clarify the types of projects that are eligible for program funding. Florida Statutes require that funded projects must address a 'critical need' and specify the information that must be considered in making this determination.¹⁴ However statutes do not define the term 'critical need', and department staff, committee members, and district officials have differing interpretations of this requirement. Some stakeholders indicate that any districts' top construction priority listed in an approved education plan survey qualifies as a critical need. Another stakeholder asserts that any new school in small rural districts meets this standard because such districts lack the resources available to larger districts; this stakeholder indicates that these projects help ensure that students throughout the state receive equitable educational opportunities.

These differing viewpoints have led to disagreements between department staff and school districts regarding whether specific projects are eligible for program funding. For example, in 2009, the Washington County School District asked department staff to review a potential request for program funds to

construct a replacement elementary school, which the district considered a top construction priority. However, department staff determined that the district's existing facilities were adequate for district's current enrollment and five-year growth projections. The department also recommended that six school districts not apply for program funding because staff deemed that the proposed projects did not meet the definition of 'critical need.'

Disagreement has also occurred over whether program funds can be used for school renovations and remodeling or whether only new schools qualify as a critical need. The department has changed its position on this issue over time. The department currently follows an unwritten policy that disallows program funding for any projects involving the renovation or expansion of existing facilities.¹⁵ As a result, the department denied a 2009 Madison County School District funding request for major renovations and remodeling of an existing high school; the district requested \$9 million in program funds to replace the roof and heating, ventilating, and air conditioning (HVAC) systems of the school. The department formed a pre-application committee to evaluate the project, which was recommended in the district's educational plant survey. The pre-application committee did not approve the request because the project would not have replaced an entire school. In contrast, prior to 2005, the department allowed major renovations that met a 'critical need' and had a cost that exceeded both state and local capital resources that would become available to the district over the subsequent three years.

Department officials indicated that the current interpretation avoids overwhelming

¹⁴ Section 1013.64(2)(a)1, *F.S.*, provides that in determining 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.

¹⁵ The department indicates that it prefers that Special Facility Construction Account funds be used to construct entire school buildings but would not rule out using program funds for critical major renovation projects, such as those that are necessary to protect the safety of students. It indicates that it works with school districts to develop strategies to address other major renovation needs.

the program with renovation projects that a district could pay for itself with careful planning. While current law is broad enough to support both interpretations, the department's current position can contribute to overbuilding schools, as discussed above. Further, it may result in building new schools when renovating existing structures might be more cost effective.

To address this issue, the Legislature could amend s. 1013.64(2)(a)1, *Florida Statutes*, to specifically define 'critical need' and the types of projects that should be deemed a critical need. In addition, the Legislature could clarify whether major renovations and school expansions are eligible for program funding.

Option 2: Clarify the department's role in making funding decisions. One stakeholder asserted that the department denies district requests for program funding without the appropriate statutory authority to do so. However, the department indicated that it does not deny requests but rather provides guidance to school districts and to the final selection committee including information on whether department staff believes that the requests meet the statutory definition of 'critical need'. Further, department administrators asserted that they have a responsibility to provide such guidance to ensure funds are used as intended. To address this issue, the Legislature could amend section s. 1013.64(2)(a)1, *Florida Statutes*, to clarify the department's authority to review and deny requests for program funding if it determines the projects do not meet the definition of critical need.

Option 3: Require that the department conduct educational plant surveys. Florida law allows school districts to either contract with a private consultant for educational plant surveys or request the Department of Education to conduct these facility reviews. Since 1998, districts hired private consultants to conduct surveys for 19 of the 24 program-funded projects, in part, because the districts believed this provided an independent, third-

party assessment of their facilities needs. Often these consultants also worked for firms that designed or constructed the proposed school.

Some department staff expressed concern that this practice creates at least an appearance of a conflict of interest because private consultants in the employ of architectural firms that design and/or build schools could have a financial incentive to overstate districts' facility needs. As discussed earlier in this report, many schools built with program funds since 1998 have considerable excess capacity.

The Legislature could address this issue in three ways. First, it could consider requiring that the Department of Education conduct educational plant surveys for districts that are considering applying for project funds. The Legislature provided additional positions to the department in 2007 to expand its ability to conduct such surveys.

However, most stakeholders we interviewed opposed this option. They noted that Florida law already requires that the department validate a portion of surveys conducted by consultants, and that department staff conducts an on-site visit to verify the need for each project during the pre-application process.¹⁶ Also, this option would not prevent the construction of over-capacity schools. While many of the schools funded through the program were based on educational plant surveys developed by private consultants, two such schools were based on surveys conducted by department staff, including the school with the highest percentage of excess student stations.

Stakeholders also raised concerns that placing the department in the position of both assessing district facility needs and selecting projects to fund would give it too much control over local school facility decisions. However, if Department of Education staff conducted the surveys for districts that were considering applying for program funds, it would be in a

¹⁶ Section 1013.31(1)(c), *F.S.*

better position to assess the need for these projects. In addition, such a requirement might provide additional assurance to other school districts and the general public that program funds are being spent only on capital projects that are critically needed.

Second, the Legislature could amend Florida law to prohibit consultants that conduct educational plant surveys from also being employed by or receiving compensation from third parties that design or construct school projects that are recommended by their surveys. This option would allow districts to continue to use private consultants for educational plant surveys but address the conflict of interest issue by separating such consultants from the firms that benefit from recommendations to construct or renovate school facilities.

Finally, the Legislature could require the department to examine the Special Facility Construction Account projects that have resulted in substantial excess student capacity and identify the specific factors that resulted in overbuilding. The department could use the results of this review to strengthen its review of district project requests to help prevent such problems from occurring in the future.

Option 4: Require the department to approve final construction plans for program-funded projects. Currently, Florida law requires school boards to certify that final phase construction plans are complete and in compliance with current building and life safety codes.¹⁷ These plans detail final school designs, including construction documents, proposed costs, and bid specifications for constructing the facility or school. The board must certify that the plans comply with all state requirements, current rules, and codes, and laws that govern construction of educational facilities.¹⁸

Statutes currently do not require districts to submit final construction plans to the department for its review or approval. The department could be given the authority to both review and approve these plans for Special Facility Construction Account Program funded projects to ensure that the proposed designs are the most economical way to meet each district's growth needs.

The primary advantage of giving the department this additional authority is that it would enable the department to provide an independent technical review of the plans to ensure the architect used the most cost effective school design that emphasizes efficiency and function over features that do not add value. Small districts often do not have this expertise. In addition, it may help reduce cost overruns by ensuring early in the process that new schools are not over-built.

Most school district officials we interviewed did not support this option, arguing that school districts may opt to hire a private firm to review project plans and that this option could delay project construction and would unduly restrict local control of school facilities.¹⁹ However, providing this level of oversight may be particularly important given that projects funded through the program reduce the amount of capital outlay funding available to other school districts for new construction projects.

Option 5: Change the membership of the project selection committee. Currently, Florida law requires that the final selection committee be composed of two representatives of the Department of Education, a representative from the Governor's office, a representative selected annually by the district school boards association, and a representative selected annually by the superintendents

¹⁷ Section 1013.64(2)(a)12, *F.S.*

¹⁸ If the board chooses to have the department review and approve construction plans, the architect must certify that the drawings and project manual are complete and comply with the *State Requirements for Educational Facilities* and the *Life*

Cycle Cost Guidelines for Materials and Building Systems for Florida's Public Educational Facilities.

¹⁹ Florida law (s. 1013.38(2), *F.S.*) does not require school districts to have construction documents reviewed by architects and/or engineers independent of the ones who prepared the construction documents.

association.²⁰ The district school board and superintendent associations have tended to select representatives from small school districts that are eligible to receive or have received program funds in prior years. Most stakeholders we contacted asserted that small district representation is important because it helps the committee understand small districts' unique problems. However, some stakeholders contend that this can create an appearance of a conflict of interest because small district representatives serve multiple terms and may also benefit from the program. Other stakeholders assert that small school districts are outweighed on the current committee by state level representatives and that most decisions are by consensus.

To avoid the appearance of a conflict of interest described above, the Legislature could consider revising statutes to limit how frequently the same school district can be represented on the final selection committee. Alternatively, the Legislature could broaden committee membership by specifying that the committee must include representatives from both program-eligible and non-program-eligible school districts.

Option 6: Require districts to levy the maximum discretionary millage prior to their application. Florida law currently requires that districts levy the maximum allowable local capital improvement millage (currently 1.5 mills) for fixed capital outlay at the time of and for three years following their application for program funds.²¹ This requirement is designed to demonstrate the district's willingness to raise local funds to address construction needs. However, some stakeholders believe that the program creates a disincentive for districts to levy the maximum allowable millage in the

years prior to their application because they know that they can use program funding to meet their major construction needs.

Department of Education records show that only 9 of the 20 districts that received program funds between Fiscal Years 1998-99 to 2008-09 levied the maximum local capital improvement millage during the five-year period immediately preceding the date of their requests for program funds (see Appendix B).^{22, 23} In addition, eight school districts levied less than the maximum allowed by law in at least one of the five years preceding their application, and six school districts levied no local millage for at least one year during the five-year period. Although districts are not required to levy the maximum capital improvement discretionary millage prior to their application, doing so would enable them to set aside locally generated funds for new construction, renovation, remodeling, and major maintenance projects.

The Legislature could consider amending Florida law to require that school districts levy the maximum local capital improvement millage for a specified number of years prior to submitting an application for program funds. For instance, if all districts that received program funds between Fiscal Years 1998-99 to 2008-09 had levied the maximum local capital improvement millage during the five-year period immediately preceding the date of their program-funded projects, we estimate that they would have generated an additional \$15.4 million that could have been used to address facility needs.²⁴ Some stakeholders raised concerns that this option could be perceived as a state mandate to increase property taxes. However, implementing such a requirement

²⁰ Section 1013.64(2)(b), *F.S.*

²¹ Section 1011.71(2), *F.S.* Prior to 2008-09, the maximum non-voted district discretionary millage was 2.0. The Legislature lowered the maximum to 1.75 mills in Fiscal Years 2008-09 and to 1.50 mills in 2009-10 and 2010-11. Districts applying for funding from the Special Facility Construction Account must levy the maximum local capital improvement millage at the time of application.

²² In addition, in the five years preceding its request, Jackson County School District used the capital outlay sales surtax (0.5%) referendum rather than levy the local capital improvement millage, as provided in s. 1013.64(2)(a)8, *F.S.*

²³ During the period, 20 school districts received program funds for 24 projects. Four districts (Gadsden, Madison, Wakulla, and Washington) received program funds for two projects each.

²⁴ This estimate is based on information provided by the Department of Education and the Department of Revenue.

would demonstrate that each district has attempted to raise local funds to address its construction needs before requesting funds from the Special Facility Construction Account. Appendix B provides information on the discretionary local capital improvement taxes districts levied in the five years preceding their application for Special Facility Construction Account Program Funds.

Option 7: Modify the cost-sharing requirement that districts allocate all discretionary capital improvement millage to funded projects. To receive program funds, statutes require that districts must levy the maximum discretionary local capital improvement millage, currently 1.5 mills, or levy an equivalent sales surtax to pay for new construction and remodeling projects at the time of the request and for a continuing period of three years.²⁵ Districts participating in the program must use all fixed capital outlay dollars during the three-year period to offset project costs. This cost-sharing provision helps reduce state project costs, but can leave districts with limited capital outlay funding to address other fixed capital outlay needs such as roof repair, school bus purchases, and replacing heating, ventilating, and air conditioning systems.

To address this issue, the Legislature could consider amending Florida law to modify the cost-sharing provision and allow districts to allocate a portion of their discretionary capital improvement millage to other purposes during the project period. To avoid increasing the state share of project costs, districts could be required to levy the discretionary capital improvement millage for a longer period of time such as five years; the total local contribution to the project would be unchanged but provided over a longer period of time. The total district contribution to each project would be established at the beginning of the project period. However, extending the payback period could decrease the revenues available annually for other K-20 capital projects.

Option 8: Restrict program funds from paying for cost overruns. Currently, statutes do not limit project funding to the amount included in the department's Legislative Budget Request. School districts can request additional funding in subsequent years to cover cost increases and changes in project scope. As a result, there is no limit on project costs other than the statutory limits on the cost per student station for elementary, middle, and high schools.²⁶

The Department of Education identified three projects since 1998-99 in which the final cost exceeded the amount that the selection committee originally approved. In the first case, Hardee County School District requested \$5.8 million in additional funds to cover construction cost increases that occurred as a result of an unusually active hurricane season. In the second case, Franklin County School District requested and received an additional \$2 million to address unforeseen site improvement needs and to make structural upgrades so the new school could serve as a hurricane shelter. In the final case, Glades County School District requested and received an additional \$1.7 million to fund 185 additional student stations for a new K-6 elementary school. The projected student growth for the Glades project so far has not materialized resulting in 29% excess student capacity.

The Legislature could amend Florida law to identify the circumstances under which districts may request and receive additional project funds that exceed the amount approved by the selection committee. For instance, the law could restrict supplemental awards to emergencies and other unforeseen circumstances outside a district's control, such as hurricanes and other natural disasters, and documented increased costs for labor and materials.

Some stakeholders we interviewed raised concerns that this option would be unwieldy to implement because it would be difficult to specify in law all the circumstances that would qualify as emergencies. Furthermore, denials

²⁵ Section 1013.64(2)(a)8, *F.S.*

²⁶ Section 1013.64(2)(a)6, *F.S.*

for supplemental funding, in some cases, could result in unfinished schools or facilities that are unsafe learning environments. As an alternative, the Legislature could specify that the program will only pay for cost overruns

that the final selection committee deems necessary and outside the district’s control.

Exhibit 5 presents a summary of the advantages and disadvantages associated with each of the options discussed above.

**Exhibit 5
The Legislature Could Consider Several Options to Improve the Effectiveness of the Special Facility Construction Account Program**

Option	Advantages	Disadvantages
<p>Option 1 Clarify the types of projects that are eligible for program funding.</p>	<ul style="list-style-type: none"> ▪ may help avoid disagreements in the future over which projects qualify for program funding ▪ may help to reduce program costs 	<ul style="list-style-type: none"> ▪ could restrict the final selection committee’s flexibility if eligibility is restricted ▪ may increase the number of requests for program funding if expansions, additions, and renovations are explicitly eligible
<p>Option 2 Clarify the department’s role in making funding decisions.</p>	<ul style="list-style-type: none"> ▪ would help avoid disagreements in the future over whether the department has the authority to ensure funds are used as intended by turning down requests for program funds before they are reviewed by the selection committee ▪ would help avoid disagreements in the future over whether the final selection committee is solely responsible for determining critical need 	<ul style="list-style-type: none"> ▪ if the Legislature specifies that the department has the authority to deny requests for program funding that it deems are not needed, this may result in future disagreements between the department and school districts, and could make the role of the final selection committee unclear
<p>Option 3 Require that the department conduct educational plant surveys.</p>	<ul style="list-style-type: none"> ▪ may eliminate the appearance of a conflict of interest when the private consultant who conducts the survey is also employed by the architectural firm that designs/builds the school ▪ would provide technical services at no cost to the district ▪ might provide additional assurance to other school districts and the general public that program funds are being spent only on capital projects that are critically needed and thus state funds are being used appropriately 	<ul style="list-style-type: none"> ▪ would limit districts’ choice of the individual or firm that conducts the surveys ▪ may be perceived as concentrating too much control in the hands of the department ▪ may not be necessary since the department already must approve the surveys
<p>Option 4 Require the department to approve the final construction plans for program-funded projects.</p>	<ul style="list-style-type: none"> ▪ provides an extra level of independent technical review at no cost to small districts ▪ may help minimize cost overruns and ensure that proposed designs are the most economical way to meet districts’ growth needs ▪ provides additional oversight to ensure that program funds are spent in the most economical manner and state funds are being used appropriately 	<ul style="list-style-type: none"> ▪ may not be necessary because districts can hire a private firm, independent of the project ▪ may limit local control of decisions about how to address local educational facility needs and delay projects while the district waits for state approval
<p>Option 5 Change the membership of the project selection committee.</p>	<ul style="list-style-type: none"> ▪ may reduce the potential for the appearance of conflict of interest for small district representatives 	<ul style="list-style-type: none"> ▪ representatives from larger school districts may not understand the small districts’ unique circumstances ▪ may not be necessary, as most votes have been by consensus
<p>Option 6 Require districts to levy the maximum discretionary millage prior to their application.</p>	<ul style="list-style-type: none"> ▪ would demonstrate that districts have relied on their local communities to raise funds to address their major construction needs prior to requesting Special Facility Construction Account funds to address these needs 	<ul style="list-style-type: none"> ▪ may be politically unpopular if perceived as a local tax increase ▪ may delay the commencement of needed construction projects, which in some cases, could cause temporary overcrowding of schools or result in the continued use of unsafe facilities

Option	Advantages	Disadvantages
<p>Option 7 Modify the cost-sharing requirement that districts allocate all discretionary capital improvement millage to funded projects.</p>	<ul style="list-style-type: none"> ▪ would allow districts to address construction and maintenance issues during the payback period without reducing their overall financial contribution to the program ▪ would demonstrate that each district has attempted to raise local funds to address its construction needs before requesting funds from the Special Facility Construction Account 	<ul style="list-style-type: none"> ▪ school districts would take longer to repay their portion of the construction costs
<p>Option 8 Restrict program funds from paying for cost overruns.</p>	<ul style="list-style-type: none"> ▪ may reduce the frequency and magnitude of cost overruns 	<ul style="list-style-type: none"> ▪ a restrictive list of circumstances may not be broad enough to recognize legitimate cost increases beyond the control of the district ▪ may not be necessary given the infrequency of cost overruns historically

Source: OPPAGA analysis based on stakeholder interviews.

Agency Response ---

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Commissioner of the Florida Department of Education. His response has been reproduced in Appendix C.

Appendix A

Profile of Special Facility Construction Account Program Projects Funded Between Fiscal Years 2004-05 to 2008-09

Table A-1 provides an overview of the school districts’ contributions. These amounts are for recent school projects and are based on the district’s share of any state capital outlay funding and the value of three years of its discretionary local capital improvement millage levied against local non-exempt property taxes pledged as pay back toward the total cost of the project. Depending on the stability of property values, the amount of district repayment for a project may be more or less than the Department of Education anticipated.

Table A-1
Construction Costs of Projects Receiving Special Facility Construction Account Program Funds, 2004-05 to 2008-09

Year	School District	Type of School	Total Project Cost	School District Contribution ¹	District Contribution as a Percentage of Total Project Cost
2008-09	Liberty	Elementary/Junior High	\$14,946,948	\$1,677,959	11.2%
2007-08	Wakulla	Elementary	14,282,428	9,508,230	67.4%
2005-06	Franklin	K-12	37,300,000	17,275,612	46.3%
2005-06	Suwannee	Elementary	12,140,000	8,295,962	68.3%
2004-05	Gadsden	6-12	20,100,000	5,333,390	26.5%
2004-05	Hardee	K-8	41,124,563	7,069,528	17.2%
2004-05	Levy	Sr. High	17,100,000	8,429,884	49.3%

¹ Each district’s three-year annual participation requirement as provided in s. 1013.64 (2)(a)8, *F.S.* Figures provided for Liberty and Wakulla county school districts are estimates as these districts are within the statutory payback period.

Source: OPPAGA analysis of Department of Education data.

Appendix B

Two Mill Discretionary Taxes Levied Prior to Districts Requesting Special Facility Construction Account Program Funds

Table B-1 provides an overview of district efforts to levy the full amount of discretionary local capital improvement millage against local non-exempt property values to support district capital needs. From 1998-99 to 2008-09, 20 school districts received program funds for 24 projects. Four districts (Gadsden, Madison, Wakulla, and Washington) received program funds for two projects each. Nine of the 20 districts that requested program funds during the period levied the maximum local capital improvement millage during the five-year period immediately preceding the year of their requested projects. In addition, seven school districts levied no local millage for at least one of the five years (shaded in dark gray) prior to their application. The remaining eight school districts levied less than the maximum allowed by law in at least one of the five years (shaded in light gray) preceding their application. Districts applying for funding must be levying the maximum millage at the time of application or raise an equivalent amount from the school capital outlay surtax authorized under s. 212.055, *Florida Statutes*. Districts are not required to levy the maximum discretionary millage prior to their application. However, doing so enables districts to set aside locally generated funds for new construction, renovation, remodeling, and major maintenance projects. During the period of our examination, the maximum non-voted local capital improvement millage a district could levy was 2 mills. The Legislature lowered the maximum to 1.75 mills in 2008-09 and to 1.50 mills in 2009-10 and 2010-11.

Table B-1
Two Mill Discretionary Taxes Levied Prior to Districts Requesting Special Facility Construction Account Program Funds, 1998-99 to 2008-09

Project	Was the Maximum 2 Mill Local Discretionary Tax Levied? ¹					
	Year Requested	1 Year Prior to Request	2 Years Prior to Request	3 Years Prior to Request	4 Years Prior to Request	5 Years Prior to Request
Liberty (Elementary/Jr High School, 2008-09)	Yes	Yes	Yes	No (0)	No (0)	No (0)
Wakulla (Elementary School, 2007-08)	Yes	Yes	Yes	Yes	Yes	Yes
Franklin (K-12 School, 2005-06)	Yes	Yes	Yes	No (1.0)	No (1.0)	No (1.0)
Suwannee (Elementary School, 2005-06)	Yes	Yes	Yes	Yes	Yes	Yes
Gadsden (6-12 School, 2004-05)	Yes	Yes	Yes	Yes	Yes	Yes
Hardee (K-8 School, 2004-05)	Yes	Yes	Yes	Yes	Yes	Yes
Levy (Sr. High School, 2004-05)	Yes	Yes	Yes	Yes	Yes	Yes
Holmes (K-8 School, 2003-04)	Yes	Yes	No (0)	No (0)	Yes	Yes
Glades (Elementary School, 2003-04)	Yes	Yes	No (1.976)	No (1.976)	No (1.597)	No (1.597)
Flagler (High School, 2003-04)	Yes	Yes	Yes	Yes	Yes	No (1.70)

Project	Was the Maximum 2 Mill Local Discretionary Tax Levied? ¹					
	Year Requested	1 Year Prior to Request	2 Years Prior to Request	3 Years Prior to Request	4 Years Prior to Request	5 Years Prior to Request
Washington (Sr. High School, 2003-04)	Yes	Yes	No (0)	No (0)	Yes	Yes
Jefferson (Middle/Sr. High School, 2002-03)	Yes	Yes	Yes	No (1.0)	No (0.704)	No (0.946)
Hamilton (High School, 2002-03)	Yes	Yes	Yes	Yes	No (1.8670)	Yes
Jackson (High School, 2002-03)	Capital Outlay Sales Surtax Referendum ²					
Gadsden (6-12 School, 2001-02)	Yes	Yes	Yes	No (1.5)	No (1.5)	Yes
Taylor (Elementary School, 2001-02)	Yes	Yes	No (1.75)	No (1.75)	No (1.75)	No (1.75)
Wakulla (Elementary School, 2001-02)	Yes	Yes	Yes	Yes	Yes	Yes
Baker (Elementary School, 2001-02)	Yes	Yes	Yes	Yes	Yes	Yes
Madison (Elementary School, 2000-01)	Yes	Yes	Yes	No (0)	No (0)	No (0)
Madison (K-8 School, 1999-00)	Yes	Yes	No (0)	No (0)	No (0)	No (0)
Desoto (Middle School-Renovation, 1999-00)	Yes	Yes	No (1.5)	No (1.5)	No (1.5)	No (1.5)
Columbia (High School, 1998-99)	Yes	Yes	Yes	Yes	Yes	Yes
Dixie (Elementary School, 1998-99)	Yes	Yes	Yes	Yes	Yes	Yes
Washington (Middle/Sr. High School, 1998-99)	Yes	Yes	No (0)	No (0)	No (0)	No (0)

¹ Numbers in parentheses reflect the mills levied for districts not at the maximum. Districts that levied less than the maximum are indicated by light gray shading; districts that did not levy the local discretionary tax are indicated by dark gray shading

² In the year of and during the five years preceding its request, the Jackson County School District used the capital outlay sales surtax (0.5%) referendum rather than levy the local capital improvement millage, as provided in s. 1013.64(2)(a)8, F.S.

Source: OPPAGA analysis of Department of Education data.

Appendix C

FLORIDA DEPARTMENT OF EDUCATION



Dr. Eric J. Smith
Commissioner of Education

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January 7, 2011

Ms. Kathy McGuire
Interim Director
Office of Program Policy Analysis and Government Accountability
111 West Madison Street, Suite 312
Tallahassee, Florida 32399-1475

Dear Ms. McGuire:

This letter is in response to the Office of Program Policy Analysis and Government Accountability's (OPPAGA) report concerning the administration of the Special Facility Construction Account (SFCA) program. Thank you for the opportunity to review this report before publication.

In the report, OPPAGA finds that schools built with program funds were larger than needed to serve the projected number of students. The Office of Educational Facilities (OEF) followed statutory requirements for the SFCA, adhered to State Requirements for Educational Facilities (SREF), and made recommendations for facility size based on the approved Capital Outlay Full-Time Equivalent enrollment projections for the school district. Currently, selected schools have empty student stations due to an economic situation that has resulted in a drop in statewide student population during the last four years. Also, the SREF has been revised a number of times during the last 11 years, resulting in changes to both the size of classrooms and associated support spaces.

Regarding OPPAGA's finding related to documenting critical program decisions, the OEF followed statutory requirements for all of the educational facilities that were built through the SFCA funding. OEF has improved its documentation of the voting results of the committee, the process used by the committee to evaluate proposed projects, and the criteria used by the committee to determine the size of each proposed project.

Ms. Kathy McGuire
January 7, 2011
Page 2

The OEF is committed to following the provisions of Section 1013.64, Florida Statutes, and continuing to help school districts provide adequate facilities to house and educate all students throughout the state.

Sincerely,



Dr. Eric J. Smith
Commissioner of Education

TI/dj

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



OPPAGA provides performance and accountability information about Florida government in several ways.

- Reports deliver program evaluation and policy analysis to assist the Legislature in overseeing government operations, developing policy choices, and making Florida government better, faster, and cheaper.
- PolicyCasts, short narrated slide presentations, provide bottom-line briefings of findings and recommendations for select reports.
- Government Program Summaries (GPS), an online encyclopedia, www.oppaga.state.fl.us/government, provides descriptive, evaluative, and performance information on more than 200 Florida state government programs.
- The [Florida Monitor Weekly](#), an electronic newsletter, delivers brief announcements of research reports, conferences, and other resources of interest for Florida's policy research and program evaluation community.
- Visit OPPAGA's website at www.oppaga.state.fl.us

OPPAGA supports the Florida Legislature by providing data, evaluative research, and objective analyses that assist legislative budget and policy deliberations. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

OPPAGA website: www.oppaga.state.fl.us

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