



APPROPRIATIONS COMMITTEE

Thursday, January 21, 2016
3:00 PM – 5:00 PM
212 Knott Building

Meeting Packet

Steve Crisafulli
Speaker

Richard Corcoran
Chair



The Florida House of Representatives

Appropriations Committee

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AGENDA

Thursday, January 21, 2016
212 Knott Building
3:00 PM – 5:00 PM

- I. Call to Order/Roll Call/Opening Remarks
- II. **Consideration of the following bills:**
 - HB 93** Law Enforcement Officer Body Cameras by Jones, S., Williams, A.
 - CS/HB 141** National Statuary Hall by Economic Development & Tourism Subcommittee, Diaz, J.
 - CS/HJR 197** Term Limits for Appellate Courts by Civil Justice Subcommittee, Wood, Sullivan
 - CS/HB 249** Culinary Education Programs by Health Quality Subcommittee, Moskowitz
 - CS/HB 253** Highway Safety by Criminal Justice Subcommittee, Passidomo
 - HJR 7015** Property Tax Assessments by Finance & Tax Committee, Rodrigues, R.
- III. Presentation on School District Fixed Capital Outlay Funding
- IV. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 93 Law Enforcement Officer Body Cameras
SPONSOR(S): Jones, S.; Williams, A. and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 418

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Keegan	White
2) Appropriations Committee		Lloyd 	Leznoff 
3) Judiciary Committee			

SUMMARY ANALYSIS

A body camera is a portable electronic device, typically worn on the outside of a vest or a portion of clothing, which records audio and video data. Approximately one-third of local police departments throughout the nation have opted to use body cameras. Preliminary studies on the effects of using body cameras on law enforcement officers indicated a reduction of citizen complaints against officers who wore the cameras while on duty.

Similar to the national trend, only a small number of Florida law enforcement agencies have elected to use body cameras. Currently, Florida law does not require such agencies to have policies in place that govern the use of such technology.

The bill requires law enforcement agencies that permit law enforcement officers to wear body cameras to develop policies and procedures governing the proper use, maintenance, and storage of body cameras and recorded data. The policies and procedures must include:

- General guidelines for the proper use, maintenance, and storage of body cameras;
- Any limitations on which law enforcement officers are permitted to wear body cameras;
- Any limitations on law enforcement-related encounters in which law enforcement officers are permitted to wear body cameras; and
- General guidelines for the proper storage, retention, and release of audio and video data recorded by body cameras.

The bill requires law enforcement agencies to provide policies and procedures training to all personnel who use, maintain, store, or release body camera recording data, and to retain body camera recording data in compliance with s. 119.021, F.S. Agencies must perform periodic reviews of agency practices to ensure compliance with agency policies and procedures. The bill also exempts body camera recordings from the requirements of ch. 934, F.S. This allows law enforcement officers to wear body cameras during their patrol duties without having to inform each individual they make contact with that they are being recorded.

According to 2014 Criminal Justice Agency Profile Survey, no state law enforcement agency reported using body cameras during the 2014 calendar year. If an agency chooses to use body cameras, the bill may have a minimal impact on state expenditures because the bill creates a new requirement for state law enforcement agencies that use body cameras to establish policies and procedures governing body cameras, and to train personnel accordingly.

The bill may have a minimal impact on local expenditures because the bill creates a new requirement for local law enforcement agencies that use body cameras to establish policies and procedures governing body cameras, and to train personnel accordingly.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Law Enforcement Body Cameras

A body camera is a portable electronic device, typically worn on the outside of a vest or a portion of clothing, which records audio and video data. The Bureau of Justice Statistics published the results of a 2013 survey of local police departments in the United States¹ conducted by the Law Enforcement Management and Administrative Statistics (LEMAS)² Survey. As of 2013, an estimated 32 percent of local police departments³ throughout the nation equip at least some of their patrol officers with body cameras.⁴

A limited number of studies have been conducted in the United States to determine the positive and negative effects of using body cameras on law enforcement officers.⁵ Most empirical studies in the United States have focused on the effects of using body cameras in the Rialto Police Department (California),⁶ the Mesa Police Department (Arizona),⁷ the Phoenix Police Department (Arizona),⁸ and the Orlando Police Department (Florida).⁹ While the relative lack of peer-reviewed research makes it difficult to accurately identify the benefits and drawbacks of requiring the use of body cameras, the findings of all four studies indicated a significant reduction of citizen complaints against officers who wore the cameras while on duty.¹⁰

More extensive studies have been conducted on the effects of using in-car cameras, commonly referred to as “dash cams,” in law enforcement patrol vehicles. The International Association of Chiefs of Police (hereinafter “IACP”) published findings in 2003 from an extensive study of the effects of using cameras in patrol vehicles.¹¹ The IACP study surveyed forty-seven agencies that owned a total of

¹ Reaves, Brian A., *Local Police Departments, 2013: Equipment and Technology*, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, July, 2015, at 1-2 (available at <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5321>) (last visited Oct. 23, 2015).

² LEMAS has been periodically collecting data on U.S. law enforcement agencies for the Bureau of Justice Statistics since 1987. BUREAU OF JUSTICE STATISTICS, *Data Collection: Law Enforcement Management and Administrative Statistics (LEMAS)*, <http://www.bjs.gov/index.cfm?ty=dcdetail&iid=248> (last visited Oct. 23, 2015).

³ The 2013 LEMAS sample design called for responses from 2,353 local police departments and 983 other types of law enforcement agencies. The term “local police department” does not including sheriff’s offices or state law enforcement agencies. Reaves, *supra* note 1, at 8; Bureau of Justice Statistics, *supra* note 2.

⁴ Reaves, *supra* note 1, at 3-4.

⁵ White, Michael D., *Police Officer Body-Worn Cameras: Assessing the Evidence*, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, 2014.

⁶ Ramirez, Eugene P., *A Report on Body Worn Cameras*, MANNING & KASS, ELLROD, RAMIREZ, TRESTER LLP (available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0CDgQFjAEahUKEwixzY_7s8_I AhVDLB4KHZuIDl0&url=https%3A%2F%2Fwww.bja.gov%2Fbwc%2Fpdfs%2F14-005_Report_BODY_WORN_CAMERAS.pdf&usq=AFQjCNGjYEMhjJb_WKQOwPiVoN1YVR0_pg&sig2=nybYo3pMAfVWu-MoRzExPw) (last visited Oct. 19, 2015); White, *supra* note 5.

⁷ Roy, Allyson, *On-Officer Video Cameras: Examining the Effects of Police Department Policy and Assignment on Camera Use and Activation*, ARIZONA STATE UNIVERSITY, 2014 (available at http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CB0QFjAAahUKEWjLkPuGts_IA hWLLB4KHxbBAJk&url=http%3A%2F%2Furbanillinois.us%2Fsites%2Fdefault%2Ffiles%2Fattachments%2Fofficer-video-cameras-roy.pdf&usq=AFQjCNGJ3vrpVhYmSGKuRtTrFS1MO976jA&sig2=hAkkZIYPZN6zNxBgROLGg) (last visited Oct. 19, 2015).

⁸ Katz et al., *Evaluating the Impact of Officer Worn Body Cameras in the Phoenix Police Department*, Phoenix, AZ: Center for Violence Prevention & Community Safety, ARIZONA STATE UNIVERSITY, 2014.

⁹ Jennings, Lynch, & Lorie A. Fridell, *Executive Summary: Evaluating the Impact of Police Officer Body-Worn Cameras: The Orlando Police Department Experience*, UNIVERSITY OF SOUTH FLORIDA, 2015 (available at <http://www.cityoforlando.net/police/opdusf-body-camera-study-complete/>) (last visited Oct. 19, 2015).

¹⁰ Jennings, *supra* note 9, at 2-4; Katz, *supra* note 8, at 3; Ramirez, *supra* note 6, at 7; Roy, *supra* note 7, at 11.

¹¹ Int’l Ass’n of Chiefs of Police, *The Impact of Video Evidence on Modern Policing: Research and Best Practices from the IACP Study on In-Car Cameras*, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, 2003.

31,498 patrol vehicles and 17,500 camera systems.¹² The study found that the presence of a camera had a small impact on perceptions of officer safety.¹³ Only 33 percent of the officers surveyed reported increased personal safety on patrol due to the presence of a camera, while 64 percent reported no change in officer safety.¹⁴ Conversely, findings indicated that the presence of in-car cameras had a significant impact on resolving citizen complaints and internal affairs investigations.¹⁵ The outcomes of citizen complaints involving incidents that were videotaped resulted in exonerations for the officers in 93 percent of recorded incidents.¹⁶ The immediate supervisors of patrol officers also reported that in at least half of complaints, when the complainant learned the incident was videotaped, the complaint was subsequently withdrawn.¹⁷

Similar to the national trend, only a small number of Florida law enforcement agencies have elected to use body cameras. Out of 301 police departments in Florida,¹⁸ eighteen agencies use body cameras, and another ten agencies have pilot body camera programs in place.¹⁹ Florida law does not currently require agencies to have policies in place that govern the use of such technology.

Privacy

Chapter 934, F.S., governs the security of various types of communications in the State, and limits the ability to intercept, monitor, and record such communications. The chapter provides for criminal penalties²⁰ and civil remedies²¹ in circumstances where communications are intercepted unlawfully. Additionally, s. 934.03(2)(d), F.S., creates the “two party consent rule,” which requires that in circumstances justifying an expectation of privacy, all parties to a communication or conversation must consent to having it recorded before it can be done so legally.²² Chapter 934, F.S., provides a limited exception for law enforcement-related recordings when “such person is a party to the communication or one of the parties to the communication has given prior consent to such interception and the purpose of such interception is to obtain evidence of a criminal act.”²³

Public Records

Chapter 119, F.S., the Public Records Act, governs the maintenance and availability of state, county, and municipal records.²⁴ While the intent of the Act is to make most records available for anyone to copy or inspect them, the public records laws in Florida exempt certain records from public view.²⁵

During the 2015 Legislative session, SB 248 was passed and signed into law, making audio or video data recorded by a law enforcement body camera confidential and exempt.²⁶ Such a body camera recording is confidential and exempt if it is taken within the interior of a private residence; within the interior of a facility that offers health care, mental health care, or social services; or in a place that a reasonable person would expect to be private.²⁷ The public record exemption provides specific circumstances in which a law enforcement agency may disclose a confidential and exempt body

¹² *Id.* at 10.

¹³ *Id.* at 13.

¹⁴ *Id.*

¹⁵ *Id.* at 15.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ There are 262 police departments in Florida, as well as an additional thirty-nine law enforcement agencies that serve university and college campuses and airports. Email from Bernadette Howard, Government Affairs Coordinator, The Florida Police Chiefs Association, Body Cam Data (Oct. 26, 2015) (on file with the Florida House of Representatives, Criminal Justice Subcommittee).

¹⁹ *Id.*

²⁰ ss. 934.04, 934.21, 934.215, 934.31, and 934.43, F.S.

²¹ s. 934.05, F.S.;

²² *State v. Inciarrano*, 473 So. 2d 1272, 1275 (Fla. 1985); *State v. Walls*, 356 So. 2d 294 (Fla. 1978).

²³ s. 934.03(2)(c), F.S.

²⁴ s. 119.01, F.S.

²⁵ ss. 119.071-119.0713, F.S.; see also *Alice P. v. Miami Daily News, Inc.*, 440 So. 2d 1300 (Fla. 3d DCA 1983); *Patterson v. Tribune Co.*, 146 So. 2d 623 (Fla. 2d DCA 1962).

²⁶ s. 119.071(2)(l), F.S.

²⁷ s. 119.071(2)(l)2., F.S.

camera recording,²⁸ and additional circumstances in which a law enforcement agency must disclose such a recording.²⁹

There are several additional public record exemptions that may apply to law enforcement body camera recordings. One such exemption relates to criminal investigation records pursuant to s. 119.071(2)(c), F.S. This section exempts records related to active criminal intelligence information and active criminal investigations, as well as documentation of public records requests made by law enforcement agencies.³⁰ A similar exemption applies to information revealing surveillance techniques, procedures, or personnel.³¹ Additionally, exemptions exist to protect private and personal information, such as certain personal identifying information³² or victim information.³³ Data recorded by body cameras will have to be screened for exempt or confidential and exempt data before being released pursuant to a public record request.

The General Records Schedule, issued by the Florida Department of State, Division of Library and Information Services, establishes the requirements and timelines for agencies to maintain public records.³⁴ General Records Schedule GS2 governs the records maintenance and retention requirements for law enforcement, correctional facilities, and district medical examiners.³⁵ Schedule GS2 does not currently specify a retention requirement for video or audio recordings from body cameras.³⁶ However, a recording from a body camera could fall under existing areas of the retention schedule, depending on what is recorded.

For example, if a body camera records a criminal incident, retention of the recording for most offenses is governed by Item # 129, Criminal Investigative Records, in the Retention Schedule, and must be retained for four anniversary years after the offense is committed.³⁷ If the recording documents a criminal incident that constitutes a capital or life felony, Item # 31, Criminal Investigative Records: Capital/Life Felony, requires that the recording be retained for one hundred anniversary years after the incident.³⁸

Effect of the Bill

The bill requires law enforcement agencies that permit law enforcement officers to wear body cameras to develop policies and procedures governing the proper use, maintenance, and storage of body cameras and recorded data. The policies and procedures must include:

- General guidelines for the proper use, maintenance, and storage of body cameras;
- Any limitations on which law enforcement officers are permitted to wear body cameras;
- Any limitations on law-enforcement-related encounters in which law enforcement officers are permitted to wear body cameras; and
- General guidelines for the proper storage, retention, and release of audio and video data recorded by body cameras.

The bill requires law enforcement agencies that permit law enforcement officers to wear body cameras to provide policies and procedures training to all personnel who use, maintain, store, or release body cameras or recording data. The bill also requires law enforcement agencies to retain body camera recording data in compliance with s. 119.021, F.S., and to perform periodic reviews of agency practices to ensure compliance with the agency's policies and procedures.

²⁸ s. 119.071(2)(1)3., F.S.

²⁹ s. 119.071(2)(1)4., F.S.

³⁰ s. 119.071(2)(c), F.S.

³¹ s. 119.071(2)(d), F.S.

³² s. 501.171, F.S.

³³ s. 119.071(j), F.S.

³⁴ Rule 1B-24.003, F.A.C.

³⁵ Florida Dep't of State, Div. of Library & Info. Servs., GENERAL RECORDS SCHEDULE GS2 (2010).

³⁶ *Id.*

³⁷ *Id.* at page 7.

³⁸ *Id.*

The bill specifies that ch. 934, F.S., does not apply to body camera recordings. This allows law enforcement officers to wear body cameras during their patrol duties without having to inform each individual they make contact with that they are being recorded.

The bill also creates the following definitions:

- "Body camera" means a portable electronic recording device that is worn on a law enforcement officer's person which records audio and video data of the officer's law-enforcement-related encounters and activities;
- "Law enforcement agency" means an agency that has a primary mission of preventing and detecting crime and the enforcement of the penal, criminal, traffic, or highway laws of the state and that in furtherance of that primary mission employs law enforcement officers as defined in s. 943.10, F.S.; and
- "Law enforcement officer" has the same meaning as provided in s. 943.10, F.S.³⁹

B. SECTION DIRECTORY:

Section 1. Creates s. 943.1718, F.S., relating to body cameras; policies and procedures.

Section 2. Provides that the bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have an impact on state revenues.

2. Expenditures:

According to 2014 Criminal Justice Agency Profile Survey, no state law enforcement agency reported using body cameras during the 2014 calendar year. If an agency chooses to use body cameras, the bill may have a minimal impact on state expenditures because the bill creates a new requirement for state law enforcement agencies that use body cameras to establish policies and procedures governing body cameras, and to train personnel accordingly.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have an impact on local government revenues.

2. Expenditures:

The bill may have a minimal impact on local expenditures because the bill creates a new requirement for local law enforcement agencies that use body cameras to establish policies and procedures governing body cameras, and to train personnel accordingly.

³⁹ Section 943.10(1), F.S., defines "law enforcement officer" to mean any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18, of the Florida Constitution may apply because this bill requires county and municipal governments to develop policies and procedures governing the proper use, maintenance, and storage of body cameras and recorded data, and train agency personnel accordingly. This may result in an indeterminate negative fiscal impact; however, an exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to law enforcement officer body
 3 cameras; creating s. 943.1718, F.S.; providing
 4 definitions; requiring a law enforcement agency that
 5 permits its law enforcement officers to wear body
 6 cameras to establish policies and procedures
 7 addressing the proper use, maintenance, and storage of
 8 body cameras and the data recorded by body cameras;
 9 requiring such policies and procedures to include
 10 specified information; requiring such a law
 11 enforcement agency to ensure that specified personnel
 12 are trained in the law enforcement agency's policies
 13 and procedures; requiring that data recorded by body
 14 cameras be retained in accordance with specified
 15 requirements; requiring a periodic review of agency
 16 body camera practices to ensure conformity with the
 17 agency's policies and procedures; exempting the
 18 recordings from specified provisions relating to the
 19 interception of wire, electronic, and oral
 20 communications; providing an effective date.

21
 22 WHEREAS, advancements in technology allow body cameras to
 23 be affordable and practical tools for law enforcement use, and

24 WHEREAS, body cameras can provide a valuable source of
 25 information to both law enforcement and the general public, and

26 WHEREAS, the audio and video recording of police and

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27 citizen interactions allows law enforcement agencies to improve
 28 efforts to reduce crime and properly address citizen complaints,
 29 and

30 WHEREAS, establishing uniform procedural requirements for
 31 the use of body cameras by law enforcement will provide
 32 consistency and reliability throughout the state, and

33 WHEREAS, there are currently no statewide mandatory and
 34 uniform standards or guidelines that apply to use of body
 35 cameras by law enforcement officers, NOW, THEREFORE,

36
 37 Be It Enacted by the Legislature of the State of Florida:

38
 39 Section 1. Section 943.1718, Florida Statutes, is created
 40 to read:

41 943.1718 Body cameras; policies and procedures.-

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

43 (a) "Body camera" means a portable electronic recording
 44 device that is worn on a law enforcement officer's person that
 45 records audio and video data of the officer's law-enforcement-
 46 related encounters and activities.

47 (b) "Law enforcement agency" means an agency that has a
 48 primary mission of preventing and detecting crime and enforcing
 49 the penal, criminal, traffic, and motor vehicle laws of the
 50 state and in furtherance of that primary mission employs law
 51 enforcement officers as defined in s. 943.10.

52 (c) "Law enforcement officer" has the same meaning as

53 provided in s. 943.10.

54 (2) A law enforcement agency that permits its law
 55 enforcement officers to wear body cameras shall establish
 56 policies and procedures addressing the proper use, maintenance,
 57 and storage of body cameras and the data recorded by body
 58 cameras. The policies and procedures must include:

59 (a) General guidelines for the proper use, maintenance,
 60 and storage of body cameras.

61 (b) Any limitations on which law enforcement officers are
 62 permitted to wear body cameras.

63 (c) Any limitations on law-enforcement-related encounters
 64 and activities in which law enforcement officers are permitted
 65 to wear body cameras.

66 (d) General guidelines for the proper storage, retention,
 67 and release of audio and video data recorded by body cameras.

68 (3) A law enforcement agency that permits its law
 69 enforcement officers to wear body cameras shall:

70 (a) Ensure that all personnel who wear, use, maintain, or
 71 store body cameras are trained in the law enforcement agency's
 72 policies and procedures concerning them.

73 (b) Ensure that all personnel who use, maintain, store, or
 74 release audio or video data recorded by body cameras are trained
 75 in the law enforcement agency's policies and procedures.

76 (c) Retain audio and video data recorded by body cameras
 77 in accordance with the requirements of s. 119.021, except as
 78 otherwise provided by law.

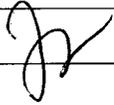
79 (d) Perform a periodic review of actual agency body camera
80 practices to ensure conformity with the agency's policies and
81 procedures.

82 (4) Chapter 934 does not apply to body camera recordings
83 made by law enforcement agencies that elect to use body cameras.

84 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 141 National Statuary Hall
SPONSOR(S): Economic Development & Tourism Subcommittee; Diaz and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 310

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	9 Y, 0 N, As CS	Hancock	Duncan
2) Appropriations Committee		Cobb <i>PL</i>	Leznoff 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Federal law permits each state to provide and furnish the United States Capitol with two statues, in marble or bronze, of deceased persons who were prominent citizens of the state for placement in the National Statuary Hall. The entire collection now consists of 100 statues contributed by all 50 states with each state contributing two statues.

Florida provided the statue of Dr. John Gorrie in 1914. Dr. Gorrie, a physician, scientist, inventor, and humanitarian is credited with the invention of refrigeration and air-conditioning. Florida provided the statue of General Edmund Kirby Smith in 1922. General Smith was a soldier and educator, originally from St. Augustine, Florida. Following graduation from the United States Military Academy, General Smith served in the Mexican War and later joined the Confederate forces when Florida seceded from the Union. He commanded the last armed forces of the Confederate States to surrender. He held positions as the president of the Atlantic and Pacific Telegraph Company; chancellor of the University of Nashville; and professor of mathematics at the University of the South in Sewanee, Tennessee, where he remained until his death in 1893.

The bill provides for the replacement of the bronze statue of General Smith and directs the ad hoc committee of the Great Floridians Program within the Division of Historical Resources of the Department of State to select a prominent deceased Florida citizen to represent the state in place of the statue of General Smith. The bill also directs the Florida Council on Arts and Culture within the Department of State to select a sculptor to design the replacement statue. The Department of State is required to submit the findings and recommendations of the Division of Historical Resources and the Division of Cultural Affairs to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2017.

The bill provides for submission by memorial of the state's request to the United States Joint Committee on the Library of Congress for approval to replace the statue.

The bill will have an indeterminate, negative fiscal impact to state expenditures. While there appears to be some indeterminate costs associated with the provisions of the bill, the Department of State has not provided an official estimate as requested therefore it is assumed any costs can be absorbed within existing resources. See fiscal section.

The bill provides for an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Background

Federal law permits each state to provide and furnish the United States Capitol with two statues, in marble or bronze, of deceased persons who were prominent citizens of the state "illustrious for their historic renown or for distinguished civic or military service" for placement in the National Statuary Hall.¹ The entire collection now consists of 100 statues contributed by all 50 states with each state contributing two statues.² The National Statuary Hall is under the supervision and direction of the Architect of the Capitol.³

Currently, Florida has two statues in the National Statuary Hall Collection: one of Dr. John Gorrie and one of General Edmund Kirby Smith. Florida provided the statue of Dr. John Gorrie in 1914.⁴ Dr. Gorrie, a physician, scientist, inventor, and humanitarian is credited with the invention of refrigeration and air-conditioning. Dr. Gorrie's original model of the ice-making machine, and his scientific articles are housed at the Smithsonian Institution.⁵ Dr. Gorrie is buried in Gorrie Square in Apalachicola, Florida.⁶

Florida provided the statue of General Edmund Kirby Smith in 1922.⁷ General Smith was a soldier and educator, originally from St. Augustine, Florida. General Smith graduated from the United States Military Academy in 1845 and first served in the Mexican War. Following the war he taught mathematics at the Military Academy and had botany reports published by the Smithsonian Institution. He joined the Confederate Army when Florida seceded from the union.⁸ Smith commanded the last armed forces of the Confederate States to surrender. Concerned that he would be tried for treason, General Smith fled to Mexico before settling in Cuba for a short period.⁹ Returning to the United States, Smith took an oath of amnesty and held positions as the president of the Atlantic and Pacific Telegraph Company; chancellor of the University of Nashville; and professor of mathematics at the University of the South in Sewanee, Tennessee, where he remained until his death in 1893. He was the last surviving general of either army.¹⁰

Due to overcrowding and weight restrictions, the National Statuary Hall collection is located in several areas of the Capitol: the National Statuary Hall (Old Hall of the House), the Rotunda, the second-floor House and Senate corridors, the Hall of Columns, the Crypt, and the Capitol Visitor Center.¹¹ Florida's

¹ 2 U.S.C § 2131.

² AOC website, National Statuary Hall Collection, available at: <http://www.aoc.gov/the-national-statuary-hall-collection> (last visited Oct. 28, 2015).

³ 2 U.S.C § 2131.

⁴ See supra note 2.

⁵ AOC website, National Statuary Hall, Florida List, John Gorrie, available at: <http://www.aoc.gov/capitol-hill/national-statuary-hall-collection/john-gorrie> (last visited Oct. 28, 2015).

⁶ Encyclopedia.com available at <http://www.encyclopedia.com/doc/1G2-3404707805.html> (last visited Oct. 28, 2015).

⁷ See supra note 5.

⁸ AOC website, National Statuary Hall, Florida List, General Edmund Kirby Smith, available at: <http://www.aoc.gov/capitol-hill/national-statuary-hall-collection/edmund-kirby-smith> (last visited Oct. 28, 2015).

⁹ About.com, Military History, *American Civil War: General Edmund Kirby Smith* available at <http://militaryhistory.about.com/od/ConfederateLeaders/p/American-Civil-War-General-Edmund-Kirby-Smith.htm> (last visited Oct. 28, 2015).

¹⁰ See supra note 8.

¹¹ See supra note 2.

statue of Dr. John Gorrie is located in the National Statuary Hall, and the statue of General Edmund Kirby Smith is located in the Capitol Visitor Center.¹²

Since 1864 when the U. S. Congress authorized the creation of the National Statuary Hall, only six states have replaced statues (Alabama, Arizona, California, Iowa, Kansas, and Michigan) with three of those replacements being former United States Presidents: Ronald Reagan (CA), Dwight D. Eisenhower (KS), and Gerald Ford (MI).¹³ Once a statue has been replaced it must remain in the National Statuary Hall for a minimum of ten years.¹⁴

States are responsible for the following costs:

- paying the sculptor for designing and carving or casting the statue;
- designing and fabricating the pedestal;
- transporting the statue and pedestal to the United States Capitol;
- removing and transporting the replaced statue;
- any costs incurred with the unveiling ceremony; and
- any other expenses that the State commission may deem necessary.¹⁵

Recently, the state of Arizona replaced its statue of John Campbell Greenway, which represented the state in the National Statuary Hall Collection from 1930-2015.¹⁶ In 2015 the statue was replaced by one of Barry Goldwater.¹⁷ Legislation requesting Congress to replace John Campbell Greenway's statue was signed by the Arizona Governor in May 2008, but the completed replacement statue of Barry Goldwater did not make its way to the National Statuary Hall until February 2015.¹⁸ The timing delay was due to fundraising challenges.¹⁹ One estimate for the total cost of the replacement is \$500,000.²⁰

Ohio is currently in the process of replacing former Ohio Governor William Allen with a statue of Thomas Edison.²¹ William Allen was a pro-slavery Civil War-era governor who opposed fighting in the Civil War. Ohio lawmakers began the process of the replacement in 2007.²² However, the efforts did not take off until 2010 when the Ohio Historical Society polled 48,000 Ohioans, who selected Thomas Edison as the prime replacement candidate.²³ The statue of Thomas Edison was unveiled in Columbus,

¹² AOC website, National Statuary Hall, By Location, available at <http://www.aoc.gov/capitol-hill/national-statuary-hall-collection/nsh-location> (last visited Oct. 28, 2015).

¹³ See supra note 2.

¹⁴ 2 U.S.C. § 2132. However, the Joint Committee may waive this requirement for cause at the request of a state.

¹⁵ 2 U.S.C. § 2132

¹⁶ AOC website, National Statuary Hall Collection, John Campbell Greenway, available at: <http://www.aoc.gov/capitol-hill/national-statuary-hall-collection/john-campbell-greenway-replaced> (last visited Oct. 28, 2015).

¹⁷ *Id.*

¹⁸ Arizona Central New, *Goldwater statue dedicated in National Statuary Hall*, available at: <http://www.azcentral.com/story/news/arizona/politics/2015/02/11/goldwater-statue-dedicated-national-statuary-hall/23227893/> (last visited Oct. 28, 2015).

¹⁹ Cronkite News, *Months after unveiling, Goldwater statue still awaiting trip to the U.S. capitol*, available at: <http://cronkitenewsonline.com/2014/09/months-after-unveiling-goldwater-statue-still-awaiting-trip-to-the-u-s-capitol/> (last visited Oct. 27, 2015).

²⁰ *Id.*

²¹ The Columbus Dispatch, *Ohio's Edison Sculpture Set to Occupy Statuary Hall*, available at: <http://www.dispatch.com/content/stories/local/2015/08/10/edison-sculpture-set-to-occupy-statuary-hall.html> (last visited Oct. 27, 2015).

²² The Toledo Blade, *New statue of Thomas Edison unveiled in Columbus*, available at: <http://www.toledoblade.com/State/2015/05/20/New-statue-of-Thomas-Edison-unveiled-in-Columbus.html> (last visited Oct. 27, 2015).

²³ The Columbus Dispatch, *Ohio's Edison Sculpture Set to Occupy Statuary Hall*, available at: <http://www.dispatch.com/content/stories/local/2015/08/10/edison-sculpture-set-to-occupy-statuary-hall.html> (last visited Oct. 27, 2015).

Ohio in May 2015. The state of Ohio is currently waiting for sufficient funds to be gathered to complete the replacement project.²⁴ One estimate for the total cost of the replacement is \$250,000.²⁵

Great Floridians Program

State law provides that an ad hoc committee of the Great Floridians Program within the Division of Historical Resources of the Department of State is responsible for recognizing and honoring Floridians who have made significant contributions to the welfare and progress of the nation or to the state of Florida.²⁶ The Great Floridian ad hoc committee is comprised of representatives of the Governor, each member of the Florida Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of State.²⁷

Florida Council on Arts and Culture

The Florida Council on Arts and Culture, which is administratively housed in the Department of State, consists of 15 members. The Governor appoints seven members, and the President of the Senate and the Speaker of the House each appoint four members to the Council.²⁸ The Council is responsible for the following:

- advocating for arts and culture by encouraging the study, participation, and presentation of arts and cultural activities that are of public interest throughout the state;
- advising the Secretary of State in matters pertaining to arts and cultural programs and grants administered by the division;
- encouraging the participation in and appreciation of arts and culture to meet the needs and aspirations of persons in all parts of the state;
- encouraging public interest in the state's cultural heritage and the expansion of its cultural resources;
- encouraging and assisting freedom of artistic expression that is essential for the well-being of the arts;
- advising the Secretary of State in matters concerning the awarding of grants for arts and culture;
- promoting the reading, writing, and appreciation of poetry throughout the state and accepting nominations and recommending nominees for appointment as the State Poet Laureate²⁹; and
- reviewing applications for grants for the acquisition, renovation, or construction of cultural facilities and recommending a priority for the receipt of such grants.³⁰

Effect of the Bill

The bill provides for the replacement of the statue of General Edmund Kirby Smith in the National Statuary Hall of the United States Capitol.

²⁴ See supra note 22.

²⁵ *Id.*

²⁶ Section 267.0731, F.S.

²⁷ Section 267.0731(1)(b), F.S.

²⁸ Section 265.285 (1)(a), F.S.

²⁹ See s. 265.2863, F.S., relating to the State Poet Laureate.

³⁰ Section 265.285 (2)(a-h), F.S.

To do so, the bill directs the Great Floridians Program (GFP) within the Division of Historical Resources of the Department of State to select a person of distinguished civil or military service to be commemorated in the National Statuary Hall in the place of General Smith.

Additionally, the bill directs the Florida Council on Arts and Culture (FCAC) to select, according to guidelines prescribed by the Department of State, a sculptor to design the replacement.

The bill also requires the Department of State to coordinate the recommendations of the Division of Historical Resources and the Division of Cultural Affairs and submit a report of the findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives. At a minimum, the report must include:

- The name of the prominent citizen and the process used in selection
- The name of the sculptor and process used to select the sculptor
- An estimate of the total costs associated with the replacement of the statue.

Lastly, the bill provides that upon receiving the report of findings from the Department of State, the Florida Legislature is directed to request by memorial that the United States Joint Committee on the Library of Congress replace the statue, and for the Architect of the Capitol to carry out the request.

B. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law and calls for the replacement of General Edmund Kirby Smith in the National Statuary Hall of the United States Capitol with an alternative deceased Floridian of distinguished civil or military service.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will have an indeterminate, negative fiscal impact to state expenditures. While there appears to be some indeterminate costs associated with the provisions of the bill, the Department of State has not provided an official estimate as requested therefore it is assumed any costs can be absorbed within existing resources.

The state (as opposed to the federal government) is responsible for the following costs:

- paying the sculptor for designing and carving or casting the statue;
- designing and fabricating the pedestal;
- transporting the statue and pedestal to the United States Capitol;
- removing and transporting the replaced statue;
- any costs incurred with the unveiling ceremony; and
- any other expenses that the State commission may deem necessary.³¹

³¹ 2 U.S.C. § 2132.

The state of Arizona has recently replaced one of its statues, and the one cost estimate to do so was \$500,000.³² The state of Ohio has also recently replaced one of its statues, and one cost estimate to do so was \$250,000.³³

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not prescribe who or what entity will be responsible for removing the statue of General Smith and does not indicate where the statue will be housed after its removal from the National Statuary Hall. However, the bill does require a report to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives to include, at a minimum, the name of the Florida citizen, the name of the sculptor, and an estimate of the total costs associated with the replacement of the statue.

³² Cronkite News, *Months after unveiling, Goldwater statue still awaiting trip to the U.S. capitol*, available at: <http://cronkitenewsonline.com/2014/09/months-after-unveiling-goldwater-statue-still-awaiting-trip-to-the-u-s-capitol/> (last visited Jan, 5, 2016).

³³ The Toledo Blade, *New statue of Thomas Edison unveiled in Columbus*, available at: <http://www.toledoblade.com/State/2015/05/20/New-statue-of-Thomas-Edison-unveiled-in-Columbus.html> (last visited Jan, 5, 2016).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 4, 2015, the Economic Development & Tourism subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarifies that the ad hoc committee of the Great Floridians Program must select a prominent Florida citizen, including but not limited to a person of distinguished civil or military service to be commemorated in the National Statuary Hall of the United States Capitol. The ad hoc committee is required to submit the recommendation to the Division of Historical Resources and the Division of Cultural Affairs.
- Requires the Department of State to coordinate the recommendations of the Division of Historical Resources and the Division of Cultural Affairs and submit a report of the findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2017.
- Removes the language requiring the Florida Council on Arts and Culture to gather necessary funds to carry out the replacement of the statue.

This analysis is drafted to the committee substitute.

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A bill to be entitled
An act relating to the National Statuary Hall;
providing for replacement of the statue of General
Edmund Kirby Smith in the National Statuary Hall of
the United States Capitol; providing for selection of
a prominent Florida citizen to be commemorated in the
National Statuary Hall; providing for selection of a
sculptor to design the statue; requiring the
Department of State to submit a report and
recommendations; providing for submission of the
state's request to the United States Joint Committee
on the Library of Congress for approval to replace the
statue; providing an effective date.

WHEREAS, pursuant to 2 U.S.C. s. 2131, each state is
permitted to provide and furnish to the United States Capitol
two statues, in marble or bronze, of deceased persons who have
been prominent citizens of the state for placement in the
National Statuary Hall, and

WHEREAS, currently, Florida has two statues, of Dr. John
Gorrie and of General Edmund Kirby Smith, in the National
Statuary Hall, and

WHEREAS, pursuant to 2 U.S.C. s. 2132, a state may request
that the Joint Committee on the Library of Congress approve the
replacement of any statue the state has provided for display in

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26 the National Statuary Hall of the United States Capitol, NOW,
 27 THEREFORE,

28

29 Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. (1) At its first annual meeting following the
 32 effective date of this act, the ad hoc committee of the Great
 33 Floridians Program within the Division of Historical Resources
 34 of the Department of State, as established under s.
 35 267.0731(1)(b), Florida Statutes, shall select, according to
 36 guidelines prescribed by the division, a prominent Florida
 37 citizen, including, but not limited to, a person of
 38 distinguished civil or military service, to be commemorated in
 39 the National Statuary Hall of the United States Capitol. The ad
 40 hoc committee shall submit its recommendation to the Division of
 41 Historical Resources and the Division of Cultural Affairs.

42 (2) At its first meeting following the effective date of
 43 this act, the Florida Council on Arts and Culture, as
 44 established under s. 265.285, Florida Statutes, shall select,
 45 according to guidelines prescribed by the Department of State, a
 46 sculptor to design a statue of the prominent Florida citizen
 47 selected pursuant to subsection (1) for replacement of the
 48 statue of General Edmund Kirby Smith in the National Statuary
 49 Hall.

50 (3) The Department of State shall coordinate the
 51 recommendations submitted to the Division of Historical

52 Resources and the Division of Cultural Affairs and shall submit
 53 a report by January 1, 2017, to the Governor, the President of
 54 the Senate, and the Speaker of the House of Representatives that
 55 includes, but is not limited to:

56 (a) The name of the prominent Florida citizen and the
 57 process used to select the prominent Florida citizen.

58 (b) The name of the sculptor and the process used to
 59 select the sculptor.

60 (c) An estimate of the total costs associated with
 61 replacement of the statue, including the costs to remove and
 62 transfer the current statue and to install the replacement
 63 statue.

64 (4) In accordance with 2 U.S.C. s. 2132, upon receiving
 65 the report under subsection (3), the Legislature may request by
 66 memorial that the United States Joint Committee on the Library
 67 of Congress approve the request to replace the statue of General
 68 Edmund Kirby Smith and that the Architect of the Capitol carry
 69 out the request. Upon adoption of the memorial by the
 70 Legislature and approval of the request in writing by the
 71 Governor, the memorial shall be submitted to the United States
 72 Joint Committee on the Library of Congress.

73 Section 2. This act shall take effect upon becoming a law.

Amendment No. 1

17 (2) At its first meeting following the effective date of
18 this act, the Florida Council on Arts and Culture, as
19 established under s. 265.285, Florida Statutes, shall select,
20 according to guidelines prescribed by the Department of State, a
21 sculptor to design the statues of the two prominent Florida
22 citizens selected pursuant to subsection (1) for replacement of
23 the statue of Dr. John Gorrie and the statue of General Edmund
24 Kirby Smith in the National Statuary Hall.

25 (3) The Department of State shall coordinate the
26 recommendations submitted to the Division of Historical
27 Resources and the Division of Cultural Affairs and shall submit
28 a report by January 1, 2017, to the Governor, the President of
29 the Senate, and the Speaker of the House of Representatives that
30 includes, but is not limited to:

31 (a) The names of the two prominent Florida citizens and
32 the process used to select the two prominent Florida citizens.

33 (b) The name of the sculptor and the process used to
34 select the sculptor.

35 (c) An estimate of the total costs associated with
36 replacement of the statues, including the costs to remove and
37 transfer the current statues and to install the replacement
38 statues.

39 (4) In accordance with 2 U.S.C. s. 2132, upon receiving
40 the report under subsection (3), the Legislature may request by
41 memorial that the United States Joint Committee on the Library
42 of Congress approve the request to replace the statues of Dr.

Amendment No. 1

43 John Gorrie and General Edmund Kirby Smith, and that the
44 Architect of the Capitol carry out the request. Upon adoption of
45 the memorial by the Legislature and approval of the request in
46 writing by the Governor, the memorial shall be submitted to the
47 United States Joint Committee on the Library of Congress.

48 Section 2. This act shall take effect upon becoming a law.
49

50 -----

51 **T I T L E A M E N D M E N T**

52 Remove everything before the enacting clause and insert:

53 An act relating to the National Statuary Hall;
54 providing for replacement of the statues of Dr. John
55 Gorrie and General Edmund Kirby Smith in the National
56 Statuary Hall of the United States Capitol; providing
57 for selection of two prominent Florida citizens to be
58 commemorated in the National Statuary Hall; providing
59 for selection of a sculptor to design the statues;
60 requiring the Department of State to submit a report
61 and recommendations; providing for submission of the
62 state's request to the United States Joint Committee
63 on the Library of Congress for approval to replace the
64 statues; providing an effective date.

65
66 WHEREAS, pursuant to 2 U.S.C. s. 2131, each state is
67 permitted to provide and furnish to the United States Capitol
68 two statues, in marble or bronze, of deceased persons who have

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 141 (2016)

Amendment No. 1

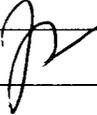
69 | been prominent citizens of the state for placement in the
70 | National Statuary Hall, and

71 | WHEREAS, currently, Florida has two statues, of Dr. John
72 | Gorrie and of General Edmund Kirby Smith, in the National
73 | Statuary Hall, and

74 | WHEREAS, pursuant to 2 U.S.C. s. 2132, a state may request
75 | that the Joint Committee on the Library of Congress approve the
76 | replacement of any statue the state has provided for display in
77 | the National Statuary Hall of the United States Capitol, NOW,
78 | THEREFORE,

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 197 Term Limits for Appellate Courts
SPONSOR(S): Civil Justice Subcommittee; Wood, Sullivan and others
TIED BILLS: None **IDEN./SIM. BILLS:** SJR 322

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	8 Y, 5 N, As CS	Bond	Bond
2) Appropriations Committee		Lloyd 	Leznoff 
3) Judiciary Committee			

SUMMARY ANALYSIS

Justices of the Florida Supreme Court and judges of the Florida district courts of appeal are appointed to office by the Governor and serve six year terms. There are no limits on the number of terms a justice or judge may serve, but each justice or judge is subject to the merit retention process and a mandatory retirement age.

Merit retention is the system of retaining justices and judges established by the voters when they amended the Florida Constitution in the 1970s. Newly appointed justices or judges face their first merit retention vote in the next general election that occurs more than one year after their appointment, but before the completion of a full six-year term. If retained in office by a majority of voters, the justice or judge serves a full six-year term. Thereafter, the justice or judge is subject to a merit retention election every six years. No Florida justice or judge has ever lost a merit retention election.

This joint resolution provides that a justice or judge appointed after the effective date may serve no more than two full terms of office.

A joint resolution to amend the constitution must be passed by a three-fifths vote of the membership of each house of the Legislature. The proposed joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election on November 8, 2016.

The joint resolution appears to require a nonrecurring expense for the publication of a proposed constitutional amendment in newspapers of general circulation in each county. The Department of State estimates a minimum of \$58,875 payable from the General Revenue Fund in FY 2016-17 for this purpose. The necessary appropriation will be included in the FY 2016-17 House proposed General Appropriation Act. The bill has no fiscal impact on the State Courts System. The minimal impacts related to judge turnover will not be experienced until FY 2030-31 based on historical judicial retention elections. This joint resolution does not appear to have a fiscal impact on local governments.

If adopted at the 2016 general election, the effective date of this resolution is January 3, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Appointment of Justices and Judges

Where there is a judicial vacancy in the Florida Supreme Court or a Florida district court of appeal, the Governor must appoint a replacement justice or judge from a list of nominees provided by a judicial nominating commission (JNC).¹ When a judgeship becomes vacant, candidates submit an application to the JNC for that court. The commission sends a list of three to six nominees to the Governor and the Governor fills the vacancy by selecting from that list.² At the next general election occurring at least a year after appointment, the newly appointed justice or district court judge sits for a retention election. If a majority of voters choose to retain the justice or judge, the justice or judge is retained for a six year term.³ Thereafter, the justice or judge will sit for a retention election every six years.

Retention in Office

While the state does have term limits applicable to the Governor, cabinet members, and legislators, no term limits apply to justices or judges. A justice or judge can serve an unlimited number of terms of office, limited only by a failure to be retained or a mandatory retirement age.

Mandatory Retirement Age

The Florida Constitution establishes a mandatory retirement age for justices and judges on or after their 70th birthday. The exact date of retirement depends upon when the 70th birthday occurs. If it occurs during the first half of a six-year term, then the mandatory retirement age is the same as the birthday. If the 70th birthday occurs in the second half of a six-year term, then the justice or judge can remain on the bench until the full term expires.⁴

Past Retention Election Results

Forty-two Supreme Court justices have appeared on the ballot for retention between 1980 and 2014. All 42 were retained by a majority of the voters. For the general elections from 2004 through 2014, all 125 district court of appeal judges that appeared on the ballot were retained.

Effect of the Bill

The joint resolution limits Supreme Court justices and judges of the district courts of appeal to two full terms of office. Given that terms are 6 years each, and that the time from appointment to first retention election ranges from one to three years, the effect of the bill is to create an effective term limit of between 13 and 15 years depending upon the date of appointment.

Term limits apply to the office that a justice or judge is appointed to, meaning that a district court of appeal judge promoted to the Supreme Court starts a new term limit.

¹ art. V, s.11, Fla. Const.

² art. V, s. 11(a), Fla. Const.

³ art. V, s. 10, Fla. Const.

⁴ art. V, s. 8, Fla. Const.

The joint resolution does not provide an effective date.⁵ Therefore, it would take effect on the first Tuesday after the first Monday in January following the election at which it was approved by the electorate,⁶ which is January 3, 2017.

The joint resolution is prospective only. Term limits will only apply to a justice or judge appointed to office after the effective date of the amendment.

B. SECTION DIRECTORY:

n/a

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

Current Fiscal Impact

Article XI, s.5(d) of the state constitution requires publication of a proposed amendment in a newspaper of general circulation in each county. The Department of State provided the following fiscal analysis for HJR 197 as originally filed:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments. The cost to advertise constitutional amendments for the 2014 general election was \$135.97 per word. Using 2014 rates, the cost to advertise this amendment for the 2016 general election could be \$58,331 at a minimum.⁷

The amended resolution has 433 words, changing the estimate to \$58,875. These funds must be spent regardless of whether the amendment passes, and are payable from the General Revenue Fund in FY 2016-17. The necessary appropriation will be included in the FY 2016-17 House proposed General Appropriations Act.

Future Fiscal Impact

This bill may increase judicial workload due to more frequent gaps in service, and increased staff turnover.⁸ This bill would increase training costs, as all judges new to the bench are required to take in-person training. Based on historical judicial retention elections, the potential fiscal impacts to the court system would not occur until FY 2030-31 at the earliest.

⁵ While an amendment can specify its effective date, it is common practice in constitutional amendments to simply allow the default effective date to apply.

⁶ art. XI, s. 5, Fla. Const.

⁷ Department of State analysis dated October 26, 2015, on file with the Civil Justice Subcommittee.

⁸ "Because justices and appellate judges hire their own staff, increased turnover of justices and appellate judges may result in increased turnover of law clerks and judicial assistants, thereby requiring additional staff work for administrative items relating to a new staff person." Office of the State Courts Administrator, *2016 Judicial Impact Statement for PCS/HJR 197*, dated November 1, 2015, on file with the Civil Justice Subcommittee.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This section does not apply to proposed constitutional amendments.

2. Other:

Article XI of the Florida Constitution sets forth various methods for proposing amendments to the constitution, along with the methods for approval or rejection of proposals. One method by which constitutional amendments may be proposed is by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.⁹ Any such proposal must be submitted to the electors, either at the next general election held more than 90 days after the joint resolution is filed with the Secretary of State, or, if pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, at an earlier special election held more than 90 days after such filing.¹⁰ If the proposed amendment is approved by a vote of at least 60 percent of the electors voting on the measure, it becomes effective as an amendment to the Florida Constitution on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.¹¹

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

For the current Supreme Court Justices, assuming that none lose a retention election and that all serve until mandatory retirement:

- The average length of service will be 17 years.
- If this term limit had been in place when appointed, it would have had no effect on 2 of the 7.

⁹ art. XI, s. 1, Fla. Const.

¹⁰ art. XI, s. 5(a), Fla. Const.

¹¹ art. XI, s. 5(e), Fla. Const.

- The longest term would be 22 years.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 3, 2015, the Civil Justice Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from the bill as filed in that it is prospective only, having no effect on current justices and judges. This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.

House Joint Resolution

A joint resolution proposing an amendment to Section 8 of Article V and the creation of a new section in Article XII of the State Constitution to create term limits for Supreme Court justices and judges of the district courts of appeal; limiting applicability to justices and judges appointed after the effective date of the amendment.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 8 of Article V and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE V

JUDICIARY

SECTION 8. Eligibility.—

(a) No person shall be eligible for office of justice or judge of any court unless the person is an elector of the state and resides in the territorial jurisdiction of the court. No justice or judge shall serve after attaining the age of seventy years except upon temporary assignment or to complete a term, one-half of which has been served.

53 | and judges appointed to office after the effective date of the
 54 | amendment.

55 | BE IT FURTHER RESOLVED that the following statement be
 56 | placed on the ballot:

57 | CONSTITUTIONAL AMENDMENT

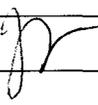
58 | ARTICLE V, SECTION 8

59 | ARTICLE XII

60 | TERM LIMITS FOR APPELLATE COURTS.—Proposing an amendment to
 61 | the State Constitution to limit the terms of Supreme Court
 62 | justices and judges of the district courts of appeal. They
 63 | currently serve unlimited 6-year terms, if retained, until age
 64 | 70 or beyond that age, if less than one-half of a term remains
 65 | at age 70. The amendment limits them to two full terms, with
 66 | partial terms not counting toward the limits. The amendment does
 67 | not apply to current justices and judges.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 249 Culinary Education Programs
SPONSOR(S): Health Quality Subcommittee; Moskowitz and others
TIED BILLS: IDEN./SIM. **BILLS:** HB 223, SB 706

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	12 Y, 0 N, As CS	Siples	O'Callaghan
2) Appropriations Committee		Garner 	Leznoff 
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (DBPR) regulates public food service establishments through its Division of Hotels and Restaurants. It also oversees the issuance of licenses for the sale and service of alcoholic beverages in this state through its Division of Alcoholic Beverages and Tobacco.

The bill amends the definition of "public food service establishment" to include a culinary education program that offers, prepares, serves, or sells food to the general public, making it subject to the regulation and oversight of the Division of Hotels and Restaurants. Under current law, a culinary education program is subject to the food safety and sanitation regulations of the Department of Health and will remain subject to its regulation, regardless of whether the culinary education program offers food for public consumption.

The bill defines a culinary education program as a program that educates enrolled students in the culinary arts, including the preparation, cooking, and presentation of food, or provides education and experience in culinary arts-related businesses. A culinary education program must be inspected by a state agency for compliance with sanitation standards and must be provided by a:

- State university;
- Florida College System institution;
- Nonprofit independent college or university that is located and chartered in this state, meets certain accreditation requirements, and is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program; or
- Nonpublic postsecondary educational institution licensed pursuant to part III of ch. 1005, F.S.

Current law requires a caterer seeking a license to sell or serve alcohol on the premises of events at which it provides prepared food to derive at least 51% of its gross receipts from the sale of food and nonalcoholic beverages. The bill authorizes the Division of Alcoholic Beverages and Tobacco to issue a special license to a culinary education program licensed as a public food service establishment for the sale and service of alcoholic beverages on the licensed premises of the culinary education program. For a licensed culinary education program that also provides catering services, the special license will allow it to sell or serve alcoholic beverages on the premises of events for which it provides prepared food, without meeting the requirement of deriving the majority of its gross receipts from the sale of food and nonalcoholic beverages.

The bill explicitly provides that the special license does not authorize the culinary education program to conduct any activities that would violate Florida's Beverage Law, including certain age restrictions, or local law. A culinary education program with a special license may not sell alcoholic beverages by the package for off-premise consumption.

The bill authorizes the DBPR to promulgate rules to administer the bill's provisions.

DBPR estimates that the bill will likely result in an increase of revenue of \$142,166 annually (\$112,840 in Alcoholic Beverages & Tobacco Trust Fund and \$29,326 in the Hotels and Restaurants Trust Fund). Additionally, DBPR indicates that any potential expenditure is insignificant and can be absorbed within current resources.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Food Safety Programs

Three state agencies operate food safety programs in Florida: the Department of Agriculture and Consumer Services (DACS), the Department of Business and Professional Regulation (DBPR), and the Department of Health (DOH). The three agencies carry out similar regulatory activities, but have varying statutory authority, regulate separate sectors of the food service industry, and are funded at different levels because of statutory fee caps.¹ Each agency issues food establishment licenses or permits, conducts food safety and sanitation inspections, and enforces regulations through fines and other disciplinary actions.²

Each agency has authority over specific types of food establishments. In general, the DACS regulates grocery stores, supermarkets, bakeries, and convenience stores that offer food service, the DBPR regulates restaurants and caterers, and the DOH regulates facilities that serve high-risk populations such as hospitals, nursing homes, residential care facilities, and schools.³ While these agencies do not perform duplicate inspections, a single establishment with multiple food operations could be licensed or have food permits from multiple departments.⁴

*Florida Food Safety Act*⁵

Under the Florida Food Safety Act, the DACS is charged with administering and enforcing the provisions of the Act in order to prevent fraud, harm, adulteration, misbranding, or false advertising in the preparation, manufacture, or sale of articles of food. It is further charged with the regulation of the production, manufacture, transportation, and sale of food, as well as articles entering into, and intended for use as ingredients in the preparation of, food.⁶

An individual seeking to operate a food establishment or retail food store must first obtain a food permit from the DACS.⁷ Prior to the issuance of a permit, the DACS performs an inspection of the food establishment, its equipment, and the methods of operation for compliance with the Florida Food Safety Act. Section 500.03(1)(p), F.S., defines "food establishment" as a factory, food outlet, or other facility manufacturing, processing, packing, holding, or preparing food or selling food at wholesale or retail. The term does not include business or activity that is regulated under s. 413, 051, F.S., s. 500.80, F.S., ch. 509, F.S., or ch. 601, F.S.⁸

¹ Office of Program Policy Analysis and Gov't Accountability, *State Food Safety Programs Should Improve Performance and Financial Self-Sufficiency*, Report No. 08-67 (Dec. 2008), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0867rpt.pdf> (last visited Oct. 14, 2015).

² *Id.*

³ Office of Program Policy Analysis and Gov't Accountability, *State's Food Safety Programs Have Improved Performance and Financial Self-Sufficiency*, Report No. 10-44 (June 2010), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1044rpt.pdf> (last visited Oct. 14, 2015).

⁴ *Supra* note 1.

⁵ See ch. 500, F.S.

⁶ Section 500.032, F.S.

⁷ Section 500.12(1), F.S.

⁸ This exemption applies to vending stands operated by eligible blind persons, cottage food operations, lodging and food service establishments, and citrus facilities.

Department of Health Food Service Protections

The DOH has been charged with protecting the public from food borne illness.⁹ This includes developing and enforcing standards and requirements for the storage, preparation, serving, and display of food in food service establishments. Section 381.0072(2)(c), F.S., defines a “food service establishment” as a:

detention facility, public or private school, migrant labor camp, assisted living facility, facility participating in the United States Department of Agriculture Afterschool Meal Program located at a facility or site that is not inspected by another state agency for compliance with sanitation standards, adult family-care home, adult day care center, short-term residential treatment center, residential treatment facility, crisis stabilization units, hospices, prescribed pediatric extended care centers, intermediate care facilities for persons with developmental disabilities, boarding schools, civic or fraternal organizations, bars and lounges, vending machines that dispense potentially hazardous foods at facilities expressly named in this paragraph, and facilities used as temporary food events or mobile food units at any facility expressly named in paragraph, where food is prepared and intended for individual portion service, including the site at which individual portions are provided, regardless of whether there is a charge for the food.

The DOH utilizes a risk-based inspection program, which means that it more frequently inspects those facilities that pose a greater risk to the public becoming sick from consumption of their product than those that pose a lesser risk.¹⁰ The inspections are performed by the Environmental Health sections of the local County Health Departments.

Department of Business and Professional Regulation’s Oversight of Public Food Service Establishments

The Division of Hotels and Restaurants within the DBPR is the state entity charged with enforcing the provisions of part I of ch. 509, F.S., titled Public Lodging and Public Food Service Establishments, and all other applicable laws relating to the inspection and regulation of public food service establishments for the purpose of protecting the public health, safety, and welfare.

The Division of Hotels and Restaurants inspects and licenses public food service establishments, defined by s. 509.013(5)(a), F.S., to mean:

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.¹¹

There are several exclusions from the definition of public food service establishment, including:¹²

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests.

⁹ Section 381.0072(1), F.S.

¹⁰ Florida Department of Health, *Food Safety and Sanitation*, available at <http://www.floridahealth.gov/Environmental-Health/food-safety-and-sanitation/index.html> (last visited Oct. 14, 2015).

¹¹ Section 509.013(5)(a), F.S.

¹² Section 509.013(5)(b), F.S.

- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests.
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
- Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration, the Department of Children and Families, or other similar place regulated under s. 381.0072, F.S.¹³
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.
- Any place of business where the food available for consumption is limited to ice, beverages, popcorn, or other prepackaged food.
- Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.
- Any vending machine that dispenses any food or beverages other than potentially hazardous foods.
- Any research and development test kitchen limited to the use of employees and not open to the general public.

Florida's Beverage Law

Alcoholic beverages are regulated by Florida's Beverage Law.¹⁴ The Division of Alcoholic Beverages and Tobacco, within the DBPR, is responsible for the regulation of the manufacture, packaging, distribution, and sale of alcoholic beverages within the state.¹⁵

The term "alcoholic beverages" is defined by s. 561.01(4)(a), F.S., to mean distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume and that the percentage of alcohol by volume is determined by comparing the volume of ethyl alcohol with all other ingredients in the beverage.

The terms "intoxicating beverage" and "intoxicating liquor" are defined by s. 561.01(5), F.S., to mean only those alcoholic beverages containing more than 4.007 percent of alcohol by volume.

Liquor and distilled spirits are regulated specifically by ch. 565, F.S. The terms "liquor," "distilled spirits," "spirituous liquors," "spirituous beverages," or "distilled spirituous liquors" are defined by s. 565.01, F.S., to mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

Section 561.20, F.S., limits the number of alcoholic beverage licenses that permit the sale of liquor, along with beer and wine, that may be issued per county. The number of licenses is limited to one license per 7,500 residents within the county. This is commonly known as a quota license. Due to the limitation on the number of quota licenses that may be issued, a prospective applicant must either purchase an existing license or enter a drawing to win the right to apply for a newly authorized quota license.¹⁶ This limitation on the number of licenses per county does not apply to a:

- Bona fide hotel, motel, or motor court of a certain size and deriving a majority of its gross profits from the rental of hotel or motel rooms;
- Condominium licensed under ch. 590, F.S.;

¹³ See *supra* note 2.

¹⁴ Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

¹⁵ Section 561.02, F.S.

¹⁶ Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, *FAQs – Frequently Asked Questions*, available at http://www.myfloridalicense.com/dbpr/abt/documents/abt_frequently_asked_questions_000.pdf (last visited Oct. 14, 2015).

- Restaurant of a certain size and deriving at least 51% of its gross profits from the sale of food and nonalcoholic beverages; and
- Caterer, licensed by the Division of Hotels and Restaurants under ch. 509, F.S., deriving at least 51% of its gross revenue from the sale of food and nonalcoholic beverages, and selling or serving alcoholic beverages only for consumption on the premises of a catered event at which the licensee is also providing prepared food.¹⁷

The annual fee for a quota license that allows for the consumption of alcoholic beverages on the premises will vary based on county population but ranges from \$624 to \$1,820.¹⁸ However, at the initial issuance of a new license, the licensee must pay a one-time fee of \$10,750.¹⁹ For the purchase and transfer of an existing license, a licensee must pay a transfer fee (not to exceed \$5,000). The cost of purchasing an existing license is determined by the market condition for quota licenses.²⁰

A qualified, licensed caterer's annual fee for a license to sell or serve alcoholic beverages on the premises of events at which the caterer is also providing prepared food is \$1,820.²¹

Culinary Education Programs

A culinary education program prepares individuals for a career in the culinary arts, which includes developing knowledge of food science, diet, and nutrition.²² Culinary education programs vary widely and can result in the award of a certificate, an Associate's Degree, or a Bachelor's Degree. Additionally, culinary education can be obtained as a concentration in another degree program, such as Hospitality Management or Business Administration, and may also be obtained as part of an established apprenticeship program.

There does not appear to be a single entity that accredits or oversees culinary education programs. Depending on the program, it may be subject to oversight by local and state education entities or may be accredited by an independent accreditation organization.²³ The Florida Department of Education reports that there are a total of 75 postsecondary culinary education programs under its purview.²⁴

Effect of Proposed Changes

Department of Health Food Service Protections

Current law provides that all food service establishments are subject to the food safety and sanitation regulations adopted by the DOH, unless it is licensed under ch. 500, F.S., or ch. 509, F.S. The bill maintains this requirement, but also expressly provides that a public food service establishment that is a culinary education program licensed under ch. 509, F.S., remains subject to the food sanitation regulations of the DOH. The bill includes a culinary education program that prepares food intended for individual portion service, whether there is a charge, or whether the program is inspected by another state agency for compliance with sanitation standards, in the definition of "food service establishments."

¹⁷ Section 561.20(2)(a), F.S. Other special licenses are permitted under s. 561.20(2), F.S.

¹⁸ Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, *Licenses and Permits for Alcoholic Beverages*, (Aug. 28, 2015), available at <http://www.myfloridalicense.com/dbpr/abt/licensing/ABTLicenses.pdf> (last visited Oct. 15, 2015).

¹⁹ *Supra* note 16.

²⁰ *Id.*

²¹ *Supra* note 18.

²² Course Advisor, *What is Culinary Education?*, available at <http://resources.courseadvisor.com/culinary-hospitality/culinary-education-cooking-schools> (last visited Oct. 15, 2015).

²³ For an example of an independent accrediting body, see American Culinary Federation, *Accreditation for Culinary Arts and Baking and Pastry Programs*, available at <http://www.acfchefs.org/ACF/Education/Accreditation/ACF/Education/Accreditation/> (last visited Oct. 15, 2015).

²⁴ E-mail correspondence with Department of Education staff (Oct. 15, 2015). There are 16 culinary schools licensed by the Commission for Independent Education, 36 Postsecondary Adult Vocational programs, and 23 programs offered by state colleges.

Culinary Education Programs

The bill defines a culinary education program as a program that educates enrolled students in the culinary arts, including the preparation, cooking, and presentation of food, or provides education and experience in culinary arts-related businesses. A culinary education program must be inspected by a state agency for compliance with sanitation standards and provided by:

- A state university;²⁵
- A Florida College System institution;²⁶
- A nonprofit independent college or university that is located and chartered in this state and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees, that is under the jurisdiction of the Department of Education, and that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program;²⁷ or
- A nonpublic postsecondary educational institution licensed pursuant to part III of ch. 1005, F.S.²⁸

Culinary education programs located in secondary schools are not included in this definition.²⁹

Public Food Establishments

The Division of Hotels and Restaurants, within the DBPR, inspects and regulates public food service establishments. The bill amends the definition of “public food service establishments” to include a culinary education program that offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another agency, making it subject to the regulation of the DBPR.

Sale and Service of Alcoholic Beverages

The Division of Alcoholic Beverages and Tobacco, within the DBPR, regulates the sale of alcoholic beverages in this state. Current law provides that a caterer seeking to sale or serve alcoholic beverages for consumption at events it caters must be duly licensed by the Division of Alcoholic Beverages and Tobacco, and must derive at least 51% of its gross profits from the sale of food and nonalcoholic drinks. The bill exempts a licensed culinary education program providing catering services from the requirement that it must derive 51% of its gross profits from the sale of food and nonalcoholic beverages.

The bill provides that a duly licensed culinary education program is not subject to the provisions of law that limit the number of alcoholic beverage licenses that may be issued in each county. The bill provides that a duly licensed culinary education program may be granted a special license that will permit the sale and consumption of alcoholic beverages on the licensed premises of the culinary education program. At the time of application for the special license, the culinary education program

²⁵ Pursuant to s. 1000.21(6), F.S., “state university” refers to the 12 state universities and any branch campuses, centers, or other affiliates of the institutions.

²⁶ Pursuant to s. 1000.21(3), F.S., “Florida College System institution” refers to the 28 state colleges and any branch campuses, centers, or other affiliates of the institutions.

²⁷ The William L. Boyd, IV, Florida Resident Access Grant Program provides tuition assistance to Florida undergraduate students attending an eligible independent, non-profit college or university located in Florida. See s. 1009.89, F.S.

²⁸ Pursuant to s. 1005.02(11), F.S., a nonpublic postsecondary educational institution means any postsecondary educational institution that operates in this state or makes application to operate in this state, and is not provided, operated, or supported by the State of Florida, is political subdivisions, or the federal government.

²⁹ The term “secondary school” generally refers to a high school or similar institution providing instruction for students between elementary school and college and usually offering general, technical, vocational, or college-preparatory courses. See <http://www.merriam-webster.com/dictionary/secondary%20school> (last visited October 20, 2015).

must specify designated areas in its facility where alcoholic beverages may be consumed. Alcoholic beverages sold for consumption on the premises must be consumed on the licensed premises only.³⁰

For a culinary education program that also provides catering services, the bill provides that the special license will also allow for the sale and consumption of alcoholic beverages on the premises of a catered event at which the licensee is also providing prepared food. The bill provides that the culinary education program will be assessed an annual fee of \$1,820 annually in compliance with s. 565.02(1)(b), F.S. regardless of the population of the county where the license is issued.³¹ The culinary education program must prominently display its beverage license at any catered event at which it will be selling or serving alcoholic beverages. The licensee is required to maintain records for 3 years to demonstrate compliance with state law.

If a culinary education program also has any other license under the Beverage Law, the special license, provided under the bill's provisions, does not authorize the holder to conduct activities on the premises that are governed by the other license or licenses that would otherwise be prohibited by the terms of that license or the Beverage Law. Nothing in this bill authorizes a licensee to conduct activities that are prohibited by the Beverage Law or local law.

The bill places certain limitations on a culinary education program possessing a special license provided under its provisions. The bill prohibits a licensed culinary education program from selling alcoholic beverages by the package for off-premise consumption. The bill also requires a licensed culinary education program to comply with age requirements for vendors as provided under the Beverage Law.³²

The bill authorizes the Division of Alcoholic Beverages and Tobacco within the DBPR to promulgate rules to administer the special license, including rules governing licensure, recordkeeping, and enforcement.

The bill provides an effective date of July 1, 2016.

B. SECTION DIRECTORY:

Section 1. Amends s. 381.0072, F.S., relating to food service protection.

Section 2. Amends s. 509.013, F.S., relating to definitions.

Section 3. Amends s. 561.20, F.S., relating to limitation upon the number of licenses issued.

Section 4. Provides an effective date of July 1, 2016.

³⁰ Pursuant to s. 561.01(11), F.S., "licensed premises" means not only the rooms where alcoholic beverages are stored or sold by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit of free passage from drink parlor to other rooms over which the licensee has some dominion or control and shall also include all of the area embraced within the sketch, appearing on or attached to the application for the license involved and designated as such on said sketch, in addition to that included or designated by general law.

³¹ Dep't of Business and Professional Regulation, *2016 Agency Legislative Bill Analysis of House Bill 249* (November 10, 2015) (on file with the Government Operations Appropriations Subcommittee).

³² Sections 562.11(4) and 562.111(2), F.S., allows alcoholic beverages to be served to a student who is at least 18 years of age and the alcoholic beverage is delivered as part of the student's required curriculum at an accredited postsecondary educational institution if the student is enrolled in the college and required to taste alcoholic beverages for instructional purposes only during class under the supervision of authorized personnel. Section 562.13, F.S., prohibits the employment of a person under the age of 18 by vendors licensed under the Beverage Law; however, this prohibition does not apply to employees under the age of 18 for certain types of establishments, such as drug stores, grocery stores, hotels, bowling alleys, etc.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The new special alcoholic beverage license type will generate additional revenue for the state. Each license fee will generate \$1,820 annually regardless of the population of the county where the license is issued.³³ The anticipated number of new licenses is contingent upon the number of entities which currently meet the license qualifications or are subsequently established in accordance with the license qualifications. Approximately 62 entities are currently known to operate culinary education programs in the state which could pursue application for the new license.

DBPR estimates that if the known 62 current culinary education programs that may be affected by this bill purchased the new special alcoholic beverage license type, the new licenses would generate total annual revenue of \$112,840 which will be deposited into the Alcoholic Beverages and Tobacco Trust Fund (with cities and counties receiving 38% and 24%). Revenue could increase if additional entities meet the requirements of the bill and apply for a license with DBPR.

DBPR estimates that the revenue increase associated with the food service license provisions of the bill to be approximately \$29,326 annually, which will be deposited into the Hotels and Restaurants Trust Fund.

2. Expenditures:

In order to comply with the provisions of the bill, the DBPR advises that it will need to modify software applications it currently uses to accommodate the changes made by the provisions of the bill. The bill will also increase the number of food safety and sanitation inspections that must be performed, as each licensee will require at least two inspections per year. The DBPR indicates that these costs can be absorbed by existing resources.³⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Cities and counties receive 38% and 24% of the license fees for each new license issued in its jurisdiction. If the known 62 current culinary education programs that may be affected by this bill purchased an alcoholic beverage license, the new licenses would generate total annual revenue of \$112,840 with cities and counties receiving \$42,879 and \$27,082. Therefore, the bill may provide a positive fiscal impact on those cities and counties in which there is a culinary education program licensed to sell or serve alcoholic beverages.³⁵

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The initial fee for a culinary education program seeking to be licensed as a caterer by the Division of Hotels and Restaurants, within the DBPR, is \$473 and the annual renewal fee is \$273. If a licensed culinary education program seeks to obtain a license to sell or serve alcoholic beverages, it must also pay the licensure fee for that additional license, which will be \$1,820 per year.³⁶

³³ Dep't of Business and Professional Regulation, *2016 Agency Legislative Bill Analysis of House Bill 249* (November 10, 2015) (on file with the Government Operations Appropriations Subcommittee).

³⁴ Dep't of Business and Professional Regulation, *2016 Agency Legislative Bill Analysis of House Bill 249* (Oct. 19, 2015) (on file with the Health Quality Subcommittee).

³⁵ *Id.* See also s. 561.342, F.S.

³⁶ *Supra* note 33.

With the ability to provide alcoholic beverages as a caterer, some culinary education programs may be able to generate additional revenue for its programs and students. Existing catering businesses may experience a decrease in business due to the increased competition from the culinary education programs.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Division of Alcoholic Beverages and Tobacco within the DBPR to promulgate rules to administer the special license, including rules governing licensure, recordkeeping, and enforcement.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DBPR respectively noted in their departmental bill analysis, "that as created in this bill, the new special alcoholic beverage license would expand privileges for the sale and service of liquor in Florida as an additional exception to the quota beverage license which is otherwise restricted in number based on county population size. The standards of qualification as a culinary education program as defined in this bill are beyond the jurisdiction of the Division [of Alcoholic Beverages and Tobacco], and accordingly, the evolution of this special license exception will be primarily controlled by the manner in which other agencies establish, interpret, modify, or enforce the core qualifications of a culinary education program".³⁷

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On October 20, 2015, the Health Quality Subcommittee adopted a technical amendment to specify a "public food service establishment" licensed under ch. 509, F.S., rather than a "food service establishment."

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.

³⁷ *Supra* note 33.

1 A bill to be entitled
 2 An act relating to culinary education programs;
 3 amending s. 381.0072, F.S.; providing for the
 4 applicability of Department of Health sanitation rules
 5 to a licensed culinary education program; defining the
 6 term "culinary education program"; including certain
 7 culinary education programs under the definition of
 8 "food service establishment" and providing for the
 9 applicability of food service protection requirements
 10 thereto; conforming provisions; amending s. 509.013,
 11 F.S.; revising the definition of the term "public food
 12 service establishment" to include a culinary education
 13 program; amending s. 561.20, F.S.; permitting a
 14 culinary education program with a public food service
 15 establishment license to obtain an alcoholic beverage
 16 license under certain conditions; authorizing the
 17 Division of Alcoholic Beverages and Tobacco to adopt
 18 rules to administer such licenses; providing an
 19 effective date.

21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 381.0072, Florida Statutes, is amended
 24 to read:

25 381.0072 Food service protection.—

26 (1) DEPARTMENT OF HEALTH; SANITATION RULES.—

27 | (a) It shall be the duty of the Department of Health to
 28 | adopt and enforce sanitation rules consistent with law to ensure
 29 | the protection of the public from food-borne illness. These
 30 | rules shall provide the standards and requirements for the
 31 | storage, preparation, serving, or display of food in food
 32 | service establishments as defined in this section ~~and which are~~
 33 | ~~not permitted or licensed under chapter 500 or chapter 509.~~

34 | (b) A food service establishment is subject to the
 35 | sanitation rules adopted and enforced by the department. This
 36 | section does not apply to a food service establishment permitted
 37 | or licensed under chapter 500 or a public food service
 38 | establishment licensed under chapter 509 unless the public food
 39 | service establishment is a culinary education program licensed
 40 | under chapter 509.

41 | ~~(2)(1)~~ DEFINITIONS.—As used in this section, the term:

42 | (a) "Culinary education program" means a program that:

43 | 1. Educates enrolled students in the culinary arts,
 44 | including the preparation, cooking, and presentation of food, or
 45 | provides education and experience in culinary arts-related
 46 | businesses;

47 | 2. Is provided by:

48 | a. A state university as defined in s. 1000.21;

49 | b. A Florida College System institution as defined in s.
 50 | 1000.21;

51 | c. A nonprofit independent college or university that is
 52 | located and chartered in this state and accredited by the

53 Commission on Colleges of the Southern Association of Colleges
 54 and Schools to grant baccalaureate degrees, that is under the
 55 jurisdiction of the Department of Education, and that is
 56 eligible to participate in the William L. Boyd, IV, Florida
 57 Resident Access Grant Program; or

58 d. A nonpublic postsecondary educational institution
 59 licensed pursuant to part III of chapter 1005; and

60 3. Is inspected by any state agency or agencies for
 61 compliance with sanitation standards.

62 (b)(a) "Department" means the Department of Health or its
 63 representative county health department.

64 (c)(b) "Food service establishment" means detention
 65 facilities, public or private schools, migrant labor camps,
 66 assisted living facilities, facilities participating in the
 67 United States Department of Agriculture Afterschool Meal Program
 68 that are located at a facility or site that is not inspected by
 69 another state agency for compliance with sanitation standards,
 70 adult family-care homes, adult day care centers, short-term
 71 residential treatment centers, residential treatment facilities,
 72 homes for special services, transitional living facilities,
 73 crisis stabilization units, hospices, prescribed pediatric
 74 extended care centers, intermediate care facilities for persons
 75 with developmental disabilities, boarding schools, civic or
 76 fraternal organizations, bars and lounges, vending machines that
 77 dispense potentially hazardous foods at facilities expressly
 78 named in this paragraph, and facilities used as temporary food

79 | events or mobile food units at any facility expressly named in
 80 | this paragraph, where food is prepared and intended for
 81 | individual portion service, including the site at which
 82 | individual portions are provided, regardless of whether
 83 | consumption is on or off the premises and regardless of whether
 84 | there is a charge for the food. The term includes a culinary
 85 | education program where food is prepared and intended for
 86 | individual portion service, regardless of whether there is a
 87 | charge for the food or whether the program is inspected by
 88 | another state agency for compliance with sanitation standards.
 89 | The term does not include any entity not expressly named in this
 90 | paragraph; nor does the term include a domestic violence center
 91 | certified by the Department of Children and Families and
 92 | monitored by the Florida Coalition Against Domestic Violence
 93 | under part XII of chapter 39 if the center does not prepare and
 94 | serve food to its residents and does not advertise food or drink
 95 | for public consumption.

96 | ~~(d)(e)~~ "Operator" means the owner, operator, keeper,
 97 | proprietor, lessee, manager, assistant manager, agent, or
 98 | employee of a food service establishment.

99 | ~~(3)(2)~~ DUTIES.—

100 | (a) The department may advise and consult with the Agency
 101 | for Health Care Administration, the Department of Business and
 102 | Professional Regulation, the Department of Agriculture and
 103 | Consumer Services, and the Department of Children and Families
 104 | concerning procedures related to the storage, preparation,

105 | serving, or display of food at any building, structure, or
 106 | facility not expressly included in this section that is
 107 | inspected, licensed, or regulated by those agencies.

108 | (b) The department shall adopt rules, including
 109 | definitions of terms which are consistent with law prescribing
 110 | minimum sanitation standards and manager certification
 111 | requirements as prescribed in s. 509.039, and which shall be
 112 | enforced in food service establishments as defined in this
 113 | section. The sanitation standards must address the construction,
 114 | operation, and maintenance of the establishment; lighting,
 115 | ventilation, laundry rooms, lockers, use and storage of toxic
 116 | materials and cleaning compounds, and first-aid supplies; plan
 117 | review; design, construction, installation, location,
 118 | maintenance, sanitation, and storage of food equipment and
 119 | utensils; employee training, health, hygiene, and work
 120 | practices; food supplies, preparation, storage, transportation,
 121 | and service, including access to the areas where food is stored
 122 | or prepared; and sanitary facilities and controls, including
 123 | water supply and sewage disposal; plumbing and toilet
 124 | facilities; garbage and refuse collection, storage, and
 125 | disposal; and vermin control. Public and private schools, if the
 126 | food service is operated by school employees, bars and lounges,
 127 | civic organizations, and any other facility that is not
 128 | regulated under this section are exempt from the rules developed
 129 | for manager certification. The department shall administer a
 130 | comprehensive inspection, monitoring, and sampling program to

131 ensure such standards are maintained. With respect to food
 132 service establishments permitted or licensed under chapter 500
 133 or chapter 509, the department shall assist the Division of
 134 Hotels and Restaurants of the Department of Business and
 135 Professional Regulation and the Department of Agriculture and
 136 Consumer Services with rulemaking by providing technical
 137 information.

138 (c) The department shall carry out all provisions of this
 139 chapter and all other applicable laws and rules relating to the
 140 inspection or regulation of food service establishments as
 141 defined in this section, for the purpose of safeguarding the
 142 public's health, safety, and welfare.

143 (d) The department shall inspect each food service
 144 establishment as often as necessary to ensure compliance with
 145 applicable laws and rules. The department shall have the right
 146 of entry and access to these food service establishments at any
 147 reasonable time. In inspecting food service establishments under
 148 this section, the department shall provide each inspected
 149 establishment with the food recovery brochure developed under s.
 150 595.420.

151 (e) The department or other appropriate regulatory entity
 152 may inspect theaters ~~exempted in subsection (1)~~ to ensure
 153 compliance with applicable laws and rules pertaining to minimum
 154 sanitation standards. A fee for inspection shall be prescribed
 155 by rule, but the aggregate amount charged per year per theater
 156 establishment shall not exceed \$300, regardless of the entity

157 providing the inspection.

158 (4)~~(3)~~ LICENSES REQUIRED.—

159 (a) Licenses; annual renewals.—Each food service
 160 establishment regulated under this section shall obtain a
 161 license from the department annually. Food service establishment
 162 licenses shall expire annually and are not transferable from one
 163 place or individual to another. However, those facilities
 164 licensed by the department's Office of Licensure and
 165 Certification, the Child Care Services Program Office, or the
 166 Agency for Persons with Disabilities are exempt from this
 167 subsection. It shall be a misdemeanor of the second degree,
 168 punishable as provided in s. 381.0061, s. 775.082, or s.
 169 775.083, for such an establishment to operate without this
 170 license. The department may refuse a license, or a renewal
 171 thereof, to any establishment that is not constructed or
 172 maintained in accordance with law and with the rules of the
 173 department. Annual application for renewal is not required.

174 (b) Application for license.—Each person who plans to open
 175 a food service establishment regulated under this section and
 176 not regulated under chapter 500 or chapter 509 shall apply for
 177 and receive a license prior to the commencement of operation.

178 (5)~~(4)~~ LICENSE; INSPECTION; FEES.—

179 (a) The department is authorized to collect fees from
 180 establishments licensed under this section and from those
 181 facilities exempted from licensure under paragraph (4) (a)
 182 ~~(3)~~ (a). It is the intent of the Legislature that the total fees

183 assessed under this section be in an amount sufficient to meet
 184 the cost of carrying out the provisions of this section.

185 (b) The fee schedule for food service establishments
 186 licensed under this section shall be prescribed by rule, but the
 187 aggregate license fee per establishment shall not exceed \$300.

188 (c) The license fees shall be prorated on a quarterly
 189 basis. Annual licenses shall be renewed as prescribed by rule.

190 (6)~~(5)~~ FINES; SUSPENSION OR REVOCATION OF LICENSES;
 191 PROCEDURE.-

192 (a) The department may impose fines against the
 193 establishment or operator regulated under this section for
 194 violations of sanitary standards, in accordance with s.
 195 381.0061. All amounts collected shall be deposited to the credit
 196 of the County Health Department Trust Fund administered by the
 197 department.

198 (b) The department may suspend or revoke the license of
 199 any food service establishment licensed under this section that
 200 has operated or is operating in violation of any of the
 201 provisions of this section or the rules adopted under this
 202 section. Such food service establishment shall remain closed
 203 when its license is suspended or revoked.

204 (c) The department may suspend or revoke the license of
 205 any food service establishment licensed under this section when
 206 such establishment has been deemed by the department to be an
 207 imminent danger to the public's health for failure to meet
 208 sanitation standards or other applicable regulatory standards.

209 (d) No license shall be suspended under this section for a
 210 period of more than 12 months. At the end of such period of
 211 suspension, the establishment may apply for reinstatement or
 212 renewal of the license. A food service establishment which has
 213 had its license revoked may not apply for another license for
 214 that location prior to the date on which the revoked license
 215 would have expired.

216 (7)~~(6)~~ IMMEDIATE DANGERS; STOP-SALE ORDERS.—

217 (a) In the course of epidemiological investigations or for
 218 those establishments regulated by the department under this
 219 chapter, the department, to protect the public from food that is
 220 unwholesome or otherwise unfit for human consumption, may
 221 examine, sample, seize, and stop the sale or use of food to
 222 determine its condition. The department may stop the sale and
 223 supervise the proper destruction of food when the State Health
 224 Officer or his or her designee determines that such food
 225 represents a threat to the public health.

226 (b) The department may determine that a food service
 227 establishment regulated under this section is an imminent danger
 228 to the public health and require its immediate closure when such
 229 establishment fails to comply with applicable sanitary and
 230 safety standards and, because of such failure, presents an
 231 imminent threat to the public's health, safety, and welfare. The
 232 department may accept inspection results from state and local
 233 building and firesafety officials and other regulatory agencies
 234 as justification for such actions. Any facility so deemed and

235 closed shall remain closed until allowed by the department or by
 236 judicial order to reopen.

237 ~~(8)(7)~~ MISREPRESENTING FOOD OR FOOD PRODUCTS.—No operator
 238 of any food service establishment regulated under this section
 239 shall knowingly and willfully misrepresent the identity of any
 240 food or food product to any of the patrons of such
 241 establishment. Food used by food establishments shall be
 242 identified, labeled, and advertised in accordance with the
 243 provisions of chapter 500.

244 Section 2. Paragraph (a) of subsection (5) of section
 245 509.013, Florida Statutes, is amended to read:

246 509.013 Definitions.—As used in this chapter, the term:

247 (5) (a) "Public food service establishment" means any
 248 building, vehicle, place, or structure, or any room or division
 249 in a building, vehicle, place, or structure where food is
 250 prepared, served, or sold for immediate consumption on or in the
 251 vicinity of the premises; called for or taken out by customers;
 252 or prepared prior to being delivered to another location for
 253 consumption. The term includes a culinary education program, as
 254 defined in s. 381.0072(2), which offers, prepares, serves, or
 255 sells food to the general public, regardless of whether it is
 256 inspected by another state agency for compliance with sanitation
 257 standards.

258 Section 3. Paragraph (a) of subsection (2) of section
 259 561.20, Florida Statutes, is amended to read:

260 561.20 Limitation upon number of licenses issued.—

261 (2)(a) No such limitation of the number of licenses as
 262 herein provided shall henceforth prohibit the issuance of a
 263 special license to:

264 1. Any bona fide hotel, motel, or motor court of not fewer
 265 than 80 guest rooms in any county having a population of less
 266 than 50,000 residents, and of not fewer than 100 guest rooms in
 267 any county having a population of 50,000 residents or greater;
 268 or any bona fide hotel or motel located in a historic structure,
 269 as defined in s. 561.01(21), with fewer than 100 guest rooms
 270 which derives at least 51 percent of its gross revenue from the
 271 rental of hotel or motel rooms, which is licensed as a public
 272 lodging establishment by the Division of Hotels and Restaurants;
 273 provided, however, that a bona fide hotel or motel with no fewer
 274 than 10 and no more than 25 guest rooms which is a historic
 275 structure, as defined in s. 561.01(21), in a municipality that
 276 on the effective date of this act has a population, according to
 277 the University of Florida's Bureau of Economic and Business
 278 Research Estimates of Population for 1998, of no fewer than
 279 25,000 and no more than 35,000 residents and that is within a
 280 constitutionally chartered county may be issued a special
 281 license. This special license shall allow the sale and
 282 consumption of alcoholic beverages only on the licensed premises
 283 of the hotel or motel. In addition, the hotel or motel must
 284 derive at least 60 percent of its gross revenue from the rental
 285 of hotel or motel rooms and the sale of food and nonalcoholic
 286 beverages; provided that the provisions of this subparagraph

287 shall supersede local laws requiring a greater number of hotel
 288 rooms;

289 2. Any condominium accommodation of which no fewer than
 290 100 condominium units are wholly rentable to transients and
 291 which is licensed under the provisions of chapter 509, except
 292 that the license shall be issued only to the person or
 293 corporation which operates the hotel or motel operation and not
 294 to the association of condominium owners;

295 3. Any condominium accommodation of which no fewer than 50
 296 condominium units are wholly rentable to transients, which is
 297 licensed under the provisions of chapter 509, and which is
 298 located in any county having home rule under s. 10 or s. 11,
 299 Art. VIII of the State Constitution of 1885, as amended, and
 300 incorporated by reference in s. 6(e), Art. VIII of the State
 301 Constitution, except that the license shall be issued only to
 302 the person or corporation which operates the hotel or motel
 303 operation and not to the association of condominium owners;

304 4. Any restaurant having 2,500 square feet of service area
 305 and equipped to serve 150 persons full course meals at tables at
 306 one time, and deriving at least 51 percent of its gross revenue
 307 from the sale of food and nonalcoholic beverages; however, no
 308 restaurant granted a special license on or after January 1,
 309 1958, pursuant to general or special law shall operate as a
 310 package store, nor shall intoxicating beverages be sold under
 311 such license after the hours of serving food have elapsed; or

312 5. Any caterer, deriving at least 51 percent of its gross

313 revenue from the sale of food and nonalcoholic beverages,
 314 licensed by the Division of Hotels and Restaurants under chapter
 315 509. This subparagraph does not apply to a culinary education
 316 program, as defined in s. 381.0072(2), which is licensed as a
 317 public food service establishment by the Division of Hotels and
 318 Restaurants and provides catering services. Notwithstanding any
 319 other provision of law to the contrary, a licensee under this
 320 subparagraph shall sell or serve alcoholic beverages only for
 321 consumption on the premises of a catered event at which the
 322 licensee is also providing prepared food, and shall prominently
 323 display its license at any catered event at which the caterer is
 324 selling or serving alcoholic beverages. A licensee under this
 325 subparagraph shall purchase all alcoholic beverages it sells or
 326 serves at a catered event from a vendor licensed under s.
 327 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject
 328 to the limitation imposed in subsection (1), as appropriate. A
 329 licensee under this subparagraph may not store any alcoholic
 330 beverages to be sold or served at a catered event. Any alcoholic
 331 beverages purchased by a licensee under this subparagraph for a
 332 catered event that are not used at that event must remain with
 333 the customer; provided that if the vendor accepts unopened
 334 alcoholic beverages, the licensee may return such alcoholic
 335 beverages to the vendor for a credit or reimbursement.
 336 Regardless of the county or counties in which the licensee
 337 operates, a licensee under this subparagraph shall pay the
 338 annual state license tax set forth in s. 565.02(1)(b). A

339 licensee under this subparagraph must maintain for a period of 3
 340 years all records required by the department by rule to
 341 demonstrate compliance with the requirements of this
 342 subparagraph, including licensed vendor receipts for the
 343 purchase of alcoholic beverages and records identifying each
 344 customer and the location and date of each catered event.
 345 Notwithstanding any provision of law to the contrary, any vendor
 346 licensed under s. 565.02(1) subject to the limitation imposed in
 347 subsection (1), may, without any additional licensure under this
 348 subparagraph, serve or sell alcoholic beverages for consumption
 349 on the premises of a catered event at which prepared food is
 350 provided by a caterer licensed under chapter 509. If a licensee
 351 under this subparagraph also possesses any other license under
 352 the Beverage Law, the license issued under this subparagraph
 353 shall not authorize the holder to conduct activities on the
 354 premises to which the other license or licenses apply that would
 355 otherwise be prohibited by the terms of that license or the
 356 Beverage Law. Nothing in this section shall permit the licensee
 357 to conduct activities that are otherwise prohibited by the
 358 Beverage Law or local law. The Division of Alcoholic Beverages
 359 and Tobacco is hereby authorized to adopt rules to administer
 360 the license created in this subparagraph, to include rules
 361 governing licensure, recordkeeping, and enforcement. The first
 362 \$300,000 in fees collected by the division each fiscal year
 363 pursuant to this subparagraph shall be deposited in the
 364 Department of Children and Families' Operations and Maintenance

365 Trust Fund to be used only for alcohol and drug abuse education,
 366 treatment, and prevention programs. The remainder of the fees
 367 collected shall be deposited into the Hotel and Restaurant Trust
 368 Fund created pursuant to s. 509.072.

369 6. A culinary education program as defined in s.
 370 381.0072(2) which is licensed as a public food service
 371 establishment by the Division of Hotels and Restaurants.

372 a. This special license shall allow the sale and
 373 consumption of alcoholic beverages on the licensed premises of
 374 the culinary education program. The culinary education program
 375 shall specify designated areas in the facility where the
 376 alcoholic beverages may be consumed at the time of application.
 377 Alcoholic beverages sold for consumption on the premises may be
 378 consumed only in areas designated pursuant to s. 561.01(11) and
 379 may not be removed from the designated area. Such license shall
 380 be applicable only in and for designated areas used by the
 381 culinary education program.

382 b. If the culinary education program provides catering
 383 services, this special license shall also allow the sale and
 384 consumption of alcoholic beverages on the premises of a catered
 385 event at which the licensee is also providing prepared food. A
 386 culinary education program that provides catering services is
 387 not required to derive at least 51 percent of its gross revenue
 388 from the sale of food and nonalcoholic beverages.

389 Notwithstanding any other provision of law to the contrary, a
 390 licensee that provides catering services under this sub-

391 subparagraph shall prominently display its beverage license at
 392 any catered event at which the caterer is selling or serving
 393 alcoholic beverages. Regardless of the county or counties in
 394 which the licensee operates, a licensee under this sub-
 395 subparagraph shall pay the annual state license tax set forth in
 396 s. 565.02(1)(b). A licensee under this sub-subparagraph must
 397 maintain for a period of 3 years all records required by the
 398 department by rule to demonstrate compliance with the
 399 requirements of this sub-subparagraph.

400 c. If a licensee under this subparagraph also possesses
 401 any other license under the Beverage Law, the license issued
 402 under this subparagraph does not authorize the holder to conduct
 403 activities on the premises to which the other license or
 404 licenses apply that would otherwise be prohibited by the terms
 405 of that license or the Beverage Law. Nothing in this
 406 subparagraph shall permit the licensee to conduct activities
 407 that are otherwise prohibited by the Beverage Law or local law.
 408 Any culinary education program that holds a license to sell
 409 alcoholic beverages shall comply with the age requirements set
 410 forth in ss. 562.11(4), 562.111(2), and 562.13.

411 d. The Division of Alcoholic Beverages and Tobacco may
 412 adopt rules to administer the license created in this
 413 subparagraph, to include rules governing licensure,
 414 recordkeeping, and enforcement.

415 e. A license issued pursuant to this subparagraph does not
 416 permit the licensee to sell alcoholic beverages by the package

417 | for off-premises consumption.
 418 |
 419 | However, any license heretofore issued to any such hotel, motel,
 420 | motor court, or restaurant or hereafter issued to any such
 421 | hotel, motel, or motor court, including a condominium
 422 | accommodation, under the general law shall not be moved to a new
 423 | location, such license being valid only on the premises of such
 424 | hotel, motel, motor court, or restaurant. Licenses issued to
 425 | hotels, motels, motor courts, or restaurants under the general
 426 | law and held by such hotels, motels, motor courts, or
 427 | restaurants on May 24, 1947, shall be counted in the quota
 428 | limitation contained in subsection (1). Any license issued for
 429 | any hotel, motel, or motor court under the provisions of this
 430 | law shall be issued only to the owner of the hotel, motel, or
 431 | motor court or, in the event the hotel, motel, or motor court is
 432 | leased, to the lessee of the hotel, motel, or motor court; and
 433 | the license shall remain in the name of the owner or lessee so
 434 | long as the license is in existence. Any special license now in
 435 | existence heretofore issued under the provisions of this law
 436 | cannot be renewed except in the name of the owner of the hotel,
 437 | motel, motor court, or restaurant or, in the event the hotel,
 438 | motel, motor court, or restaurant is leased, in the name of the
 439 | lessee of the hotel, motel, motor court, or restaurant in which
 440 | the license is located and must remain in the name of the owner
 441 | or lessee so long as the license is in existence. Any license
 442 | issued under this section shall be marked "Special," and nothing

443 herein provided shall limit, restrict, or prevent the issuance
444 of a special license for any restaurant or motel which shall
445 hereafter meet the requirements of the law existing immediately
446 prior to the effective date of this act, if construction of such
447 restaurant has commenced prior to the effective date of this act
448 and is completed within 30 days thereafter, or if an application
449 is on file for such special license at the time this act takes
450 effect; and any such licenses issued under this proviso may be
451 annually renewed as now provided by law. Nothing herein prevents
452 an application for transfer of a license to a bona fide
453 purchaser of any hotel, motel, motor court, or restaurant by the
454 purchaser of such facility or the transfer of such license
455 pursuant to law.

456 Section 4. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 253 Highway Safety
SPONSOR(S): Criminal Justice Subcommittee; Passidomo and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 332

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N, As CS	Cox	White
2) Appropriations Committee		Cobb <i>PC</i>	Leznoff 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill amends and creates various sections of the Florida Statutes, which are designed to protect bicyclists and other vulnerable users of a roadway.

Specifically, the bill:

- Defines "bicycle lane," "bodily injury," and "vulnerable user of a public roadway or vulnerable user;"
- Requires a vehicle to pass at a safe distance of not less than three feet between any part of or attachment to the vehicle, anything extending from the vehicle, or any trailer or other thing being towed by the vehicle and a vulnerable user;
- Allows a driver to briefly and safely drive on the left side of a roadway in a no-passing zone when passing a vulnerable user in order to provide at least three feet between the vehicle and the vulnerable user;
- Requires a person making a right turn that overtakes a vulnerable user traveling in the same direction to signal appropriately and to complete the turn only if it can be achieved by maintaining a safe distance from the vulnerable user;
- Prohibits a person operating a vehicle who overtakes and passes a vulnerable user of a public roadway proceeding in the same direction from making a right or left turn at an intersection or into a private road or driveway unless the turn can be made at a safe distance from the vulnerable user with reasonable safety and will not impede the travel of the vulnerable user;
- Requires a person operating a vehicle to allow a group of bicyclists to proceed through a stop sign as a group in specified instances; and
- Requires a law enforcement officer to note on specified traffic citations if the violation contributed to the bodily injury of a vulnerable user and permits the hearing official to impose a fine of no more than \$2,500; and
- Requires the recipients of citations for infractions of specified sections which result in bodily injury to a vulnerable user to appear before a judge for a hearing.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the bill will have a negative but insignificant fiscal impact due to the programming hours necessary for implementation. The bill establishes a mandatory court hearing for certain violations that result in the bodily injury of a vulnerable road user.

According to the State Court System, these incidents typically go before a judge currently, so the provision's impact to the judiciary will be minimal, and can be absorbed within current resources. The bill will also have an indeterminate, positive revenue impact to the state and local governments due to the additional fine that may be imposed for certain violations. See fiscal comments.

The bill is effective October 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Protecting Bicyclists

In Florida, bicyclists are considered vehicle operators and are required to obey the same rules of the road as other vehicle operators, including obeying traffic signs, signals, and lane markings.¹

Florida crash reports for the 2014 calendar year indicate that 7,737 pedestrians, 8,040 motorcyclists, 6,680 bicyclists, and 399 other non-motorists were injured in traffic crashes.²

During the 2014 Regular Session, the Florida Legislature passed legislation³ that ranked a “leaving the scene of an accident” offense one level higher in the offense severity ranking chart⁴ if the victim of the offense was a vulnerable road user.⁵ The bill defined a “vulnerable road user” as:

- A pedestrian, including a person actually engaged in work upon a highway, work upon utility facilities along a highway, or the provision of emergency services within the right of way;
- A person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
- A person riding an animal; or
- A person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway:
 - A farm tractor or similar vehicle designed primarily for farm use;
 - A skateboard, roller skates, or in-line skates;
 - A horse-drawn carriage;
 - An electric personal assistive mobility device; or
 - A wheelchair.⁶

Definitions

The bill creates definitions for the terms “bicycle lane,” “bodily injury,” and “vulnerable user or vulnerable user of a public roadway.” These definitions apply to all of ch. 316, F.S.

“Bicycle Lane” is defined as a portion of a roadway or highway that has been designated by pavement markings and signs for the preferential or exclusive use by bicycles.

“Bodily injury” is defined as an injury to a human being consisting of:

- A broken bone;
- A torn ligament;
- A concussion;
- A laceration requiring stitches; or
- Any other physical injury that results in impairment of the function of a bodily member, organ, or mental faculty.⁷

¹ s. 316.2065(1), F.S.

² Florida Department of Highway Safety and Motor Vehicles, *Traffic Crash Facts Annual Report 2014*, <https://firesportal.com/Pages/Public/DHSMVDocuments.aspx> (last visited October 21, 2015).

³ Ch. 2014-225, Laws of Florida.

⁴ Criminal offenses are ranked in the “offense severity ranking chart” from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense. A defendant’s sentence is calculated based on points assigned for factors including: the offense for which the defendant is being sentenced; injury to the victim; additional offenses that the defendant committed at the time of the primary offense; the defendant’s prior record; and other aggravating factors. The points are added to determine the “lowest permissible sentence” for the offense. *See* ss. 921.0022 and 921.0024, F.S.

⁵ s. 316.027(2)(f), F.S.

⁶ s. 316.027 (1)(b), F.S.

⁷ This definition does not apply to statutes that refer to the term “serious bodily injury.”

“Vulnerable user of a public roadway” or “vulnerable user” is defined as:

- A pedestrian, including a person actually engaged in work upon a highway, work upon utility facilities along a highway, or the provision of emergency services within the right-of-way;
- A person operating, or who is a passenger on, a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
- A person riding an animal; or
- A person lawfully operating on a public roadway, crosswalk, or shoulder of the roadway:
 - A farm tractor or similar vehicle designed primarily for farm use;
 - A horse-drawn carriage;
 - An electric personal assistive mobility device; or
 - A wheelchair.

The bill also places the definition section in alphabetical order and amends ss. 212.05, 316.027, 316.1303, 316.235, 316.545, 316.605, 316.6105, 316.613, 316.622, 316.650, 316.70, 320.01, 320.08, 320.0801, 320.38, 322.0261, 322.031, 450.181, 559.903, 655.960, 732.402, and 860.065, F.S., to conform to the changes made in the definition section.

Overtaking and Passing

Section 316.083, F.S., in part, requires a driver of a vehicle overtaking a bicycle (or other non-motorized vehicle) to pass at a safe distance of no less than three feet between the vehicle and the bicycle. A violation is a noncriminal traffic infraction punishable as a moving violation.⁸

Section 316.084, F.S., provides specified instances when a vehicle may overtake and pass on the right of another vehicle.

Effect of the Bill

The bill expands the requirements of s. 316.083, F.S., to apply to motor vehicles overtaking a vulnerable user of a public roadway. The bill requires a vehicle to pass at a safe distance of not less than three feet between any part of or attachment to the vehicle, anything extending from the vehicle, or any trailer or other thing being towed by the vehicle and the vulnerable user.

Violations of s. 316.083, F.S., remain a noncriminal traffic infraction. However, if the violation contributed to the bodily injury of a vulnerable user, the bill requires the law enforcement officer issuing the citation to make a note of such on the citation.

The bill also amends s. 316.084, F.S., to clarify that a bicycle in the bicycle lane or on the shoulder of a roadway is not prohibited by the section’s requirements from passing other vehicles on the right.

No-Passing Zones

Section 316.0875, F.S., prohibits a driver from driving on the left side of a roadway in a no-passing zone.⁹ This prohibition does not apply when an obstruction exists making it necessary to drive to the left of the center of the highway, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.¹⁰ A violation is a noncriminal traffic infraction, punishable as a moving violation.¹¹

⁸ s. 316.083(3), F.S.

⁹ Section 316.0875, F.S., authorizes the Department of Transportation and local authorities to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving to the left of the roadway would be especially hazardous. The statute also authorizes these entities to, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones.

¹⁰ s. 316.0875(3), F.S.

¹¹ s. 316.0875(4), F.S.

Effect of the Bill

As noted above, s. 316.0875, F.S., prohibits a driver from driving on the left side of a roadway in a no-passing zone. The bill specifies that this prohibition does not apply when the driver of a motor vehicle is required to cross pavement striping indicating a no-passing zone when passing a vulnerable user in order to provide at least three feet between the vehicle and the vulnerable user.

Turning at Intersections

Section 316.151, F.S., in part, requires a driver of a vehicle turning right at an intersection to approach and make the turn as close as practicable to the right-hand curb or edge of the roadway.¹² The section also provides specified restrictions for a vehicle turning left at an intersection. A violation is a noncriminal traffic infraction, punishable as a moving violation.¹³

Effect of the Bill

The bill amends s. 316.151, F.S., requiring a vehicle that is overtaking and passing a vulnerable user proceeding in the same direction by turning right to:

- Give an appropriate signal;¹⁴ and
- Only complete the turn if it can be made a safe distance from the vulnerable user.

The bill also provides that a driver of a vehicle must yield the right-of-way to a bicycle or pedestrian when crossing a sidewalk, bicycle lane, or bicycle path to turn right.

Violations remain a noncriminal traffic infraction. However, if the violation contributed to the bodily injury of a vulnerable user, the bill requires the law enforcement officer issuing the citation to make a note of such on the citation.

Careless Driving

Section 316.1925, F.S., requires a person operating a vehicle upon the streets or highways within the state to drive in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, and all other attendant circumstances, so as not to endanger the life, limb, or property of any person. A person's failure to do so is careless driving, citable as a moving violation.¹⁵

Effect of the Bill

The bill requires a law enforcement officer issuing a careless driving citation to make a note on the citation if the violation contributed to the bodily injury of a vulnerable user.

Bicycle Regulations

Every person operating a bicycle must comply with all the regulations of ch. 316, F.S., except for those which by their nature can have no application to bicyclists, or that are specially enumerated in s. 316.2065, F.S.¹⁶ In part, s. 316.2065, F.S., prohibits persons riding bicycles on a roadway to ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. The statute is silent as to roadway operation of persons riding bicycles in groups of four or more.

Effect of the Bill

The bill permits persons riding in groups of four or more, to proceed through a stop sign in a group, provided the group comes to a full stop at the stop sign and obeys all traffic laws. A person operating a vehicle is required to allow the entire group to travel through the intersection before moving forward.

¹² s. 316.151(1)(a), F.S.

¹³ s. 316.151(3), F.S.

¹⁴ The bill references "an appropriate signal as provided for in s. 316.155, F.S." Section 316.155(2), F.S., provides "a signal of intention to turn right or left must be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that such a signal by hand or arm need not be given continuously by a bicyclist if the hand is needed in the control or operation of the bicycle."

¹⁵ s. 316.1925(2), F.S.

¹⁶ s. 316.2065(1), F.S.

The bill also makes conforming changes to the section to include the new term "bicycle lane."

Mandatory Hearing

Section 318.19, F.S., requires persons cited for the following to appear before a judge for a hearing:

- Any infraction which results in a crash that causes the death of another;
- Any infraction which results in a crash that causes "serious bodily injury" of another;
- Any infraction of s. 316.172(1)(b), F.S. (requiring traffic to stop for a school bus);
- Any infraction of s. 316.520(1) or (2), F.S. (relating to loads on vehicles); or
- Any infraction of ss. 316.183(2), 316.187, or 316.189, F.S. (all relating to speed zones), of exceeding the speed limit by 30 miles per hour or more.

Effect of the Bill

The bill adds that a person cited for any of the following traffic infractions that contributed to the bodily injury of a vulnerable user must appear before a judge for a hearing:

- Any infraction of s. 316.083, F.S. (overtaking or passing);
- Any infraction of s. 316.151, F.S. (turning when passing a vulnerable user); or
- Any violation of s. 316.1925, F.S. (careless driving).

Newly-Created Section

Infractions Contributing to Bodily Injury of a Vulnerable User

For cases where a violation of ss. 316.083, 316.151, or 316.189, F.S., contributes to the bodily injury of a vulnerable user, the bill creates s. 318.142, F.S., to:

- Require the law enforcement officer issuing the citation to make a note of such on the citation; and
- Permit, in addition to any other penalty, the imposition of a fine of no more than \$2,500.

Finally, the bill reenacts ss. 316.072, 316.1923, 318.14, and 318.18, F.S., to incorporate amendments by the bill to statutes that are cross-referenced in the reenacted sections.

B. SECTION DIRECTORY:

Section 1. Amends s. 316.003, F.S., relating to definitions.

Section 2. Amends s. 316.027, F.S., relating to crash involving death or personal injuries.

Section 3. Amends s. 316.083, F.S., relating to overtaking and passing a vehicle.

Section 4. Amends s. 316.084, F.S., relating to when overtaking on the right is permitted.

Section 5. Amends s. 316.0875, F.S., relating to no-passing zones.

Section 6. Amends s. 316.151, F.S., relating to required position and method of turning at intersections.

Section 7. Amends s. 316.1925, F.S., relating to careless driving.

Section 8. Amends s. 316.2065, F.S., relating to bicycle regulations.

Section 9. Creates s. 318.142, F.S., relating to infractions contributing to bodily injury of a vulnerable user of a public roadway.

Section 10. Amends s. 318.19, F.S., relating to infractions requiring a mandatory hearing.

Section 11. Amends s. 212.05, F.S., relating to sales, storage, use tax.

- Section 12. Amends s. 316.1303, F.S., relating to traffic regulations to assist mobility-impaired persons.
- Section 13. Amends s. 316.235, F.S., relating to additional lighting equipment.
- Section 14. Amends s. 316.545, F.S., relating to weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.
- Section 15. Amends s. 316.605, F.S., relating to licensing of vehicles.
- Section 16. Amends s. 316.6105, F.S., relating to violations involving operation of motor vehicle in unsafe condition or without required equipment; procedure for disposition.
- Section 17. Amends 316.613, F.S., relating to child restraint requirements.
- Section 18. Amends s. 316.622, F.S., relating to farm labor vehicles.
- Section 19. Amends s. 316.650, F.S., relating to traffic citations.
- Section 20. Amends s. 316.70, F.S., relating to nonpublic sector buses; safety rules.
- Section 21. Amends s. 320.01, F.S., relating to definitions.
- Section 22. Amends s. 320.08, F.S., relating to license taxes.
- Section 23. Amends s. 320.0801, F.S., relating to additional license tax on certain vehicles.
- Section 24. Amends s. 320.38, F.S., relating to when nonresident exemption not allowed.
- Section 25. Amends s. 322.0261, F.S., relating to driver improvement course; requirement to maintain driving privileges; failure to complete; department approval of course.
- Section 26. Amends s. 322.031, F.S., relating to nonresident; when license required.
- Section 27. Amends s. 450.181, F.S., relating to definitions.
- Section 28. Amends s. 559.903, F.S., relating to definitions.
- Section 29. Amends s. 655.960, F.S., relating to definitions.
- Section 30. Amends s. 732.402, F.S., relating to exempt property.
- Section 31. Amends s. 860.065, F.S., relating to commercial transportation; penalty for use in commission of a felony.
- Section 32. Reenacts s. 316.072, F.S., relating to obedience to and effect of traffic laws.
- Section 33. Reenacts s. 316.1923, F.S., relating to aggressive careless driving.
- Section 34. Reenacts s. 318.14, F.S., relating to noncriminal traffic infractions; exception; procedures.
- Section 35. Reenacts s. 318.18, F.S., relating to amount of penalties.
- Section 36. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill creates s. 318.142, F.S., which establishes a fine of up to \$2,500 if a violation of s. 316.083 (overtaking or passing a vehicle), 316.151 (turning while passing), or 316.1925 (careless driving) results in the bodily injury of a vulnerable road user on a public roadway. The additional revenue from the potential fines will have an indeterminate, positive fiscal impact to general revenue and state trust funds.

2. Expenditures:

The bill requires a person cited for certain traffic infractions (overtaking or passing, turning when passing, or careless driving) that contribute to the bodily injury of a vulnerable user to appear for a judicial hearing. According to the DHSMV's annual crash reports, there are typically 6,500 to 7,000 crashes per year that result in bodily injury, including approximately 130 fatalities. The State Court System states that these cases typically go before a judge currently, so the provision's impact to the judiciary will be minimal, and can be absorbed within current resources.

The bill will have a negative but insignificant fiscal impact to the DHSMV due to the estimated \$36,240 in programming costs required to implement the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill creates s. 318.142, F.S., which establishes a fine of up to \$2,500 if a violation of s. 316.083 (overtaking and passing a vehicle), 316.151 (executing an illegal turn), or 316.1925 (careless driving) results in the bodily injury of a vulnerable road user on a public roadway. The additional revenue from the potential fines will have an indeterminate, positive fiscal impact to local governments' revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who violate ss. 316.083, 316.151, or 316.1925, F.S., and contribute to the bodily injury of a vulnerable user may be subject to the imposition of a fine of no more than \$2,500.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 4, 2015, the Criminal Justice Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. Collectively, the amendments:

- Remove a provision creating a first degree misdemeanor offense for specified persons to commit a noncriminal traffic infraction that causes serious bodily or death;
- Make conforming changes in ss. 316.027 and 322.0261, F.S., for the bill's addition of the definition for "vulnerable user."
- Make a technical change to correct an "and" to "or" on line 693 of the bill; and
- Reenact statutes that cross-reference sections of law amended by the act.

This bill analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

27 F.S.; providing penalties for specified infractions
 28 contributing to bodily injury of a vulnerable user;
 29 amending s. 318.19, F.S.; requiring a hearing for
 30 specified offenses; directing a law enforcement
 31 officer issuing a citation for specified violations to
 32 note certain information on the citation; amending s.
 33 322.0261, F.S., relating to driver improvement
 34 courses; revising the definition of "vulnerable road
 35 users"; amending ss. 212.05, 316.1303, 316.235,
 36 316.545, 316.605, 316.6105, 316.613, 316.622, 316.650,
 37 316.70, 320.01, 320.08, 320.0801, 320.38, 322.031,
 38 450.181, 559.903, 655.960, 732.402, and 860.065, F.S.;
 39 conforming cross-references; reenacting ss.
 40 316.072(4)(b), 316.1923(5), 318.14(2), and
 41 318.18(1)(b), F.S., relating to obedience to and
 42 effect of traffic laws, aggressive careless driving,
 43 noncriminal traffic infractions, and amount of
 44 penalties, respectively, to incorporate amendments
 45 made by the act in references thereto; providing an
 46 effective date.

47
 48 WHEREAS, the Legislature recognizes that everyone must
 49 share the road, and

50 WHEREAS, there are laws in place, such as ss. 316.2065 and
 51 316.2068, Florida Statutes, that require certain vulnerable road

52 users to follow safe practices when operating on the roadways of
 53 the state, and

54 WHEREAS, there are laws in place that similarly require
 55 persons who operate a vehicle on the highways of the state to
 56 operate the vehicle in a safe manner, and

57 WHEREAS, it is the intent of the Legislature to amend the
 58 Florida Uniform Traffic Control laws to protect vulnerable road
 59 users while balancing their rights against the rights of those
 60 who choose to travel by motor vehicle, NOW, THEREFORE,

61

62 Be It Enacted by the Legislature of the State of Florida:

63

64 Section 1. Section 316.003, Florida Statutes, is amended
 65 to read:

66 316.003 Definitions.—The following words and phrases, when
 67 used in this chapter, shall have the meanings respectively
 68 ascribed to them in this section, except where the context
 69 otherwise requires:

70 (1) AUTHORIZED EMERGENCY VEHICLES.—Vehicles of the fire
 71 department (fire patrol), police vehicles, and such ambulances
 72 and emergency vehicles of municipal departments, public service
 73 corporations operated by private corporations, the Fish and
 74 Wildlife Conservation Commission, the Department of
 75 Environmental Protection, the Department of Health, the
 76 Department of Transportation, and the Department of Corrections
 77 as are designated or authorized by their respective department

78 or the chief of police of an incorporated city or any sheriff of
79 any of the various counties.

80 (2)~~(90)~~ AUTONOMOUS VEHICLE.—Any vehicle equipped with
81 autonomous technology. The term "autonomous technology" means
82 technology installed on a motor vehicle that has the capability
83 to drive the vehicle on which the technology is installed
84 without the active control or monitoring by a human operator.
85 The term excludes a motor vehicle enabled with active safety
86 systems or driver assistance systems, including, without
87 limitation, a system to provide electronic blind spot
88 assistance, crash avoidance, emergency braking, parking
89 assistance, adaptive cruise control, lane keep assistance, lane
90 departure warning, or traffic jam and queuing assistant, unless
91 any such system alone or in combination with other systems
92 enables the vehicle on which the technology is installed to
93 drive without the active control or monitoring by a human
94 operator.

95 (3)~~(2)~~ BICYCLE.—Every vehicle propelled solely by human
96 power, and every motorized bicycle propelled by a combination of
97 human power and an electric helper motor capable of propelling
98 the vehicle at a speed of not more than 20 miles per hour on
99 level ground upon which any person may ride, having two tandem
100 wheels, and including any device generally recognized as a
101 bicycle though equipped with two front or two rear wheels. The
102 term does not include such a vehicle with a seat height of no
103 more than 25 inches from the ground when the seat is adjusted to

104 its highest position or a scooter or similar device. No person
 105 under the age of 16 may operate or ride upon a motorized
 106 bicycle.

107 (4) BICYCLE LANE.—A portion of a roadway or highway that
 108 has been designated by pavement markings and signs for the
 109 preferential or exclusive use by bicycles.

110 (5)~~(63)~~ BICYCLE PATH.—Any road, path, or way that is open
 111 to bicycle travel, which road, path, or way is physically
 112 separated from motorized vehicular traffic by an open space or
 113 by a barrier and is located either within the highway right-of-
 114 way or within an independent right-of-way.

115 (6) BODILY INJURY.—Except for purposes of any statute
 116 referring to the term "serious bodily injury," the term "bodily
 117 injury" means an injury to a human being consisting of a broken
 118 bone, a torn ligament, a concussion, a laceration requiring
 119 stitches, or any other physical injury that results in
 120 impairment of the function of a bodily member, organ, or mental
 121 faculty.

122 (7)~~(76)~~ BRAKE HORSEPOWER.—The actual unit of torque
 123 developed per unit of time at the output shaft of an engine, as
 124 measured by a dynamometer.

125 (8)~~(3)~~ BUS.—Any motor vehicle designed for carrying more
 126 than 10 passengers and used for the transportation of persons
 127 and any motor vehicle, other than a taxicab, designed and used
 128 for the transportation of persons for compensation.

129 (9)~~(4)~~ BUSINESS DISTRICT.—The territory contiguous to, and

130 including, a highway when 50 percent or more of the frontage
 131 thereon, for a distance of 300 feet or more, is occupied by
 132 buildings in use for business.

133 (10)~~(5)~~ CANCELLATION.—Cancellation means that a license
 134 which was issued through error or fraud is declared void and
 135 terminated. A new license may be obtained only as permitted in
 136 this chapter.

137 (11)~~(64)~~ CHIEF ADMINISTRATIVE OFFICER.—The head, or his or
 138 her designee, of any law enforcement agency which is authorized
 139 to enforce traffic laws.

140 (12)~~(65)~~ CHILD.—A child as defined in s. 39.01, s. 984.03,
 141 or s. 985.03.

142 (13)~~(66)~~ COMMERCIAL MOTOR VEHICLE.—Any self-propelled or
 143 towed vehicle used on the public highways in commerce to
 144 transport passengers or cargo, if such vehicle:

145 (a) Has a gross vehicle weight rating of 10,000 pounds or
 146 more;

147 (b) Is designed to transport more than 15 passengers,
 148 including the driver; or

149 (c) Is used in the transportation of materials found to be
 150 hazardous for the purposes of the Hazardous Materials
 151 Transportation Act, as amended (49 U.S.C. ss. 1801 et seq.).

152

153 A vehicle that occasionally transports personal property to and
 154 from a closed-course motorsport facility, as defined in s.
 155 549.09(1)(a), is not a commercial motor vehicle if it is not

156 used for profit and corporate sponsorship is not involved. As
 157 used in this subsection, the term "corporate sponsorship" means
 158 a payment, donation, gratuity, in-kind service, or other benefit
 159 provided to or derived by a person in relation to the underlying
 160 activity, other than the display of product or corporate names,
 161 logos, or other graphic information on the property being
 162 transported.

163 (14)~~(67)~~ COURT.—The court having jurisdiction over traffic
 164 offenses.

165 (15)~~(6)~~ CROSSWALK.—

166 (a) That part of a roadway at an intersection included
 167 within the connections of the lateral lines of the sidewalks on
 168 opposite sides of the highway, measured from the curbs or, in
 169 the absence of curbs, from the edges of the traversable roadway.

170 (b) Any portion of a roadway at an intersection or
 171 elsewhere distinctly indicated for pedestrian crossing by lines
 172 or other markings on the surface.

173 (16)~~(7)~~ DAYTIME.—The period from a half hour before
 174 sunrise to a half hour after sunset. Nighttime means at any
 175 other hour.

176 (17)~~(8)~~ DEPARTMENT.—The Department of Highway Safety and
 177 Motor Vehicles as defined in s. 20.24. Any reference herein to
 178 Department of Transportation shall be construed as referring to
 179 the Department of Transportation, defined in s. 20.23, or the
 180 appropriate division thereof.

181 (18)~~(9)~~ DIRECTOR.—The Director of the Division of the

182 Florida Highway Patrol of the Department of Highway Safety and
 183 Motor Vehicles.

184 (19)~~(10)~~ DRIVER.—Any person who drives or is in actual
 185 physical control of a vehicle on a highway or who is exercising
 186 control of a vehicle or steering a vehicle being towed by a
 187 motor vehicle.

188 (20)~~(83)~~ ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.—Any
 189 self-balancing, two-nontandem-wheeled device, designed to
 190 transport only one person, with an electric propulsion system
 191 with average power of 750 watts (1 horsepower), the maximum
 192 speed of which, on a paved level surface when powered solely by
 193 such a propulsion system while being ridden by an operator who
 194 weighs 170 pounds, is less than 20 miles per hour. Electric
 195 personal assistive mobility devices are not vehicles as defined
 196 in this section.

197 (21)~~(11)~~ EXPLOSIVE.—Any chemical compound or mechanical
 198 mixture that is commonly used or intended for the purpose of
 199 producing an explosion and which contains any oxidizing and
 200 combustive units or other ingredients in such proportions,
 201 quantities, or packing that an ignition by fire, friction,
 202 concussion, percussion, or detonator of any part of the compound
 203 or mixture may cause such a sudden generation of highly heated
 204 gases that the resultant gaseous pressures are capable of
 205 producing destructive effect on contiguous objects or of
 206 destroying life or limb.

207 (22)~~(62)~~ FARM LABOR VEHICLE.—Any vehicle equipped and used

208 for the transportation of nine or more migrant or seasonal farm
 209 workers, in addition to the driver, to or from a place of
 210 employment or employment-related activities. The term does not
 211 include:

212 (a) Any vehicle carrying only members of the immediate
 213 family of the owner or driver.

214 (b) Any vehicle being operated by a common carrier of
 215 passengers.

216 (c) Any carpool as defined in s. 450.28(3).

217 (23)~~(12)~~ FARM TRACTOR.—Any motor vehicle designed and used
 218 primarily as a farm implement for drawing plows, mowing
 219 machines, and other implements of husbandry.

220 (24)~~(13)~~ FLAMMABLE LIQUID.—Any liquid which has a flash
 221 point of 70 degrees Fahrenheit or less, as determined by a
 222 Tagliabue or equivalent closed-cup test device.

223 (25)~~(68)~~ GOLF CART.—A motor vehicle designed and
 224 manufactured for operation on a golf course for sporting or
 225 recreational purposes.

226 (26)~~(14)~~ GROSS WEIGHT.—The weight of a vehicle without
 227 load plus the weight of any load thereon.

228 (27)~~(69)~~ HAZARDOUS MATERIAL.—Any substance or material
 229 which has been determined by the secretary of the United States
 230 Department of Transportation to be capable of imposing an
 231 unreasonable risk to health, safety, and property. This term
 232 includes hazardous waste as defined in s. 403.703(13).

233 (28)~~(15)~~ HOUSE TRAILER.—

234 (a) A trailer or semitrailer which is designed,
 235 constructed, and equipped as a dwelling place, living abode, or
 236 sleeping place (either permanently or temporarily) and is
 237 equipped for use as a conveyance on streets and highways, or

238 (b) A trailer or a semitrailer the chassis and exterior
 239 shell of which is designed and constructed for use as a house
 240 trailer, as defined in paragraph (a), but which is used instead,
 241 permanently or temporarily, for the advertising, sales, display,
 242 or promotion of merchandise or services or for any other
 243 commercial purpose except the transportation of property for
 244 hire or the transportation of property for distribution by a
 245 private carrier.

246 (29)~~(16)~~ IMPLEMENT OF HUSBANDRY.—Any vehicle designed and
 247 adapted exclusively for agricultural, horticultural, or
 248 livestock-raising operations or for lifting or carrying an
 249 implement of husbandry and in either case not subject to
 250 registration if used upon the highways.

251 (30)~~(17)~~ INTERSECTION.—

252 (a) The area embraced within the prolongation or
 253 connection of the lateral curblines; or, if none, then the
 254 lateral boundary lines of the roadways of two highways which
 255 join one another at, or approximately at, right angles; or the
 256 area within which vehicles traveling upon different highways
 257 joining at any other angle may come in conflict.

258 (b) Where a highway includes two roadways 30 feet or more
 259 apart, then every crossing of each roadway of such divided

260 highway by an intersecting highway shall be regarded as a
 261 separate intersection. In the event such intersecting highway
 262 also includes two roadways 30 feet or more apart, then every
 263 crossing of two roadways of such highways shall be regarded as a
 264 separate intersection.

265 (31)~~(18)~~ LANED HIGHWAY.—A highway the roadway of which is
 266 divided into two or more clearly marked lanes for vehicular
 267 traffic.

268 (32)~~(19)~~ LIMITED ACCESS FACILITY.—A street or highway
 269 especially designed for through traffic and over, from, or to
 270 which owners or occupants of abutting land or other persons have
 271 no right or easement, or only a limited right or easement, of
 272 access, light, air, or view by reason of the fact that their
 273 property abuts upon such limited access facility or for any
 274 other reason. Such highways or streets may be parkways from
 275 which trucks, buses, and other commercial vehicles are excluded;
 276 or they may be freeways open to use by all customary forms of
 277 street and highway traffic.

278 (33)~~(20)~~ LOCAL AUTHORITIES.—Includes all officers and
 279 public officials of the several counties and municipalities of
 280 this state.

281 (34)~~(91)~~ LOCAL HEARING OFFICER.—The person, designated by
 282 a department, county, or municipality that elects to authorize
 283 traffic infraction enforcement officers to issue traffic
 284 citations under s. 316.0083(1)(a), who is authorized to conduct
 285 hearings related to a notice of violation issued pursuant to s.

286 | 316.0083. The charter county, noncharter county, or municipality
 287 | may use its currently appointed code enforcement board or
 288 | special magistrate to serve as the local hearing officer. The
 289 | department may enter into an interlocal agreement to use the
 290 | local hearing officer of a county or municipality.

291 | (35)~~(80)~~ MAXI-CUBE VEHICLE.—A specialized combination
 292 | vehicle consisting of a truck carrying a separable cargo-
 293 | carrying unit combined with a semitrailer designed so that the
 294 | separable cargo-carrying unit is to be loaded and unloaded
 295 | through the semitrailer. The entire combination may not exceed
 296 | 65 feet in length, and a single component of that combination
 297 | may not exceed 34 feet in length.

298 | (36)~~(61)~~ MIGRANT OR SEASONAL FARM WORKER.—Any person
 299 | employed in hand labor operations in planting, cultivation, or
 300 | harvesting agricultural crops.

301 | (37)~~(77)~~ MOPED.—Any vehicle with pedals to permit
 302 | propulsion by human power, having a seat or saddle for the use
 303 | of the rider and designed to travel on not more than three
 304 | wheels; with a motor rated not in excess of 2 brake horsepower
 305 | and not capable of propelling the vehicle at a speed greater
 306 | than 30 miles per hour on level ground; and with a power-drive
 307 | system that functions directly or automatically without
 308 | clutching or shifting gears by the operator after the drive
 309 | system is engaged. If an internal combustion engine is used, the
 310 | displacement may not exceed 50 cubic centimeters.

311 | (38)~~(86)~~ MOTOR CARRIER TRANSPORTATION CONTRACT.—

- 312 (a) A contract, agreement, or understanding covering:
 313 1. The transportation of property for compensation or hire
 314 by the motor carrier;
 315 2. Entrance on property by the motor carrier for the
 316 purpose of loading, unloading, or transporting property for
 317 compensation or hire; or
 318 3. A service incidental to activity described in
 319 subparagraph 1. or subparagraph 2., including, but not limited
 320 to, storage of property.

321 (b) "Motor carrier transportation contract" does not
 322 include the Uniform Intermodal Interchange and Facilities Access
 323 Agreement administered by the Intermodal Association of North
 324 America or other agreements providing for the interchange, use,
 325 or possession of intermodal chassis, containers, or other
 326 intermodal equipment.

327 (39)~~(21)~~ MOTOR VEHICLE.—Except when used in s. 316.1001, a
 328 self-propelled vehicle not operated upon rails or guideway, but
 329 not including any bicycle, motorized scooter, electric personal
 330 assistive mobility device, swamp buggy, or moped. For purposes
 331 of s. 316.1001, "motor vehicle" has the same meaning as in s.
 332 320.01(1)(a).

333 (40)~~(22)~~ MOTORCYCLE.—Any motor vehicle having a seat or
 334 saddle for the use of the rider and designed to travel on not
 335 more than three wheels in contact with the ground, but excluding
 336 a tractor or a moped.

337 (41)~~(82)~~ MOTORIZED SCOOTER.—Any vehicle not having a seat

338 or saddle for the use of the rider, designed to travel on not
 339 more than three wheels, and not capable of propelling the
 340 vehicle at a speed greater than 30 miles per hour on level
 341 ground.

342 (42)~~(78)~~ NONPUBLIC SECTOR BUS.—Any bus which is used for
 343 the transportation of persons for compensation and which is not
 344 owned, leased, operated, or controlled by a municipal, county,
 345 or state government or a governmentally owned or managed
 346 nonprofit corporation.

347 (43)~~(23)~~ OFFICIAL TRAFFIC CONTROL DEVICES.—All signs,
 348 signals, markings, and devices, not inconsistent with this
 349 chapter, placed or erected by authority of a public body or
 350 official having jurisdiction for the purpose of regulating,
 351 warning, or guiding traffic.

352 (44)~~(24)~~ OFFICIAL TRAFFIC CONTROL SIGNAL.—Any device,
 353 whether manually, electrically, or mechanically operated, by
 354 which traffic is alternately directed to stop and permitted to
 355 proceed.

356 (45)~~(25)~~ OPERATOR.—Any person who is in actual physical
 357 control of a motor vehicle upon the highway, or who is
 358 exercising control over or steering a vehicle being towed by a
 359 motor vehicle.

360 (46)~~(26)~~ OWNER.—A person who holds the legal title of a
 361 vehicle, or, in the event a vehicle is the subject of an
 362 agreement for the conditional sale or lease thereof with the
 363 right of purchase upon performance of the conditions stated in

364 the agreement and with an immediate right of possession vested
 365 in the conditional vendee or lessee, or in the event a mortgagor
 366 of a vehicle is entitled to possession, then such conditional
 367 vendee, or lessee, or mortgagor shall be deemed the owner, for
 368 the purposes of this chapter.

369 (47)~~(27)~~ PARK OR PARKING.—The standing of a vehicle,
 370 whether occupied or not, otherwise than temporarily for the
 371 purpose of and while actually engaged in loading or unloading
 372 merchandise or passengers as may be permitted by law under this
 373 chapter.

374 (48)~~(28)~~ PEDESTRIAN.—Any person afoot.

375 (49)~~(29)~~ PERSON.—Any natural person, firm, copartnership,
 376 association, or corporation.

377 (50)~~(30)~~ PNEUMATIC TIRE.—Any tire in which compressed air
 378 is designed to support the load.

379 (51)~~(31)~~ POLE TRAILER.—Any vehicle without motive power
 380 designed to be drawn by another vehicle and attached to the
 381 towing vehicle by means of a reach or pole, or by being boomed
 382 or otherwise secured to the towing vehicle, and ordinarily used
 383 for transporting long or irregularly shaped loads such as poles,
 384 pipes, or structural members capable, generally, of sustaining
 385 themselves as beams between the supporting connections.

386 (52)~~(32)~~ POLICE OFFICER.—Any officer authorized to direct
 387 or regulate traffic or to make arrests for violations of traffic
 388 regulations, including Florida highway patrol officers,
 389 sheriffs, deputy sheriffs, and municipal police officers.

390 (53)~~(33)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise
 391 provided in paragraph (53)(b), any privately owned way or place
 392 used for vehicular travel by the owner and those having express
 393 or implied permission from the owner, but not by other persons.

394 (54)~~(34)~~ RADIOACTIVE MATERIALS.—Any materials or
 395 combination of materials which emit ionizing radiation
 396 spontaneously in which the radioactivity per gram of material,
 397 in any form, is greater than 0.002 microcuries.

398 (55)~~(35)~~ RAILROAD.—A carrier of persons or property upon
 399 cars operated upon stationary rails.

400 (56)~~(36)~~ RAILROAD SIGN OR SIGNAL.—Any sign, signal, or
 401 device erected by authority of a public body or official, or by
 402 a railroad, and intended to give notice of the presence of
 403 railroad tracks or the approach of a railroad train.

404 (57)~~(37)~~ RAILROAD TRAIN.—A steam engine, electric or other
 405 motor, with or without cars coupled thereto, operated upon
 406 rails, except a streetcar.

407 (58)~~(38)~~ RESIDENCE DISTRICT.—The territory contiguous to,
 408 and including, a highway, not comprising a business district,
 409 when the property on such highway, for a distance of 300 feet or
 410 more, is, in the main, improved with residences or residences
 411 and buildings in use for business.

412 (59)~~(39)~~ REVOCATION.—Revocation means that a licensee's
 413 privilege to drive a motor vehicle is terminated. A new license
 414 may be obtained only as permitted by law.

415 (60)~~(40)~~ RIGHT-OF-WAY.—The right of one vehicle or

416 pedestrian to proceed in a lawful manner in preference to
 417 another vehicle or pedestrian approaching under such
 418 circumstances of direction, speed, and proximity as to give rise
 419 to danger of collision unless one grants precedence to the
 420 other.

421 (61)~~(41)~~ ROAD TRACTOR.—Any motor vehicle designed and used
 422 for drawing other vehicles and not so constructed as to carry
 423 any load thereon, either independently or as any part of the
 424 weight of a vehicle or load so drawn.

425 (62)~~(42)~~ ROADWAY.—That portion of a highway improved,
 426 designed, or ordinarily used for vehicular travel, exclusive of
 427 the berm or shoulder. In the event a highway includes two or
 428 more separate roadways, the term "roadway" as used herein refers
 429 to any such roadway separately, but not to all such roadways
 430 collectively.

431 (63)~~(43)~~ SADDLE MOUNT; FULL MOUNT.—An arrangement whereby
 432 the front wheels of one vehicle rest in a secured position upon
 433 another vehicle. All of the wheels of the towing vehicle are
 434 upon the ground, and only the rear wheels of the towed vehicle
 435 rest upon the ground. Such combinations may include one full
 436 mount, whereby a smaller transport vehicle is placed completely
 437 on the last towed vehicle.

438 (64)~~(44)~~ SAFETY ZONE.—The area or space officially set
 439 apart within a roadway for the exclusive use of pedestrians and
 440 protected or so marked by adequate signs or authorized pavement
 441 markings as to be plainly visible at all times while set apart

442 as a safety zone.

443 (65)~~(92)~~ SANITATION VEHICLE.—A motor vehicle that bears an
 444 emblem that is visible from the roadway and clearly identifies
 445 that the vehicle belongs to or is under contract with a person,
 446 entity, cooperative, board, commission, district, or unit of
 447 local government that provides garbage, trash, refuse, or
 448 recycling collection.

449 (66)~~(45)~~ SCHOOL BUS.—Any motor vehicle that complies with
 450 the color and identification requirements of chapter 1006 and is
 451 used to transport children to or from public or private school
 452 or in connection with school activities, but not including buses
 453 operated by common carriers in urban transportation of school
 454 children. The term "school" includes all preelementary,
 455 elementary, secondary, and postsecondary schools.

456 (67)~~(46)~~ SEMITRAILER.—Any vehicle with or without motive
 457 power, other than a pole trailer, designed for carrying persons
 458 or property and for being drawn by a motor vehicle and so
 459 constructed that some part of its weight and that of its load
 460 rests upon, or is carried by, another vehicle.

461 (68)~~(47)~~ SIDEWALK.—That portion of a street between the
 462 curblines, or the lateral line, of a roadway and the adjacent
 463 property lines, intended for use by pedestrians.

464 (69)~~(48)~~ SPECIAL MOBILE EQUIPMENT.—Any vehicle not
 465 designed or used primarily for the transportation of persons or
 466 property and only incidentally operated or moved over a highway,
 467 including, but not limited to, ditchdigging apparatus, well-

468 boring apparatus, and road construction and maintenance
 469 machinery, such as asphalt spreaders, bituminous mixers, bucket
 470 loaders, tractors other than truck tractors, ditchers, leveling
 471 graders, finishing machines, motor graders, road rollers,
 472 scarifiers, earthmoving carryalls and scrapers, power shovels
 473 and draglines, and self-propelled cranes and earthmoving
 474 equipment. The term does not include house trailers, dump
 475 trucks, truck-mounted transit mixers, cranes or shovels, or
 476 other vehicles designed for the transportation of persons or
 477 property to which machinery has been attached.

478 (70)~~(49)~~ STAND OR STANDING.—The halting of a vehicle,
 479 whether occupied or not, otherwise than temporarily, for the
 480 purpose of, and while actually engaged in, receiving or
 481 discharging passengers, as may be permitted by law under this
 482 chapter.

483 (71)~~(50)~~ STATE ROAD.—Any highway designated as a state-
 484 maintained road by the Department of Transportation.

485 (72)~~(51)~~ STOP.—When required, complete cessation from
 486 movement.

487 (73)~~(52)~~ STOP OR STOPPING.—When prohibited, any halting,
 488 even momentarily, of a vehicle, whether occupied or not, except
 489 when necessary to avoid conflict with other traffic or to comply
 490 with the directions of a law enforcement officer or traffic
 491 control sign or signal.

492 (74)~~(70)~~ STRAIGHT TRUCK.—Any truck on which the cargo unit
 493 and the motive power unit are located on the same frame so as to

494 form a single, rigid unit.

495 (75)~~(53)~~ STREET OR HIGHWAY.—

496 (a) The entire width between the boundary lines of every
497 way or place of whatever nature when any part thereof is open to
498 the use of the public for purposes of vehicular traffic;

499 (b) The entire width between the boundary lines of any
500 privately owned way or place used for vehicular travel by the
501 owner and those having express or implied permission from the
502 owner, but not by other persons, or any limited access road
503 owned or controlled by a special district, whenever, by written
504 agreement entered into under s. 316.006(2)(b) or (3)(b), a
505 county or municipality exercises traffic control jurisdiction
506 over said way or place;

507 (c) Any area, such as a runway, taxiway, ramp, clear zone,
508 or parking lot, within the boundary of any airport owned by the
509 state, a county, a municipality, or a political subdivision,
510 which area is used for vehicular traffic but which is not open
511 for vehicular operation by the general public; or

512 (d) Any way or place used for vehicular traffic on a
513 controlled access basis within a mobile home park recreation
514 district which has been created under s. 418.30 and the
515 recreational facilities of which district are open to the
516 general public.

517 (76)~~(54)~~ SUSPENSION.—Temporary withdrawal of a licensee's
518 privilege to drive a motor vehicle.

519 (77)~~(89)~~ SWAMP BUGGY.—A motorized off-road vehicle that is

520 designed or modified to travel over swampy or varied terrain and
 521 that may use large tires or tracks operated from an elevated
 522 platform. The term does not include any vehicle defined in
 523 chapter 261 or otherwise defined or classified in this chapter.

524 (78)~~(81)~~ TANDEM AXLE.—Any two axles whose centers are more
 525 than 40 inches but not more than 96 inches apart and are
 526 individually attached to or articulated from, or both, a common
 527 attachment to the vehicle, including a connecting mechanism
 528 designed to equalize the load between axles.

529 (79)~~(71)~~ TANDEM TRAILER TRUCK.—Any combination of a truck
 530 tractor, semitrailer, and trailer coupled together so as to
 531 operate as a complete unit.

532 (80)~~(72)~~ TANDEM TRAILER TRUCK HIGHWAY NETWORK.—A highway
 533 network consisting primarily of four or more lanes, including
 534 all interstate highways; highways designated by the United
 535 States Department of Transportation as elements of the National
 536 Network; and any street or highway designated by the Florida
 537 Department of Transportation for use by tandem trailer trucks,
 538 in accordance with s. 316.515, except roads on which truck
 539 traffic was specifically prohibited on January 6, 1983.

540 (81)~~(73)~~ TERMINAL.—Any location where:

541 (a) Freight either originates, terminates, or is handled
 542 in the transportation process; or

543 (b) Commercial motor carriers maintain operating
 544 facilities.

545 (82)~~(55)~~ THROUGH HIGHWAY.—Any highway or portion thereof

546 | on which vehicular traffic is given the right-of-way and at the
 547 | entrances to which vehicular traffic from intersecting highways
 548 | is required to yield right-of-way to vehicles on such through
 549 | highway in obedience to either a stop sign or yield sign, or
 550 | otherwise in obedience to law.

551 | (83)~~(56)~~ TIRE WIDTH.—Tire width is that width stated on
 552 | the surface of the tire by the manufacturer of the tire, if the
 553 | width stated does not exceed 2 inches more than the width of the
 554 | tire contacting the surface.

555 | (84)~~(57)~~ TRAFFIC.—Pedestrians, ridden or herded animals,
 556 | and vehicles, streetcars, and other conveyances either singly or
 557 | together while using any street or highway for purposes of
 558 | travel.

559 | (85)~~(87)~~ TRAFFIC INFRACTION DETECTOR.—A vehicle sensor
 560 | installed to work in conjunction with a traffic control signal
 561 | and a camera or cameras synchronized to automatically record two
 562 | or more sequenced photographic or electronic images or streaming
 563 | video of only the rear of a motor vehicle at the time the
 564 | vehicle fails to stop behind the stop bar or clearly marked stop
 565 | line when facing a traffic control signal steady red light. Any
 566 | notification under s. 316.0083(1)(b) or traffic citation issued
 567 | by the use of a traffic infraction detector must include a
 568 | photograph or other recorded image showing both the license tag
 569 | of the offending vehicle and the traffic control device being
 570 | violated.

571 | (86)~~(84)~~ TRAFFIC SIGNAL PREEMPTION SYSTEM.—Any system or

572 | device with the capability of activating a control mechanism
 573 | mounted on or near traffic signals which alters a traffic
 574 | signal's timing cycle.

575 | ~~(58)~~ (87) TRAILER.—Any vehicle with or without motive
 576 | power, other than a pole trailer, designed for carrying persons
 577 | or property and for being drawn by a motor vehicle.

578 | ~~(74)~~ (88) TRANSPORTATION.—The conveyance or movement of
 579 | goods, materials, livestock, or persons from one location to
 580 | another on any road, street, or highway open to travel by the
 581 | public.

582 | ~~(88)~~ (89) TRI-VEHICLE.—An enclosed three-wheeled passenger
 583 | vehicle that:

584 | (a) Is designed to operate with three wheels in contact
 585 | with the ground;

586 | (b) Has a minimum unladen weight of 900 pounds;

587 | (c) Has a single, completely enclosed, occupant
 588 | compartment;

589 | (d) Is produced in a minimum quantity of 300 in any
 590 | calendar year;

591 | (e) Is capable of a speed greater than 60 miles per hour
 592 | on level ground; and

593 | (f) Is equipped with:

594 | 1. Seats that are certified by the vehicle manufacturer to
 595 | meet the requirements of Federal Motor Vehicle Safety Standard
 596 | No. 207, "Seating systems" (49 C.F.R. s. 571.207);

597 | 2. A steering wheel used to maneuver the vehicle;

598 3. A propulsion unit located forward or aft of the
 599 enclosed occupant compartment;
 600 4. A seat belt for each vehicle occupant certified to meet
 601 the requirements of Federal Motor Vehicle Safety Standard No.
 602 209, "Seat belt assemblies" (49 C.F.R. s. 571.209);
 603 5. A windshield and an appropriate windshield wiper and
 604 washer system that are certified by the vehicle manufacturer to
 605 meet the requirements of Federal Motor Vehicle Safety Standard
 606 No. 205, "Glazing Materials" (49 C.F.R. s. 571.205) and Federal
 607 Motor Vehicle Safety Standard No. 104, "Windshield Wiping and
 608 Washing Systems" (49 C.F.R. s. 571.104); and
 609 6. A vehicle structure certified by the vehicle
 610 manufacturer to meet the requirements of Federal Motor Vehicle
 611 Safety Standard No. 216, "Rollover crush resistance" (49 C.F.R.
 612 s. 571.216).
 613 (90)~~(59)~~ TRUCK.—Any motor vehicle designed, used, or
 614 maintained primarily for the transportation of property.
 615 (91)~~(60)~~ TRUCK TRACTOR.—Any motor vehicle designed and
 616 used primarily for drawing other vehicles and not so constructed
 617 as to carry a load other than a part of the weight of the
 618 vehicle and load so drawn.
 619 (92)~~(93)~~ UTILITY SERVICE VEHICLE.—A motor vehicle that
 620 bears an emblem that is visible from the roadway and clearly
 621 identifies that the vehicle belongs to or is under contract with
 622 a person, entity, cooperative, board, commission, district, or
 623 unit of local government that provides electric, natural gas,

624 water, wastewater, cable, telephone, or communications services.

625 (93)~~(75)~~ VEHICLE.—Every device, in, upon, or by which any
 626 person or property is or may be transported or drawn upon a
 627 highway, excepting devices used exclusively upon stationary
 628 rails or tracks.

629 (94)~~(85)~~ VICTIM SERVICES PROGRAMS.—Any community-based
 630 organization whose primary purpose is to act as an advocate for
 631 the victims and survivors of traffic crashes and for their
 632 families. The victims services offered by these programs may
 633 include grief and crisis counseling, assistance with preparing
 634 victim compensation claims excluding third-party legal action,
 635 or connecting persons with other service providers, and
 636 providing emergency financial assistance.

637 (95) VULNERABLE USER OF A PUBLIC ROADWAY OR VULNERABLE
 638 USER.—

639 (a) A pedestrian, including a person actually engaged in
 640 work upon a highway, work upon utility facilities along a
 641 highway, or the provision of emergency services within the
 642 right-of-way;

643 (b) A person operating, or who is a passenger on, a
 644 bicycle, motorcycle, scooter, or moped lawfully on the roadway;

645 (c) A person riding an animal; or

646 (d) A person lawfully operating on a public roadway,
 647 crosswalk, or shoulder of the roadway;

648 1. A farm tractor or similar vehicle designed primarily
 649 for farm use;

- 650 2. A horse-drawn carriage;
- 651 3. An electric personal assistive mobility device; or
- 652 4. A wheelchair.

653 ~~(96)(79)~~ WORK ZONE AREA.—The area and its approaches on
 654 any state-maintained highway, county-maintained highway, or
 655 municipal street where construction, repair, maintenance, or
 656 other street-related or highway-related work is being performed
 657 or where one or more lanes is closed to traffic.

658 Section 2. Subsection (1) and paragraphs (e) and (f) of
 659 subsection (2) of section 316.027, Florida Statutes, are amended
 660 to read:

661 316.027 Crash involving death or personal injuries.—

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

663 ~~(a)~~ "serious bodily injury" means an injury to a person,
 664 including the driver, which consists of a physical condition
 665 that creates a substantial risk of death, serious personal
 666 disfigurement, or protracted loss or impairment of the function
 667 of a bodily member or organ.

668 ~~(b) "Vulnerable road user" means:~~

669 ~~1. A pedestrian, including a person actually engaged in~~
 670 ~~work upon a highway, or in work upon utility facilities along a~~
 671 ~~highway, or engaged in the provision of emergency services~~
 672 ~~within the right-of-way;~~

673 ~~2. A person operating a bicycle, motorcycle, scooter, or~~
 674 ~~moped lawfully on the roadway;~~

675 ~~3. A person riding an animal; or~~

676 4. ~~A person lawfully operating on a public right-of-way,~~
 677 ~~crosswalk, or shoulder of the roadway.~~

678 a. ~~A farm tractor or similar vehicle designed primarily~~
 679 ~~for farm use.~~

680 b. ~~A skateboard, roller skates, or in-line skates.~~

681 c. ~~A horse drawn carriage.~~

682 d. ~~An electric personal assistive mobility device.~~

683 e. ~~A wheelchair.~~

684 (2)

685 (e) A driver who violates paragraph (a), paragraph (b), or
 686 paragraph (c) shall have his or her driver license revoked for
 687 at least 3 years as provided in s. 322.28(4).

688 1. A person convicted of violating paragraph (a),
 689 paragraph (b), or paragraph (c) shall, before his or her driving
 690 privilege may be reinstated, present to the department proof of
 691 completion of a victim's impact panel session in a judicial
 692 circuit if such a panel exists, or if such a panel does not
 693 exist, a department-approved driver improvement course relating
 694 to the rights of vulnerable ~~road~~ users relative to vehicles on
 695 the roadway as provided in s. 322.0261(2).

696 2. The department may reinstate an offender's driving
 697 privilege after he or she satisfies the 3-year revocation period
 698 as provided in s. 322.28(4) and successfully completes either a
 699 victim's impact panel session or a department-approved driver
 700 improvement course relating to the rights of vulnerable ~~road~~
 701 users relative to vehicles on the roadway as provided in s.

702 322.0261(2).

703 3. For purposes of this paragraph, an offender's driving
 704 privilege may be reinstated only after the department verifies
 705 that the offender participated in and successfully completed a
 706 victim's impact panel session or a department-approved driver
 707 improvement course.

708 (f) For purposes of sentencing under chapter 921 and
 709 determining incentive gain-time eligibility under chapter 944,
 710 an offense listed in this subsection is ranked one level above
 711 the ranking specified in s. 921.0022 or s. 921.0023 for the
 712 offense committed if the victim of the offense was a vulnerable
 713 ~~road~~ user.

714 Section 3. Section 316.083, Florida Statutes, is amended
 715 to read:

716 316.083 Overtaking and passing a vehicle.—The following
 717 provisions ~~rules shall~~ govern the overtaking and passing of a
 718 vehicle ~~vehicles~~ proceeding in the same direction, ~~subject to~~
 719 ~~those limitations, exceptions, and special rules hereinafter~~
 720 ~~stated:~~

721 (1) The driver of a vehicle overtaking another vehicle
 722 proceeding in the same direction shall give an appropriate
 723 signal as provided for in s. 316.156, shall pass to the left
 724 thereof at a safe distance, and shall not again drive to the
 725 right side of the roadway until safely clear of the overtaken
 726 vehicle.

727 (2) The driver of a motor vehicle overtaking a person

728 | operating a bicycle or other vulnerable user of a public roadway
 729 | ~~nonmotorized vehicle~~ must pass the person operating the bicycle
 730 | or other vulnerable user ~~nonmotorized vehicle~~ at a safe distance
 731 | of not less than 3 feet between any part of or attachment to the
 732 | motor vehicle, anything extending from the motor vehicle, or any
 733 | trailer or other thing being towed by the motor vehicle and the
 734 | bicycle, the person operating the bicycle, or other vulnerable
 735 | user ~~nonmotorized vehicle~~.

736 | ~~(3)(2)~~ Except when overtaking and passing on the right is
 737 | permitted, the driver of an overtaken vehicle shall give way to
 738 | the right in favor of the overtaking vehicle, on audible signal
 739 | or upon the visible blinking of the headlamps of the overtaking
 740 | vehicle if such overtaking is being attempted at nighttime, and
 741 | shall not increase the speed of his or her vehicle until
 742 | completely passed by the overtaking vehicle.

743 | ~~(4)(3)~~ A violation of this section is a noncriminal
 744 | traffic infraction, punishable as a moving violation as provided
 745 | in chapter 318. If a violation of this section contributed to
 746 | the bodily injury of a vulnerable user of a public roadway, the
 747 | law enforcement officer issuing the citation for the violation
 748 | shall note such information on the citation.

749 | Section 4. Section 316.084, Florida Statutes, is amended
 750 | to read:

751 | 316.084 When overtaking on the right is permitted.—

752 | (1) The driver of a vehicle may overtake and pass on the
 753 | right of another vehicle only under the following conditions:

754 (a) When the vehicle overtaken is making or about to make
755 a left turn;

756 (b) Upon a street or highway with unobstructed pavement
757 not occupied by parked vehicles of sufficient width for two or
758 more lines of moving traffic in each direction;

759 (c) Upon a one-way street, or upon any roadway on which
760 traffic is restricted to one direction of movement, where the
761 roadway is free from obstructions and of sufficient width for
762 two or more lines of moving vehicles.

763 (2) The driver of a vehicle may overtake and pass another
764 vehicle on the right only under conditions permitting such
765 movement in safety. In no event shall such movement be made by
766 driving off the pavement or main-traveled portion of the
767 roadway.

768 (3) This section does not prohibit a bicycle that is in a
769 bicycle lane or on the shoulder of a roadway or highway from
770 passing another vehicle on the right.

771 (4)~~(3)~~ A violation of this section is a noncriminal
772 traffic infraction, punishable as a moving violation as provided
773 in chapter 318.

774 Section 5. Section 316.0875, Florida Statutes, is amended
775 to read:

776 316.0875 No-passing zones.—

777 (1) The Department of Transportation and local authorities
778 are authorized to determine those portions of any highway under
779 their respective jurisdiction where overtaking and passing or

780 driving to the left of the roadway would be especially hazardous
 781 and may, by appropriate signs or markings on the roadway,
 782 indicate the beginning and end of such zones, and, when such
 783 signs or markings are in place and clearly visible to an
 784 ordinarily observant person, each ~~every~~ driver of a vehicle
 785 shall obey the directions thereof.

786 (2) Where signs or markings are in place to define a no-
 787 passing zone as set forth in subsection (1), a ~~no~~ driver may
 788 not, shall at any time, drive on the left side of the roadway
 789 with such no-passing zone or on the left side of any pavement
 790 striping designed to mark such no-passing zone throughout its
 791 length.

792 (3) This section does not apply to a person who safely and
 793 briefly drives to the left of the center of the roadway or
 794 pavement striping only to the extent necessary to:

795 (a) Avoid ~~When an obstruction; exists making it necessary~~
 796 ~~to drive to the left of the center of the highway, nor~~

797 (b) Turn ~~To the driver of a vehicle turning left into or~~
 798 ~~from an alley, private road, or driveway; or~~

799 (c) Comply with the requirements regarding a safe distance
 800 to pass a vulnerable user, as required by s. 316.083(2).

801 (4) A violation of this section is a noncriminal traffic
 802 infraction, punishable as a moving violation as provided in
 803 chapter 318.

804 Section 6. Section 316.151, Florida Statutes, is amended
 805 to read:

806 316.151 Required position and method of turning at
 807 intersections.—

808 (1) (a) Right turn.—The driver of a vehicle intending to
 809 turn right at an intersection onto a highway, public or private
 810 roadway, or driveway shall do so as follows:

811 1. (a) Right turn.—Both the approach for a right turn and a
 812 right turn shall be made as close as practicable to the right-
 813 hand curb or edge of the roadway.

814 2. When overtaking and passing a bicycle or other
 815 vulnerable user proceeding in the same direction, the driver of
 816 a motor vehicle shall give an appropriate signal as provided for
 817 in s. 316.155 and shall make the right turn only if it can be
 818 made at a safe distance from the bicycle or other vulnerable
 819 user.

820 3. When crossing a sidewalk, bicycle lane, or bicycle path
 821 to turn right, the driver of a motor vehicle shall yield the
 822 right-of-way to a bicycle or pedestrian.

823 (b) Left turn.—The driver of a vehicle intending to turn
 824 left at an any intersection onto a highway, public or private
 825 roadway, or driveway shall do so as follows:

826 1. The driver shall approach the intersection in the
 827 extreme left-hand lane lawfully available to traffic moving in
 828 the direction of travel of such vehicle. Thereafter, and, after
 829 ~~entering the intersection,~~ the left turn shall be made so as to
 830 leave the intersection in a lane lawfully available to traffic
 831 moving in such direction upon the roadway being entered.

832 2. A person riding a bicycle and intending to turn left in
 833 accordance with this section is entitled to the full use of the
 834 lane from which the turn may legally be made. Whenever
 835 practicable the left turn shall be made in that portion of the
 836 intersection to the left of the center of the intersection.

837 ~~(c) Left turn by bicycle. In addition to the method of~~
 838 ~~making a left turn described in paragraph (b),~~ a person riding a
 839 bicycle and intending to turn left may do so as follows ~~has the~~
 840 ~~option of following the course described hereafter:~~

841 a. The rider shall approach the turn as close as
 842 practicable to the right curb or edge of the roadway;

843 b. After proceeding across the intersecting roadway, the
 844 turn shall be made as close as practicable to the curb or edge
 845 of the roadway on the far side of the intersection; and,

846 c. Before proceeding, the bicyclist shall comply with any
 847 official traffic control device or police officer regulating
 848 traffic on the highway along which the bicyclist intends to
 849 proceed.

850 (2) The state, county, and local authorities in their
 851 respective jurisdictions may cause official traffic control
 852 devices to be placed within or adjacent to intersections and
 853 thereby require and direct that a different course from that
 854 specified in this section be traveled by vehicles turning at an
 855 intersection. When such devices are so placed, the ~~no~~ driver of
 856 a vehicle may not turn a vehicle at an intersection other than
 857 as directed and required by such devices.

858 (3) A violation of this section is a noncriminal traffic
 859 infraction, punishable as a moving violation as provided in
 860 chapter 318. If a violation of this section contributes to the
 861 bodily injury of a vulnerable user of a public roadway, the law
 862 enforcement officer issuing the citation for the violation shall
 863 note such information on the citation.

864 Section 7. Section 316.1925, Florida Statutes, is amended
 865 to read:

866 316.1925 Careless driving.—

867 (1) A ~~Any~~ person operating a vehicle upon the streets or
 868 highways within the state shall drive the same in a careful and
 869 prudent manner, having regard for the width, grade, curves,
 870 corners, traffic, and all other attendant circumstances, so as
 871 not to endanger the life, limb, or property of any person. A
 872 person who fails ~~Failure~~ to drive in such manner commits shall
 873 ~~constitute~~ careless driving and ~~a violation of this section.~~

874 ~~(2) Any person who violates this section shall be cited~~
 875 ~~for a moving violation, punishable as provided in chapter 318.~~

876 (2) If a violation under subsection (1) contributed to the
 877 bodily injury of a vulnerable user of a public roadway, the law
 878 enforcement officer issuing the citation for the violation shall
 879 note such information on the citation.

880 Section 8. Subsections (1), (5), and (6) of section
 881 316.2065, Florida Statutes, are amended to read:

882 316.2065 Bicycle regulations.—

883 (1) A bicycle is a vehicle under Florida law and shall be

884 | operated in the same manner as any other vehicle and every
 885 | person operating a bicycle ~~propelling a vehicle by human power~~
 886 | has all of the rights and all of the duties applicable to the
 887 | driver of any other vehicle under this chapter, except as to
 888 | special regulations in this chapter, and except as to provisions
 889 | of this chapter which by their nature can have no application.

890 | (5) (a) Any person operating a bicycle upon a roadway at
 891 | less than the normal speed of traffic at the time and place and
 892 | under the conditions then existing shall ride in the bicycle
 893 | lane ~~marked for bicycle use~~ or, if there is no bicycle lane in
 894 | the roadway is marked for bicycle use, as close as practicable
 895 | to the right-hand curb or edge of the roadway except under any
 896 | of the following situations:

897 | 1. When overtaking and passing another bicycle or vehicle
 898 | proceeding in the same direction.

899 | 2. When preparing for a left turn at an intersection or
 900 | into a private road or driveway.

901 | 3. When reasonably necessary to avoid any condition or
 902 | potential conflict, including, but not limited to, a fixed or
 903 | moving object, parked or moving vehicle, bicycle, pedestrian,
 904 | animal, surface hazard, turn lane, or substandard-width lane,
 905 | which makes it unsafe to continue along the right-hand curb or
 906 | edge or within a bicycle lane. For the purposes of this
 907 | subsection, a "substandard-width lane" is a lane that is too
 908 | narrow for a bicycle and another vehicle to travel safely side
 909 | by side within the lane.

910 (b) Any person operating a bicycle upon a one-way highway
 911 with two or more marked traffic lanes may ride as near the left-
 912 hand curb or edge of such roadway as practicable.

913 (6) (a) Persons riding bicycles upon a roadway or in a
 914 bicycle lane may not ride more than two abreast except on
 915 bicycle paths or parts of roadways set aside for the exclusive
 916 use of bicycles. Persons riding two abreast may not impede
 917 traffic when traveling at less than the normal speed of traffic
 918 at the time and place and under the conditions then existing and
 919 shall ride within a single lane.

920 (b) When stopping at a stop sign, persons riding bicycles
 921 in groups of four or more, after coming to a full stop and
 922 obeying all traffic laws, may proceed through the stop sign in a
 923 group and motor vehicle operators shall allow the entire group
 924 to travel through the intersection before moving forward.

925 Section 9. Section 318.142, Florida Statutes, is created
 926 to read:

927 318.142 Infractions contributing to bodily injury of a
 928 vulnerable user of a public roadway.—In addition to any other
 929 penalty imposed for a violation under s. 316.083, s. 316.151, or
 930 s. 316.1925, if the violation contributed to the bodily injury
 931 of a vulnerable user of a public roadway as defined in s.
 932 316.003, the law enforcement officer issuing the citation for
 933 the infraction shall note such information on the citation and
 934 the designated official may impose a fine of not more than
 935 \$2,500.

936 Section 10. Section 318.19, Florida Statutes, is amended
 937 to read:

938 318.19 Infractions requiring a mandatory hearing.—Any
 939 person cited for the infractions listed in this section shall
 940 not have the provisions of s. 318.14(2), (4), and (9) available
 941 to him or her but must appear before the designated official at
 942 the time and location of the scheduled hearing:

943 (1) Any infraction which results in a crash that causes
 944 the death of another;

945 (2) Any infraction which results in a crash that causes
 946 "serious bodily injury" of another as defined in s. 316.1933(1);

947 (3) Any infraction of s. 316.172(1)(b);

948 (4) Any infraction of s. 316.520(1) or (2); ~~or~~

949 (5) Any infraction of s. 316.183(2), s. 316.187, or s.
 950 316.189 of exceeding the speed limit by 30 m.p.h. or more; or

951 (6) Any infraction of s. 316.083, s. 316.151, or s.
 952 316.1925 which contributes to bodily injury of a vulnerable user
 953 of a public roadway as defined in s. 316.003. If an infraction
 954 listed in this subsection contributes to the bodily injury of a
 955 vulnerable user of a public roadway, the law enforcement officer
 956 issuing the citation for the infraction shall note such
 957 information on the citation.

958 Section 11. Paragraph (c) of subsection (1) of section
 959 212.05, Florida Statutes, is amended to read:

960 212.05 Sales, storage, use tax.—It is hereby declared to
 961 be the legislative intent that every person is exercising a

962 taxable privilege who engages in the business of selling
 963 tangible personal property at retail in this state, including
 964 the business of making mail order sales, or who rents or
 965 furnishes any of the things or services taxable under this
 966 chapter, or who stores for use or consumption in this state any
 967 item or article of tangible personal property as defined herein
 968 and who leases or rents such property within the state.

969 (1) For the exercise of such privilege, a tax is levied on
 970 each taxable transaction or incident, which tax is due and
 971 payable as follows:

972 (c) At the rate of 6 percent of the gross proceeds derived
 973 from the lease or rental of tangible personal property, as
 974 defined herein; however, the following special provisions apply
 975 to the lease or rental of motor vehicles:

976 1. When a motor vehicle is leased or rented for a period
 977 of less than 12 months:

978 a. If the motor vehicle is rented in Florida, the entire
 979 amount of such rental is taxable, even if the vehicle is dropped
 980 off in another state.

981 b. If the motor vehicle is rented in another state and
 982 dropped off in Florida, the rental is exempt from Florida tax.

983 2. Except as provided in subparagraph 3., for the lease or
 984 rental of a motor vehicle for a period of not less than 12
 985 months, sales tax is due on the lease or rental payments if the
 986 vehicle is registered in this state; provided, however, that no
 987 tax shall be due if the taxpayer documents use of the motor

988 vehicle outside this state and tax is being paid on the lease or
 989 rental payments in another state.

990 3. The tax imposed by this chapter does not apply to the
 991 lease or rental of a commercial motor vehicle as defined in s.
 992 316.003(13)(a) ~~316.003(66)(a)~~ to one lessee or rentee for a
 993 period of not less than 12 months when tax was paid on the
 994 purchase price of such vehicle by the lessor. To the extent tax
 995 was paid with respect to the purchase of such vehicle in another
 996 state, territory of the United States, or the District of
 997 Columbia, the Florida tax payable shall be reduced in accordance
 998 with the provisions of s. 212.06(7). This subparagraph shall
 999 only be available when the lease or rental of such property is
 1000 an established business or part of an established business or
 1001 the same is incidental or germane to such business.

1002 Section 12. Subsection (1) of section 316.1303, Florida
 1003 Statutes, is amended to read:

1004 316.1303 Traffic regulations to assist mobility-impaired
 1005 persons.—

1006 (1) Whenever a pedestrian who is mobility impaired is in
 1007 the process of crossing a public street or highway with the
 1008 assistance of a guide dog or service animal designated as such
 1009 with a visible means of identification, a walker, a crutch, an
 1010 orthopedic cane, or a wheelchair, the driver of a vehicle
 1011 approaching the intersection, as defined in s. 316.003
 1012 ~~316.003(17)~~, shall bring his or her vehicle to a full stop
 1013 before arriving at the intersection and, before proceeding,

1014 shall take precautions necessary to avoid injuring the
 1015 pedestrian.

1016 Section 13. Subsection (5) of section 316.235, Florida
 1017 Statutes, is amended to read:

1018 316.235 Additional lighting equipment.—

1019 (5) A bus, as defined in s. 316.003 ~~316.003(3)~~, may be
 1020 equipped with a deceleration lighting system which cautions
 1021 following vehicles that the bus is slowing, preparing to stop,
 1022 or is stopped. Such lighting system shall consist of amber
 1023 lights mounted in horizontal alignment on the rear of the
 1024 vehicle at or near the vertical centerline of the vehicle, not
 1025 higher than the lower edge of the rear window or, if the vehicle
 1026 has no rear window, not higher than 72 inches from the ground.
 1027 Such lights shall be visible from a distance of not less than
 1028 300 feet to the rear in normal sunlight. Lights are permitted to
 1029 light and flash during deceleration, braking, or standing and
 1030 idling of the bus. Vehicular hazard warning flashers may be used
 1031 in conjunction with or in lieu of a rear-mounted deceleration
 1032 lighting system.

1033 Section 14. Paragraph (b) of subsection (2) and paragraph
 1034 (a) of subsection (4) of section 316.545, Florida Statutes, are
 1035 amended to read:

1036 316.545 Weight and load unlawful; special fuel and motor
 1037 fuel tax enforcement; inspection; penalty; review.—

1038 (2)

1039 (b) The officer or inspector shall inspect the license

1040 | plate or registration certificate of the commercial vehicle, as
 1041 | defined in s. 316.003 ~~316.003(66)~~, to determine if its gross
 1042 | weight is in compliance with the declared gross vehicle weight.
 1043 | If its gross weight exceeds the declared weight, the penalty
 1044 | shall be 5 cents per pound on the difference between such
 1045 | weights. In those cases when the commercial vehicle, as defined
 1046 | in s. 316.003 ~~316.003(66)~~, is being operated over the highways
 1047 | of the state with an expired registration or with no
 1048 | registration from this or any other jurisdiction or is not
 1049 | registered under the applicable provisions of chapter 320, the
 1050 | penalty herein shall apply on the basis of 5 cents per pound on
 1051 | that scaled weight which exceeds 35,000 pounds on laden truck
 1052 | tractor-semitrailer combinations or tandem trailer truck
 1053 | combinations, 10,000 pounds on laden straight trucks or straight
 1054 | truck-trailer combinations, or 10,000 pounds on any unladen
 1055 | commercial motor vehicle. If the license plate or registration
 1056 | has not been expired for more than 90 days, the penalty imposed
 1057 | under this paragraph may not exceed \$1,000. In the case of
 1058 | special mobile equipment as defined in s. 316.003 ~~316.003(48)~~,
 1059 | which qualifies for the license tax provided for in s.
 1060 | 320.08(5)(b), being operated on the highways of the state with
 1061 | an expired registration or otherwise not properly registered
 1062 | under the applicable provisions of chapter 320, a penalty of \$75
 1063 | shall apply in addition to any other penalty which may apply in
 1064 | accordance with this chapter. A vehicle found in violation of
 1065 | this section may be detained until the owner or operator

1066 produces evidence that the vehicle has been properly registered.
 1067 Any costs incurred by the retention of the vehicle shall be the
 1068 sole responsibility of the owner. A person who has been assessed
 1069 a penalty pursuant to this paragraph for failure to have a valid
 1070 vehicle registration certificate pursuant to the provisions of
 1071 chapter 320 is not subject to the delinquent fee authorized in
 1072 s. 320.07 if such person obtains a valid registration
 1073 certificate within 10 working days after such penalty was
 1074 assessed.

1075 (4) (a) No commercial vehicle, as defined in s. 316.003
 1076 ~~316.003(66)~~, shall be operated over the highways of this state
 1077 unless it has been properly registered under the provisions of
 1078 s. 207.004. Whenever any law enforcement officer identified in
 1079 s. 207.023(1), upon inspecting the vehicle or combination of
 1080 vehicles, determines that the vehicle is in violation of s.
 1081 207.004, a penalty in the amount of \$50 shall be assessed, and
 1082 the vehicle may be detained until payment is collected by the
 1083 law enforcement officer.

1084 Section 15. Subsection (2) of section 316.605, Florida
 1085 Statutes, is amended to read:

1086 316.605 Licensing of vehicles.—

1087 (2) Any commercial motor vehicle, as defined in s. 316.003
 1088 ~~316.003(66)~~, operating over the highways of this state with an
 1089 expired registration, with no registration from this or any
 1090 other jurisdiction, or with no registration under the applicable
 1091 provisions of chapter 320 shall be in violation of s. 320.07(3)

1092 and shall subject the owner or operator of such vehicle to the
 1093 penalty provided. In addition, a commercial motor vehicle found
 1094 in violation of this section may be detained by any law
 1095 enforcement officer until the owner or operator produces
 1096 evidence that the vehicle has been properly registered and that
 1097 any applicable delinquent penalties have been paid.

1098 Section 16. Subsection (6) of section 316.6105, Florida
 1099 Statutes, is amended to read:

1100 316.6105 Violations involving operation of motor vehicle
 1101 in unsafe condition or without required equipment; procedure for
 1102 disposition.—

1103 (6) This section does not apply to commercial motor
 1104 vehicles as defined in s. 316.003 ~~316.003(66)~~ or transit buses
 1105 owned or operated by a governmental entity.

1106 Section 17. Paragraph (a) of subsection (2) of section
 1107 316.613, Florida Statutes, is amended to read:

1108 316.613 Child restraint requirements.—

1109 (2) As used in this section, the term "motor vehicle"
 1110 means a motor vehicle as defined in s. 316.003 that is operated
 1111 on the roadways, streets, and highways of the state. The term
 1112 does not include:

1113 (a) A school bus as defined in s. 316.003 ~~316.003(45)~~.

1114 Section 18. Subsection (8) of section 316.622, Florida
 1115 Statutes, is amended to read:

1116 316.622 Farm labor vehicles.—

1117 (8) The department shall provide to the Department of

1118 Business and Professional Regulation each quarter a copy of each
 1119 accident report involving a farm labor vehicle, as defined in s.
 1120 316.003 ~~316.003(62)~~, commencing with the first quarter of the
 1121 2006-2007 fiscal year.

1122 Section 19. Paragraph (b) of subsection (1) of section
 1123 316.650, Florida Statutes, is amended to read:

1124 316.650 Traffic citations.-

1125 (1)

1126 (b) The department shall prepare, and supply to every
 1127 traffic enforcement agency in the state, an appropriate
 1128 affidavit-of-compliance form that shall be issued along with the
 1129 form traffic citation for any violation of s. 316.610 and that
 1130 indicates the specific defect needing to be corrected. However,
 1131 such affidavit of compliance shall not be issued in the case of
 1132 a violation of s. 316.610 by a commercial motor vehicle as
 1133 defined in s. 316.003 ~~316.003(66)~~. Such affidavit-of-compliance
 1134 form shall be distributed in the same manner and to the same
 1135 parties as is the form traffic citation.

1136 Section 20. Subsection (1) of section 316.70, Florida
 1137 Statutes, is amended to read:

1138 316.70 Nonpublic sector buses; safety rules.-

1139 (1) The Department of Transportation shall establish and
 1140 revise standards to assure the safe operation of nonpublic
 1141 sector buses, as defined in s. 316.003 ~~316.003(78)~~, which
 1142 standards shall be those contained in 49 C.F.R. parts 382, 385,
 1143 and 390-397 and which shall be directed towards assuring that:

1144 (a) Nonpublic sector buses are safely maintained,
 1145 equipped, and operated.

1146 (b) Nonpublic sector buses are carrying the insurance
 1147 required by law and carrying liability insurance on the checked
 1148 baggage of passengers not to exceed the standard adopted by the
 1149 United States Department of Transportation.

1150 (c) Florida license tags are purchased for nonpublic
 1151 sector buses pursuant to s. 320.38.

1152 (d) The driving records of drivers of nonpublic sector
 1153 buses are checked by their employers at least once each year to
 1154 ascertain whether the driver has a suspended or revoked driver
 1155 license.

1156 Section 21. Paragraph (a) of subsection (1) of section
 1157 320.01, Florida Statutes, is amended to read:

1158 320.01 Definitions, general.—As used in the Florida
 1159 Statutes, except as otherwise provided, the term:

1160 (1) "Motor vehicle" means:

1161 (a) An automobile, motorcycle, truck, trailer,
 1162 semitrailer, truck tractor and semitrailer combination, or any
 1163 other vehicle operated on the roads of this state, used to
 1164 transport persons or property, and propelled by power other than
 1165 muscular power, but the term does not include traction engines,
 1166 road rollers, special mobile equipment as defined in s. 316.003
 1167 ~~316.003(48)~~, vehicles that run only upon a track, bicycles,
 1168 swamp buggies, or mopeds.

1169 Section 22. Section 320.08, Florida Statutes, is amended

1170 to read:

1171 320.08 License taxes.—Except as otherwise provided herein,
 1172 there are hereby levied and imposed annual license taxes for the
 1173 operation of motor vehicles, mopeds, motorized bicycles as
 1174 defined in s. 316.003(3) ~~316.003(2)~~, tri-vehicles as defined in
 1175 s. 316.003, and mobile homes, as defined in s. 320.01, which
 1176 shall be paid to and collected by the department or its agent
 1177 upon the registration or renewal of registration of the
 1178 following:

1179 (1) MOTORCYCLES AND MOPEDS.—

1180 (a) Any motorcycle: \$10 flat.

1181 (b) Any moped: \$5 flat.

1182 (c) Upon registration of a motorcycle, motor-driven cycle,
 1183 or moped, in addition to the license taxes specified in this
 1184 subsection, a nonrefundable motorcycle safety education fee in
 1185 the amount of \$2.50 shall be paid. The proceeds of such
 1186 additional fee shall be deposited in the Highway Safety
 1187 Operating Trust Fund to fund a motorcycle driver improvement
 1188 program implemented pursuant to s. 322.025, the Florida
 1189 Motorcycle Safety Education Program established in s. 322.0255,
 1190 or the general operations of the department.

1191 (d) An ancient or antique motorcycle: \$7.50 flat, of which
 1192 \$2.50 shall be deposited into the General Revenue Fund.

1193 (2) AUTOMOBILES OR TRI-VEHICLES FOR PRIVATE USE.—

1194 (a) An ancient or antique automobile, as defined in s.
 1195 320.086, or a street rod, as defined in s. 320.0863: \$7.50 flat.

1196 (b) Net weight of less than 2,500 pounds: \$14.50 flat.
 1197 (c) Net weight of 2,500 pounds or more, but less than
 1198 3,500 pounds: \$22.50 flat.
 1199 (d) Net weight of 3,500 pounds or more: \$32.50 flat.
 1200 (3) TRUCKS.—
 1201 (a) Net weight of less than 2,000 pounds: \$14.50 flat.
 1202 (b) Net weight of 2,000 pounds or more, but not more than
 1203 3,000 pounds: \$22.50 flat.
 1204 (c) Net weight more than 3,000 pounds, but not more than
 1205 5,000 pounds: \$32.50 flat.
 1206 (d) A truck defined as a "goat," or other vehicle if used
 1207 in the field by a farmer or in the woods for the purpose of
 1208 harvesting a crop, including naval stores, during such
 1209 harvesting operations, and which is not principally operated
 1210 upon the roads of the state: \$7.50 flat. The term "goat" means a
 1211 motor vehicle designed, constructed, and used principally for
 1212 the transportation of citrus fruit within citrus groves or for
 1213 the transportation of crops on farms, and which can also be used
 1214 for hauling associated equipment or supplies, including required
 1215 sanitary equipment, and the towing of farm trailers.
 1216 (e) An ancient or antique truck, as defined in s. 320.086:
 1217 \$7.50 flat.
 1218 (4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS
 1219 VEHICLE WEIGHT.—
 1220 (a) Gross vehicle weight of 5,001 pounds or more, but less
 1221 than 6,000 pounds: \$60.75 flat, of which \$15.75 shall be

1222 deposited into the General Revenue Fund.

1223 (b) Gross vehicle weight of 6,000 pounds or more, but less
 1224 than 8,000 pounds: \$87.75 flat, of which \$22.75 shall be
 1225 deposited into the General Revenue Fund.

1226 (c) Gross vehicle weight of 8,000 pounds or more, but less
 1227 than 10,000 pounds: \$103 flat, of which \$27 shall be deposited
 1228 into the General Revenue Fund.

1229 (d) Gross vehicle weight of 10,000 pounds or more, but
 1230 less than 15,000 pounds: \$118 flat, of which \$31 shall be
 1231 deposited into the General Revenue Fund.

1232 (e) Gross vehicle weight of 15,000 pounds or more, but
 1233 less than 20,000 pounds: \$177 flat, of which \$46 shall be
 1234 deposited into the General Revenue Fund.

1235 (f) Gross vehicle weight of 20,000 pounds or more, but
 1236 less than 26,001 pounds: \$251 flat, of which \$65 shall be
 1237 deposited into the General Revenue Fund.

1238 (g) Gross vehicle weight of 26,001 pounds or more, but
 1239 less than 35,000: \$324 flat, of which \$84 shall be deposited
 1240 into the General Revenue Fund.

1241 (h) Gross vehicle weight of 35,000 pounds or more, but
 1242 less than 44,000 pounds: \$405 flat, of which \$105 shall be
 1243 deposited into the General Revenue Fund.

1244 (i) Gross vehicle weight of 44,000 pounds or more, but
 1245 less than 55,000 pounds: \$773 flat, of which \$201 shall be
 1246 deposited into the General Revenue Fund.

1247 (j) Gross vehicle weight of 55,000 pounds or more, but

1248 less than 62,000 pounds: \$916 flat, of which \$238 shall be
 1249 deposited into the General Revenue Fund.

1250 (k) Gross vehicle weight of 62,000 pounds or more, but
 1251 less than 72,000 pounds: \$1,080 flat, of which \$280 shall be
 1252 deposited into the General Revenue Fund.

1253 (l) Gross vehicle weight of 72,000 pounds or more: \$1,322
 1254 flat, of which \$343 shall be deposited into the General Revenue
 1255 Fund.

1256 (m) Notwithstanding the declared gross vehicle weight, a
 1257 truck tractor used within a 150-mile radius of its home address
 1258 is eligible for a license plate for a fee of \$324 flat if:

1259 1. The truck tractor is used exclusively for hauling
 1260 forestry products; or

1261 2. The truck tractor is used primarily for the hauling of
 1262 forestry products, and is also used for the hauling of
 1263 associated forestry harvesting equipment used by the owner of
 1264 the truck tractor.

1265

1266 Of the fee imposed by this paragraph, \$84 shall be deposited
 1267 into the General Revenue Fund.

1268 (n) A truck tractor or heavy truck, not operated as a for-
 1269 hire vehicle, which is engaged exclusively in transporting raw,
 1270 unprocessed, and nonmanufactured agricultural or horticultural
 1271 products within a 150-mile radius of its home address, is
 1272 eligible for a restricted license plate for a fee of:

1273 1. If such vehicle's declared gross vehicle weight is less

1274 | than 44,000 pounds, \$87.75 flat, of which \$22.75 shall be
 1275 | deposited into the General Revenue Fund.

1276 | 2. If such vehicle's declared gross vehicle weight is
 1277 | 44,000 pounds or more and such vehicle only transports from the
 1278 | point of production to the point of primary manufacture; to the
 1279 | point of assembling the same; or to a shipping point of a rail,
 1280 | water, or motor transportation company, \$324 flat, of which \$84
 1281 | shall be deposited into the General Revenue Fund.

1282 |
 1283 | Such not-for-hire truck tractors and heavy trucks used
 1284 | exclusively in transporting raw, unprocessed, and
 1285 | nonmanufactured agricultural or horticultural products may be
 1286 | incidentally used to haul farm implements and fertilizers
 1287 | delivered direct to the growers. The department may require any
 1288 | documentation deemed necessary to determine eligibility prior to
 1289 | issuance of this license plate. For the purpose of this
 1290 | paragraph, "not-for-hire" means the owner of the motor vehicle
 1291 | must also be the owner of the raw, unprocessed, and
 1292 | nonmanufactured agricultural or horticultural product, or the
 1293 | user of the farm implements and fertilizer being delivered.

1294 | (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
 1295 | SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

1296 | (a)1. A semitrailer drawn by a GVW truck tractor by means
 1297 | of a fifth-wheel arrangement: \$13.50 flat per registration year
 1298 | or any part thereof, of which \$3.50 shall be deposited into the
 1299 | General Revenue Fund.

1300 2. A semitrailer drawn by a GVW truck tractor by means of
 1301 a fifth-wheel arrangement: \$68 flat per permanent registration,
 1302 of which \$18 shall be deposited into the General Revenue Fund.

1303 (b) A motor vehicle equipped with machinery and designed
 1304 for the exclusive purpose of well drilling, excavation,
 1305 construction, spraying, or similar activity, and which is not
 1306 designed or used to transport loads other than the machinery
 1307 described above over public roads: \$44 flat, of which \$11.50
 1308 shall be deposited into the General Revenue Fund.

1309 (c) A school bus used exclusively to transport pupils to
 1310 and from school or school or church activities or functions
 1311 within their own county: \$41 flat, of which \$11 shall be
 1312 deposited into the General Revenue Fund.

1313 (d) A wrecker, as defined in s. 320.01, which is used to
 1314 tow a vessel as defined in s. 327.02, a disabled, abandoned,
 1315 stolen-recovered, or impounded motor vehicle as defined in s.
 1316 320.01, or a replacement motor vehicle as defined in s. 320.01:
 1317 \$41 flat, of which \$11 shall be deposited into the General
 1318 Revenue Fund.

1319 (e) A wrecker that is used to tow any nondisabled motor
 1320 vehicle, a vessel, or any other cargo unless used as defined in
 1321 paragraph (d), as follows:

1322 1. Gross vehicle weight of 10,000 pounds or more, but less
 1323 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited
 1324 into the General Revenue Fund.

1325 2. Gross vehicle weight of 15,000 pounds or more, but less

1326 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited
 1327 into the General Revenue Fund.

1328 3. Gross vehicle weight of 20,000 pounds or more, but less
 1329 than 26,000 pounds: \$251 flat, of which \$65 shall be deposited
 1330 into the General Revenue Fund.

1331 4. Gross vehicle weight of 26,000 pounds or more, but less
 1332 than 35,000 pounds: \$324 flat, of which \$84 shall be deposited
 1333 into the General Revenue Fund.

1334 5. Gross vehicle weight of 35,000 pounds or more, but less
 1335 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited
 1336 into the General Revenue Fund.

1337 6. Gross vehicle weight of 44,000 pounds or more, but less
 1338 than 55,000 pounds: \$772 flat, of which \$200 shall be deposited
 1339 into the General Revenue Fund.

1340 7. Gross vehicle weight of 55,000 pounds or more, but less
 1341 than 62,000 pounds: \$915 flat, of which \$237 shall be deposited
 1342 into the General Revenue Fund.

1343 8. Gross vehicle weight of 62,000 pounds or more, but less
 1344 than 72,000 pounds: \$1,080 flat, of which \$280 shall be
 1345 deposited into the General Revenue Fund.

1346 9. Gross vehicle weight of 72,000 pounds or more: \$1,322
 1347 flat, of which \$343 shall be deposited into the General Revenue
 1348 Fund.

1349 (f) A hearse or ambulance: \$40.50 flat, of which \$10.50
 1350 shall be deposited into the General Revenue Fund.

1351 (6) MOTOR VEHICLES FOR HIRE.—

1352 (a) Under nine passengers: \$17 flat, of which \$4.50 shall
 1353 be deposited into the General Revenue Fund; plus \$1.50 per cwt,
 1354 of which 50 cents shall be deposited into the General Revenue
 1355 Fund.

1356 (b) Nine passengers and over: \$17 flat, of which \$4.50
 1357 shall be deposited into the General Revenue Fund; plus \$2 per
 1358 cwt, of which 50 cents shall be deposited into the General
 1359 Revenue Fund.

1360 (7) TRAILERS FOR PRIVATE USE.—

1361 (a) Any trailer weighing 500 pounds or less: \$6.75 flat
 1362 per year or any part thereof, of which \$1.75 shall be deposited
 1363 into the General Revenue Fund.

1364 (b) Net weight over 500 pounds: \$3.50 flat, of which \$1
 1365 shall be deposited into the General Revenue Fund; plus \$1 per
 1366 cwt, of which 25 cents shall be deposited into the General
 1367 Revenue Fund.

1368 (8) TRAILERS FOR HIRE.—

1369 (a) Net weight under 2,000 pounds: \$3.50 flat, of which \$1
 1370 shall be deposited into the General Revenue Fund; plus \$1.50 per
 1371 cwt, of which 50 cents shall be deposited into the General
 1372 Revenue Fund.

1373 (b) Net weight 2,000 pounds or more: \$13.50 flat, of which
 1374 \$3.50 shall be deposited into the General Revenue Fund; plus
 1375 \$1.50 per cwt, of which 50 cents shall be deposited into the
 1376 General Revenue Fund.

1377 (9) RECREATIONAL VEHICLE-TYPE UNITS.—

1378 (a) A travel trailer or fifth-wheel trailer, as defined by
 1379 s. 320.01(1)(b), that does not exceed 35 feet in length: \$27
 1380 flat, of which \$7 shall be deposited into the General Revenue
 1381 Fund.

1382 (b) A camping trailer, as defined by s. 320.01(1)(b)2.:
 1383 \$13.50 flat, of which \$3.50 shall be deposited into the General
 1384 Revenue Fund.

1385 (c) A motor home, as defined by s. 320.01(1)(b)4.:

1386 1. Net weight of less than 4,500 pounds: \$27 flat, of
 1387 which \$7 shall be deposited into the General Revenue Fund.

1388 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
 1389 which \$12.25 shall be deposited into the General Revenue Fund.

1390 (d) A truck camper as defined by s. 320.01(1)(b)3.:

1391 1. Net weight of less than 4,500 pounds: \$27 flat, of
 1392 which \$7 shall be deposited into the General Revenue Fund.

1393 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
 1394 which \$12.25 shall be deposited into the General Revenue Fund.

1395 (e) A private motor coach as defined by s. 320.01(1)(b)5.:

1396 1. Net weight of less than 4,500 pounds: \$27 flat, of
 1397 which \$7 shall be deposited into the General Revenue Fund.

1398 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
 1399 which \$12.25 shall be deposited into the General Revenue Fund.

1400 (10) PARK TRAILERS; TRAVEL TRAILERS; FIFTH-WHEEL TRAILERS;
 1401 35 FEET TO 40 FEET.—

1402 (a) Park trailers.—Any park trailer, as defined in s.
 1403 320.01(1)(b)7.: \$25 flat.

1404 (b) A travel trailer or fifth-wheel trailer, as defined in
 1405 s. 320.01(1)(b), that exceeds 35 feet: \$25 flat.
 1406 (11) MOBILE HOMES.—
 1407 (a) A mobile home not exceeding 35 feet in length: \$20
 1408 flat.
 1409 (b) A mobile home over 35 feet in length, but not
 1410 exceeding 40 feet: \$25 flat.
 1411 (c) A mobile home over 40 feet in length, but not
 1412 exceeding 45 feet: \$30 flat.
 1413 (d) A mobile home over 45 feet in length, but not
 1414 exceeding 50 feet: \$35 flat.
 1415 (e) A mobile home over 50 feet in length, but not
 1416 exceeding 55 feet: \$40 flat.
 1417 (f) A mobile home over 55 feet in length, but not
 1418 exceeding 60 feet: \$45 flat.
 1419 (g) A mobile home over 60 feet in length, but not
 1420 exceeding 65 feet: \$50 flat.
 1421 (h) A mobile home over 65 feet in length: \$80 flat.
 1422 (12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised
 1423 motor vehicle dealer, independent motor vehicle dealer, marine
 1424 boat trailer dealer, or mobile home dealer and manufacturer
 1425 license plate: \$17 flat, of which \$4.50 shall be deposited into
 1426 the General Revenue Fund.
 1427 (13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or
 1428 official license plate: \$4 flat, of which \$1 shall be deposited
 1429 into the General Revenue Fund.

1430 (14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.—A motor
 1431 vehicle for hire operated wholly within a city or within 25
 1432 miles thereof: \$17 flat, of which \$4.50 shall be deposited into
 1433 the General Revenue Fund; plus \$2 per cwt, of which 50 cents
 1434 shall be deposited into the General Revenue Fund.

1435 (15) TRANSPORTER.—Any transporter license plate issued to
 1436 a transporter pursuant to s. 320.133: \$101.25 flat, of which
 1437 \$26.25 shall be deposited into the General Revenue Fund.

1438 Section 23. Subsection (1) of section 320.0801, Florida
 1439 Statutes, is amended to read:

1440 320.0801 Additional license tax on certain vehicles.—

1441 (1) In addition to the license taxes specified in s.
 1442 320.08 and in subsection (2), there is hereby levied and imposed
 1443 an annual license tax of 10 cents for the operation of a motor
 1444 vehicle, as defined in s. 320.01, and moped, as defined in s.
 1445 316.003 ~~316.003(77)~~, which tax shall be paid to the department
 1446 or its agent upon the registration or renewal of registration of
 1447 the vehicle. Notwithstanding the provisions of s. 320.20,
 1448 revenues collected from the tax imposed in this subsection shall
 1449 be deposited in the Emergency Medical Services Trust Fund and
 1450 used solely for the purpose of carrying out the provisions of
 1451 ss. 395.401, 395.4015, 395.404, and 395.4045 and s. 11, chapter
 1452 87-399, Laws of Florida.

1453 Section 24. Section 320.38, Florida Statutes, is amended
 1454 to read:

1455 320.38 When nonresident exemption not allowed.—The

1456 provisions of s. 320.37 authorizing the operation of motor
 1457 vehicles over the roads of this state by nonresidents of this
 1458 state when such vehicles are duly registered or licensed under
 1459 the laws of some other state or foreign country do not apply to
 1460 any nonresident who accepts employment or engages in any trade,
 1461 profession, or occupation in this state, except a nonresident
 1462 migrant or seasonal farm worker as defined in s. 316.003
 1463 ~~316.003(61)~~. In every case in which a nonresident, except a
 1464 nonresident migrant or seasonal farm worker as defined in s.
 1465 316.003 ~~316.003(61)~~, accepts employment or engages in any trade,
 1466 profession, or occupation in this state or enters his or her
 1467 children to be educated in the public schools of this state,
 1468 such nonresident shall, within 10 days after the commencement of
 1469 such employment or education, register his or her motor vehicles
 1470 in this state if such motor vehicles are proposed to be operated
 1471 on the roads of this state. Any person who is enrolled as a
 1472 student in a college or university and who is a nonresident but
 1473 who is in this state for a period of up to 6 months engaged in a
 1474 work-study program for which academic credits are earned from a
 1475 college whose credits or degrees are accepted for credit by at
 1476 least three accredited institutions of higher learning, as
 1477 defined in s. 1005.02, is not required to have a Florida
 1478 registration for the duration of the work-study program if the
 1479 person's vehicle is properly registered in another jurisdiction.
 1480 Any nonresident who is enrolled as a full-time student in such
 1481 institution of higher learning is also exempt for the duration

1482 of such enrollment.

1483 Section 25. Subsection (2) of section 322.0261, Florida
 1484 Statutes, is amended to read:

1485 322.0261 Driver improvement course; requirement to
 1486 maintain driving privileges; failure to complete; department
 1487 approval of course.—

1488 (2) With respect to an operator convicted of, or who
 1489 pleaded nolo contendere to, a traffic offense giving rise to a
 1490 crash identified in paragraph (1)(a) or paragraph (1)(b), the
 1491 department shall require that the operator, in addition to other
 1492 applicable penalties, attend a department-approved driver
 1493 improvement course in order to maintain his or her driving
 1494 privileges. The department shall include in the course
 1495 curriculum instruction specifically addressing the rights of
 1496 vulnerable ~~road~~ users as defined in s. 316.003 ~~316.027~~ relative
 1497 to vehicles on the roadway. If the operator fails to complete
 1498 the course within 90 days after receiving notice from the
 1499 department, the operator's driver license shall be canceled by
 1500 the department until the course is successfully completed.

1501 Section 26. Subsection (1) of section 322.031, Florida
 1502 Statutes, is amended to read:

1503 322.031 Nonresident; when license required.—

1504 (1) In each case in which a nonresident, except a
 1505 nonresident migrant or seasonal farm worker as defined in s.
 1506 316.003 ~~316.003(61)~~, accepts employment or engages in a trade,
 1507 profession, or occupation in this state or enters his or her

1508 children to be educated in the public schools of this state,
 1509 such nonresident shall, within 30 days after beginning such
 1510 employment or education, be required to obtain a Florida driver
 1511 license if such nonresident operates a motor vehicle on the
 1512 highways of this state. The spouse or dependent child of such
 1513 nonresident shall also be required to obtain a Florida driver
 1514 license within that 30-day period before operating a motor
 1515 vehicle on the highways of this state.

1516 Section 27. Subsection (3) of section 450.181, Florida
 1517 Statutes, is amended to read:

1518 450.181 Definitions.—As used in part II, unless the
 1519 context clearly requires a different meaning:

1520 (3) The term "migrant laborer" has the same meaning as
 1521 migrant or seasonal farm workers as defined in s. 316.003
 1522 ~~316.003(61)~~.

1523 Section 28. Subsection (5) of section 559.903, Florida
 1524 Statutes, is amended to read:

1525 559.903 Definitions.—As used in this act:

1526 (5) "Motor vehicle" means any automobile, truck, bus,
 1527 recreational vehicle, motorcycle, motor scooter, or other motor
 1528 powered vehicle, but does not include trailers, mobile homes,
 1529 travel trailers, trailer coaches without independent motive
 1530 power, watercraft or aircraft, or special mobile equipment as
 1531 defined in s. 316.003 ~~316.003(48)~~.

1532 Section 29. Subsection (1) of section 655.960, Florida
 1533 Statutes, is amended to read:

1534 655.960 Definitions; ss. 655.960-655.965.—As used in this
 1535 section and ss. 655.961-655.965, unless the context otherwise
 1536 requires:

1537 (1) "Access area" means any paved walkway or sidewalk
 1538 which is within 50 feet of any automated teller machine. The
 1539 term does not include any street or highway open to the use of
 1540 the public, as defined in s. 316.003(75)(a) or (b)
 1541 ~~316.003(53)(a) or (b)~~, including any adjacent sidewalk, as
 1542 defined in s. 316.003 ~~316.003(47)~~.

1543 Section 30. Paragraph (b) of subsection (2) of section
 1544 732.402, Florida Statutes, is amended to read:

1545 732.402 Exempt property.—

1546 (2) Exempt property shall consist of:

1547 (b) Two motor vehicles as defined in s. 316.003
 1548 ~~316.003(21)~~, which do not, individually as to either such motor
 1549 vehicle, have a gross vehicle weight in excess of 15,000 pounds,
 1550 held in the decedent's name and regularly used by the decedent
 1551 or members of the decedent's immediate family as their personal
 1552 motor vehicles.

1553 Section 31. Subsection (1) of section 860.065, Florida
 1554 Statutes, is amended to read:

1555 860.065 Commercial transportation; penalty for use in
 1556 commission of a felony.—

1557 (1) It is unlawful for any person to attempt to obtain,
 1558 solicit to obtain, or obtain any means of public or commercial
 1559 transportation or conveyance, including vessels, aircraft,

1560 railroad trains, or commercial vehicles as defined in s. 316.003
 1561 ~~316.003(66)~~, with the intent to use such public or commercial
 1562 transportation or conveyance to commit any felony or to
 1563 facilitate the commission of any felony.

1564 Section 32. For the purpose of incorporating the amendment
 1565 made by this act to section 316.1925, Florida Statutes, in a
 1566 reference thereto, paragraph (b) of subsection (4) of section
 1567 316.072, Florida Statutes, is reenacted to read:

1568 316.072 Obedience to and effect of traffic laws.—
 1569 (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;
 1570 EXCEPTIONS.—

1571 (b) Unless specifically made applicable, the provisions of
 1572 this chapter, except those contained in ss. 316.192, 316.1925,
 1573 and 316.193, shall not apply to persons, teams, or motor
 1574 vehicles and other equipment while actually engaged in work upon
 1575 the surface of a highway, but shall apply to such persons and
 1576 vehicles when traveling to or from such work.

1577 Section 33. For the purpose of incorporating the amendment
 1578 made by this act to sections 316.083 and 316.084, Florida
 1579 Statutes, in references thereto, subsection (5) of section
 1580 316.1923, Florida Statutes, is reenacted to read:

1581 316.1923 Aggressive careless driving.—"Aggressive careless
 1582 driving" means committing two or more of the following acts
 1583 simultaneously or in succession:

1584 (5) Improperly passing as defined in s. 316.083, s.
 1585 316.084, or s. 316.085.

1586 Section 34. For the purpose of incorporating the amendment
 1587 made by this act to section 318.19, Florida Statutes, in a
 1588 reference thereto, subsection (2) of section 318.14, Florida
 1589 Statutes, is reenacted to read:

1590 318.14 Noncriminal traffic infractions; exception;
 1591 procedures.—

1592 (2) Except as provided in ss. 316.1001(2) and 316.0083,
 1593 any person cited for a violation requiring a mandatory hearing
 1594 listed in s. 318.19 or any other criminal traffic violation
 1595 listed in chapter 316 must sign and accept a citation indicating
 1596 a promise to appear. The officer may indicate on the traffic
 1597 citation the time and location of the scheduled hearing and must
 1598 indicate the applicable civil penalty established in s. 318.18.
 1599 For all other infractions under this section, except for
 1600 infractions under s. 316.1001, the officer must certify by
 1601 electronic, electronic facsimile, or written signature that the
 1602 citation was delivered to the person cited. This certification
 1603 is prima facie evidence that the person cited was served with
 1604 the citation.

1605 Section 35. For the purpose of incorporating the amendment
 1606 made by this act to section 316.2065, Florida Statutes, in a
 1607 reference thereto, paragraph (b) of subsection (1) of section
 1608 318.18, Florida Statutes, is reenacted to read:

1609 318.18 Amount of penalties.—The penalties required for a
 1610 noncriminal disposition pursuant to s. 318.14 or a criminal
 1611 offense listed in s. 318.17 are as follows:

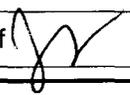
CS/HB 253

2016

1612 | (1) Fifteen dollars for:
1613 | (b) All infractions of s. 316.2065, unless otherwise
1614 | specified.
1615 | Section 36. This act shall take effect October 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 7015 PCB FTC 16-01 Property Tax Assessments
SPONSOR(S): Finance & Tax Committee, Rodrigues
TIED BILLS: **IDEN./SIM. BILLS:** SJR 1074

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee	12 Y, 5 N	Dugan	Langston
1) Appropriations Committee		Hawkins 	Leznoff 

SUMMARY ANALYSIS

The Florida Constitution limits the annual growth in the assessed value of homestead properties to the lesser of three percent or the inflation rate. For certain non-homestead properties, the annual growth in the assessed value is limited to 10 percent. In certain circumstances, the assessed value of property might grow at a faster rate than the market value.

The joint resolution proposes a constitutional amendment to allow the Legislature to add an additional limit to the rate of growth for assessed value. If the joint resolution becomes law and is implemented by the Legislature, the growth rate of homestead property would be limited to the lesser of three percent, the inflation rate, or the percent change in the homestead property's just value if the change is greater than or equal to zero. The growth rate of certain non-homestead property would be limited to the lesser of 10 percent or the percent change in the non-homestead property's just value if the change is greater than or equal to zero.

The joint resolution also proposes to allow the Legislature by general law to prohibit increases in the assessed value of homestead property and certain non-homestead property in any year where the market value of the property decreases. If created by general law, this provision would prevent what is commonly referred to as "recapture" in any year where the market value of a property decreases.

The proposed constitutional amendment takes effect January 1, 2017, if approved by the voters.

The Revenue Estimating Conference estimated the bill to have a zero impact due to the need for approval by the electorate and further implementation by the Legislature (see fiscal analysis section).

Based on 2014 advertising costs, staff estimates the full publication costs for advertising the proposed constitutional amendment to be approximately \$266,000. This would be paid from non-recurring General Revenue funds, and will be addressed in the House proposed General Appropriations Act for Fiscal Year 2016-17.

For the proposed constitutional amendment to be placed on the ballot at the general election in November 2016, the Legislature must approve the joint resolution by a three-fifths vote of the membership of each house of the Legislature.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Just Value

Article VII, section 4 of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. Under Florida law, “just valuation” is synonymous with “fair market value,” and is defined as what a willing buyer would pay a willing seller for property in an arm’s length transaction.¹

Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.² Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of character or use.³ Land used for conservation purposes must be assessed solely on the basis of character or use.⁴ Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or be totally exempted from taxation.⁵ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.⁶ Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.⁷ The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property’s wind resistance or the installation of renewable energy source devices in the assessment of the property.⁸ Certain working waterfront property is assessed based upon the property’s current use.⁹

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or the Florida Statutes.

Save Our Homes

The “Save Our Homes” provision in article VII, section 4 of the Florida Constitution limits the amount a homestead property’s assessed value can increase annually to the lesser of three percent or the inflation rate as measured by the Consumer Price Index (CPI).¹⁰ This allows a differential between just value and assessed value to develop over time for a property. Homestead property owners who establish a new homestead may transfer up to \$500,000 of their accrued “Save Our Homes” benefit to that homestead.¹¹

¹ s. 193.011, F.S. See, also, *Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

² The constitutional provisions in art. VII, s. 4 of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

³ Fla. Const. art. VII, s. 4(a).

⁴ Fla. Const. art. VII, s. 4(b).

⁵ Fla. Const. art. VII, s. 4(c).

⁶ Fla. Const. art. VII, s. 4(e).

⁷ Fla. Const. art. VII, s. 4(f).

⁸ Fla. Const. art. VII, s. 4(i).

⁹ Fla. Const. art. VII, s. 4(j).

¹⁰ Fla. Const. art. VII, s. 4(d).

¹¹ Fla. Const. art. VII, s. 4(d).

Section 193.155, Florida Statutes

In 1994, the Legislature implemented the “Save Our Homes” amendment in s. 193.155, F.S.¹² The legislation required all homestead property to be assessed at just value by January 1, 1994.¹³ Starting on January 1, 1995, or the year after the property receives a homestead exemption (whichever is later), property receiving a homestead exemption must be reassessed annually on January 1 of each year. As provided in the constitution, s. 193.155, F.S., requires that any change resulting from the reassessment may not exceed the lesser of three percent or the growth in the CPI. Pursuant to s. 193.155(2), F.S., if the assessed value of the property exceeds its just value, the assessed value must be lowered to the just value of the property.

Rule 12D-8.0062, Florida Administrative Code: “The Recapture Rule”

In October 1995, the Governor and the Cabinet, acting as the head of the Department of Revenue, adopted Rule 12D-8.0062, F.A.C., entitled “Assessments; Homestead; and Limitations.”¹⁴ The rule “govern[s] the determination of the assessed value of property subject to the homestead assessment limitation under article VII, section 4(c) of the Florida Constitution and section 193.155, F.S.”¹⁵

Subsection (5) of the rule is popularly known as the “recapture rule.” This subsection requires property appraisers to increase the assessed value of a homestead property by the lower of three percent or the CPI on all property where the prior year’s assessed value is lower than the just value. The specific language in Rule 12D-8.0062(5), F.A.C., provides:

Where the current year just value of an individual property exceeds the prior year assessed value, the property appraiser is *required* to increase the prior year’s assessed value¹⁶

Currently, this requirement applies even if the just value of the homestead property has decreased from the prior year. Therefore, homestead property owners entitled to the “Save Our Homes” cap whose property is assessed at less than just value may see an increase in the assessed value of their home in years where the just/market value of their property has decreased.

Subsection (6) of the rule provides that if the change in the CPI is negative, then the assessed value must be equal to the prior year’s assessed value decreased by that percentage.

Markham v. Department of Revenue¹⁷

On March 17, 1995, William Markham, the Broward County Property Appraiser, filed a petition challenging the validity of the Department of Revenue’s proposed “recapture rule” within Rule 12D-8.0062, F.A.C. Markham alleged that the proposed rule was “an invalid exercise of delegated legislative authority and is arbitrary and capricious.”¹⁸ Markham also claimed that subsection (5) of the rule was at

¹² ch. 94-353, Laws of Fla.

¹³ See, *Fuchs v. Wilkinson*, 630 So. 2d 1044 (Fla. 1994), “the clear language of the amendment establishes January 1, 1994, as the first “just value” assessment date, and as a result, requires the operative date of the amendment’s limitations, which establish the “tax value” of homestead property, to be January 1, 1995.”

¹⁴ While s. 193.155, F.S., did not provide specific rulemaking authority, the Department of Revenue adopted Rule 12D-9.0062, F.A.C., pursuant to its general rulemaking authority under s. 195.927, F.S. Section 195.027, F.S., provides that the Department of Revenue shall prescribe reasonable rules and regulations for the assessing and collecting of taxes, and that the Legislature intends that the department shall formulate such rules and regulations that property will be assessed, taxes will be collected, and that the administration will be uniform, just and otherwise in compliance with the requirements of general law and the constitution.

¹⁵ Rule 12D-8.0062(1), F.A.C.

¹⁶ Rule 12D-8.0062(5), F.A.C.

¹⁷ *Markham v. Department of Revenue*, Case No. 95-1339RP (Fla. DOAH 1995).

¹⁸ *Id.*

variance with the constitution—specifically that it conflicted with the “intent” of the ballot initiative and that a third limitation relating to market value or movement¹⁹ should be incorporated into the language of the rule to make it compatible with the language in article VII, section 4(c) of the Florida Constitution.

A final order was issued by the Division of Administrative Hearings on June 21, 1995, which upheld the validity of Rule 12D-8.0062, F.A.C., and the Department of Revenue’s exercise of delegated legislative authority. The hearing officer determined that subsections (5) and (6) of the administrative rule were consistent with article VII, section 4(c) of the Florida Constitution. The hearing officer also held that the challenged portions of the rule were consistent with the agency’s mandate to adopt rules under s. 195.027(1), F.S., since the rule had a factual and logical underpinning, was plain and unambiguous, and did not conflict with the implemented law.²⁰

Additional Assessment Limitations

Article VII, sections 4(g) and (h) of the Florida Constitution, provide an assessment limitation for non-homestead residential real property containing nine or fewer units, and for all real property not subject to other specified assessment limitations, respectively. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units must be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature may provide that such property is assessed at just value after a change of ownership or control and must provide for reassessment following a qualifying improvement, as defined by general law. Article XII, section 27 of the Florida Constitution, provides that the amendments creating a limitation on annual assessment increases in subsections (f) and (g) are repealed effective January 1, 2019, and that the Legislature must propose an amendment abrogating the repeal, which shall be submitted to the voters for approval or rejection on the general election ballot for 2018.

Homestead Exemption

Article VII, section 6 of the Florida Constitution, provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to a homestead property’s assessed value between \$50,000 and \$75,000, excluding school district levies.

Other Exemptions

Article VII, section 3 of the Florida Constitution, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.²¹ Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.²² A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.²³ A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.²⁴ Tangible personal property is exempt up to

¹⁹ *Markham v. Department of Revenue, Case No. 95-1339RP (Fla. DOAH 1995)* (“[t]his limitation, grounded on “market movement,” would mean that in a year in which market value did not increase, the assessed value of a homestead property would not increase.”).

²⁰ *Id.* at ¶ 20.

²¹ Fla. Const. art. VII, s. 3(a).

²² Fla. Const. art. VII, s. 3(b).

²³ Fla. Const. art. VII, s. 3(c).

²⁴ Fla. Const. art. VII, s. 3(d).

\$25,000 of its assessed value.²⁵ There is an exemption for real property dedicated in perpetuity for conservation purposes.²⁶ In November 2010, voters approved a constitutional amendment that adds an additional exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.²⁷

Effect of Proposed Changes

The joint resolution proposes a constitutional amendment to allow the Legislature by general law to add an additional limit to the rate of growth for assessed value. If the joint resolution becomes law and is implemented by the Legislature, the growth rate of homestead property would be limited to the lesser of three percent, the inflation rate, or the percent change in the homestead property's just value if the change is greater than or equal to zero. The growth rate of non-homestead property currently eligible for the 10 percent annual assessment growth limit would be limited to the lesser of 10 percent or the percent change in the property's just value if the change is greater than or equal to zero.

The joint resolution also proposes to allow the Legislature by general law to prohibit increases in the assessed value of homestead property and non-homestead property currently eligible for the 10 percent annual assessment growth limit in any year where the market value of the property decreases. If created by general law, this provision would prevent what is commonly referred to as "recapture" in any year where the market value of a property decreases. The assessed value of such properties could still increase for unrelated reasons, such as an increase in just value due to improvements made to the homestead property.²⁸

The proposed constitutional amendment takes effect January 1, 2017, if approved by the voters.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State has not estimated the publication costs for advertising the joint resolution.

Based on 2014 advertising costs, staff estimates the full publication costs for advertising the proposed constitutional amendment to be approximately \$266,000. This would be paid from non-recurring General Revenue funds, and funded in the House proposed General Appropriations Act for Fiscal Year 2016-17.

²⁵ Fla. Const. art. VII, s. 3(e).

²⁶ Fla. Const. art. VII, s. 3(f).

²⁷ Fla. Const. art. VII, s. 3(g).

²⁸ See, Art. VII, s. 4(d)(5) of the Florida Constitution.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On November 13, 2015, the Revenue Estimating Conference estimated the bill to have a zero impact due to the need for approval by the electorate and further implementation by the Legislature.

However, the conference estimated that, assuming current millage rates, if approved in the referendum and fully implemented by the Legislature, the annual recurring impact on property tax collections would be approximately -\$65.6 million for schools and -\$96.6 million for non-school purposes, reflecting a build-up of impacts over five years. For non-school purposes in fiscal years 2017-18 and 2018-19 there would be additional non-recurring impacts of -\$43.0 million and -\$169.2 million, respectively, reflecting the January 1, 2019 repeal of the 10 percent growth limit on certain non-homestead properties.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Upon voter approval and implementation by the Legislature, owners of homestead property and non-homestead residential rental and commercial real property will not experience increased property taxes in a year where the market value of the property decreases.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.²⁹ The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by the a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.³⁰

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election.

B. RULE-MAKING AUTHORITY:

None.

²⁹ Fla. Const. art. XI, s. 1.

³⁰ Fla. Const. art. XI, s. 5.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution to allow the Legislature to limit growth in the assessed value of homestead and specified nonhomestead property to the growth rate in just value, to prohibit increases in the assessed value of homestead and specified nonhomestead property if the just value of the property decreases, and to provide an effective date.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for

27 noncommercial recreational purposes may be classified by general
 28 law and assessed solely on the basis of character or use.

29 (b) As provided by general law and subject to conditions,
 30 limitations, and reasonable definitions specified therein, land
 31 used for conservation purposes shall be classified by general
 32 law and assessed solely on the basis of character or use.

33 (c) Pursuant to general law tangible personal property
 34 held for sale as stock in trade and livestock may be valued for
 35 taxation at a specified percentage of its value, may be
 36 classified for tax purposes, or may be exempted from taxation.

37 (d) All persons entitled to a homestead exemption under
 38 Section 6 of this Article shall have their homestead assessed at
 39 just value as of January 1 of the year following the effective
 40 date of this amendment. This assessment shall change only as
 41 provided in this subsection.

42 (1) Assessments subject to this subsection shall be
 43 changed annually on January 1st of each year; but those changes
 44 in assessments shall not exceed the lowest ~~lower~~ of the
 45 following:

46 a. Three percent (3%) of the assessment for the prior
 47 year.

48 b. The percent change in the Consumer Price Index for all
 49 urban consumers, U.S. City Average, all items 1967=100, or
 50 successor reports for the preceding calendar year as initially
 51 reported by the United States Department of Labor, Bureau of
 52 Labor Statistics.

53 c. The percent change in the homestead property's just
 54 value, if the change is greater than or equal to zero and the
 55 legislature so provides by general law.

56 (2) The legislature may provide by general law that an
 57 assessment does not increase if the just value of the homestead
 58 property is less than its just value on the preceding January 1.

59 ~~(3)(2)~~ No assessment shall exceed just value.

60 ~~(4)(3)~~ After any change of ownership, as provided by
 61 general law, homestead property shall be assessed at just value
 62 as of January 1 of the following year, unless the provisions of
 63 paragraph ~~(9)~~ ~~(8)~~ apply. Thereafter, the homestead shall be
 64 assessed as provided in this subsection.

65 ~~(5)(4)~~ New homestead property shall be assessed at just
 66 value as of January 1st of the year following the establishment
 67 of the homestead, unless the provisions of paragraph ~~(9)~~ ~~(8)~~
 68 apply. That assessment shall only change as provided in this
 69 subsection.

70 ~~(6)(5)~~ Changes, additions, reductions, or improvements to
 71 homestead property shall be assessed as provided for by general
 72 law; provided, however, after the adjustment for any change,
 73 addition, reduction, or improvement, the property shall be
 74 assessed as provided in this subsection.

75 ~~(7)(6)~~ In the event of a termination of homestead status,
 76 the property shall be assessed as provided by general law.

77 ~~(8)(7)~~ The provisions of this amendment are severable. If
 78 any of the provisions of this amendment shall be held

79 | unconstitutional by any court of competent jurisdiction, the
 80 | decision of such court shall not affect or impair any remaining
 81 | provisions of this amendment.

82 | (9)~~(8)~~a. A person who establishes a new homestead as of
 83 | January 1, 2009, or January 1 of any subsequent year and who has
 84 | received a homestead exemption pursuant to Section 6 of this
 85 | Article as of January 1 of either of the two years immediately
 86 | preceding the establishment of the new homestead is entitled to
 87 | have the new homestead assessed at less than just value. If this
 88 | revision is approved in January of 2008, a person who
 89 | establishes a new homestead as of January 1, 2008, is entitled
 90 | to have the new homestead assessed at less than just value only
 91 | if that person received a homestead exemption on January 1,
 92 | 2007. The assessed value of the newly established homestead
 93 | shall be determined as follows:

94 | 1. If the just value of the new homestead is greater than
 95 | or equal to the just value of the prior homestead as of January
 96 | 1 of the year in which the prior homestead was abandoned, the
 97 | assessed value of the new homestead shall be the just value of
 98 | the new homestead minus an amount equal to the lesser of
 99 | \$500,000 or the difference between the just value and the
 100 | assessed value of the prior homestead as of January 1 of the
 101 | year in which the prior homestead was abandoned. Thereafter, the
 102 | homestead shall be assessed as provided in this subsection.

103 | 2. If the just value of the new homestead is less than the
 104 | just value of the prior homestead as of January 1 of the year in

105 | which the prior homestead was abandoned, the assessed value of
 106 | the new homestead shall be equal to the just value of the new
 107 | homestead divided by the just value of the prior homestead and
 108 | multiplied by the assessed value of the prior homestead.
 109 | However, if the difference between the just value of the new
 110 | homestead and the assessed value of the new homestead calculated
 111 | pursuant to this sub-subparagraph is greater than \$500,000, the
 112 | assessed value of the new homestead shall be increased so that
 113 | the difference between the just value and the assessed value
 114 | equals \$500,000. Thereafter, the homestead shall be assessed as
 115 | provided in this subsection.

116 | b. By general law and subject to conditions specified
 117 | therein, the legislature shall provide for application of this
 118 | paragraph to property owned by more than one person.

119 | (e) The legislature may, by general law, for assessment
 120 | purposes and subject to the provisions of this subsection, allow
 121 | counties and municipalities to authorize by ordinance that
 122 | historic property may be assessed solely on the basis of
 123 | character or use. Such character or use assessment shall apply
 124 | only to the jurisdiction adopting the ordinance. The
 125 | requirements for eligible properties must be specified by
 126 | general law.

127 | (f) A county may, in the manner prescribed by general law,
 128 | provide for a reduction in the assessed value of homestead
 129 | property to the extent of any increase in the assessed value of
 130 | that property which results from the construction or

131 reconstruction of the property for the purpose of providing
 132 living quarters for one or more natural or adoptive grandparents
 133 or parents of the owner of the property or of the owner's spouse
 134 if at least one of the grandparents or parents for whom the
 135 living quarters are provided is 62 years of age or older. Such a
 136 reduction may not exceed the lesser of the following:

137 (1) The increase in assessed value resulting from
 138 construction or reconstruction of the property.

139 (2) Twenty percent of the total assessed value of the
 140 property as improved.

141 (g) For all levies other than school district levies,
 142 assessments of residential real property, as defined by general
 143 law, which contains nine units or fewer and which is not subject
 144 to the assessment limitations set forth in subsections (a)
 145 through (d) shall change only as provided in this subsection.

146 (1) Assessments subject to this subsection shall be
 147 changed annually on the date of assessment provided by law, ~~+~~ but
 148 those changes in assessments shall not exceed the lower of the
 149 following:

150 a. Ten percent (10%) of the assessment for the prior year.

151 b. The percent change in the property's just value, if the
 152 change is greater than or equal to zero and the legislature so
 153 provides by general law.

154 (2) The legislature may provide by general law that an
 155 assessment does not increase if the just value of the property
 156 is less than its just value on the preceding date of assessment

157 provided by law.

158 ~~(3)(2)~~ No assessment shall exceed just value.

159 ~~(4)(3)~~ After a change of ownership or control, as defined
 160 by general law, including any change of ownership of a legal
 161 entity that owns the property, such property shall be assessed
 162 at just value as of the next assessment date. Thereafter, such
 163 property shall be assessed as provided in this subsection.

164 ~~(5)(4)~~ Changes, additions, reductions, or improvements to
 165 such property shall be assessed as provided for by general law;
 166 however, after the adjustment for any change, addition,
 167 reduction, or improvement, the property shall be assessed as
 168 provided in this subsection.

169 (h) For all levies other than school district levies,
 170 assessments of real property that is not subject to the
 171 assessment limitations set forth in subsections (a) through (d)
 172 and (g) shall change only as provided in this subsection.

173 (1) Assessments subject to this subsection shall be
 174 changed annually on the date of assessment provided by law, ~~+~~ but
 175 those changes in assessments shall not exceed the lower of the
 176 following:

177 a. Ten percent (10%) of the assessment for the prior year.

178 b. The percent change in the property's just value, if the
 179 change is greater than or equal to zero and the legislature so
 180 provides by general law.

181 (2) The legislature may provide by general law that an
 182 assessment does not increase if the just value of the property

183 is less than its just value on the preceding date of assessment
 184 provided by law.

185 ~~(3)(2)~~ No assessment shall exceed just value.

186 ~~(4)(3)~~ The legislature must provide that such property
 187 shall be assessed at just value as of the next assessment date
 188 after a qualifying improvement, as defined by general law, is
 189 made to such property. Thereafter, such property shall be
 190 assessed as provided in this subsection.

191 ~~(5)(4)~~ The legislature may provide that such property
 192 shall be assessed at just value as of the next assessment date
 193 after a change of ownership or control, as defined by general
 194 law, including any change of ownership of the legal entity that
 195 owns the property. Thereafter, such property shall be assessed
 196 as provided in this subsection.

197 ~~(6)(5)~~ Changes, additions, reductions, or improvements to
 198 such property shall be assessed as provided for by general law.~~†~~
 199 However, after the adjustment for any change, addition,
 200 reduction, or improvement, the property shall be assessed as
 201 provided in this subsection.

202 (i) The legislature, by general law and subject to
 203 conditions specified therein, may prohibit the consideration of
 204 the following in the determination of the assessed value of real
 205 property used for residential purposes:

206 (1) Any change or improvement made for the purpose of
 207 improving the property's resistance to wind damage.

208 (2) The installation of a renewable energy source device.

209 (j)(1) The assessment of the following working waterfront
 210 properties shall be based upon the current use of the property:

211 a. Land used predominantly for commercial fishing
 212 purposes.

213 b. Land that is accessible to the public and used for
 214 vessel launches into waters that are navigable.

215 c. Marinas and drystacks that are open to the public.

216 d. Water-dependent marine manufacturing facilities,
 217 commercial fishing facilities, and marine vessel construction
 218 and repair facilities and their support activities.

219 (2) The assessment benefit provided by this subsection is
 220 subject to conditions and limitations and reasonable definitions
 221 as specified by the legislature by general law.

222 ARTICLE XII

223 SCHEDULE

224 Property tax assessments.—This section and the amendment to
 225 Section 4 of Article VII addressing the limitation on the growth
 226 of assessed value for homestead and specified nonhomestead
 227 property, and homestead and specified nonhomestead property
 228 having a declining just value, shall take effect January 1,
 229 2017.

230 BE IT FURTHER RESOLVED that the following statement be
 231 placed on the ballot:

232 CONSTITUTIONAL AMENDMENT

233 ARTICLE VII, SECTION 4

234 ARTICLE XII

235 PROPERTY TAX ASSESSMENTS; GROWTH RATE LIMITATIONS;
 236 DECLINING PROPERTY VALUE.—Proposing an amendment to the State
 237 Constitution to authorize the Legislature to limit growth in the
 238 assessed value of homestead and specified nonhomestead property
 239 to reflect the growth rate in the just value of the property,
 240 and to authorize the Legislature to prohibit homestead and
 241 specified nonhomestead property assessment increases if the
 242 property's just value is less than just value from the prior
 243 year. If approved by voters, the amendment takes effect January
 244 1, 2017.

245 BE IT FURTHER RESOLVED that the following statement be
 246 placed on the ballot if a court declares the preceding statement
 247 defective and the decision of the court is not reversed:

248 CONSTITUTIONAL AMENDMENT

249 ARTICLE VII, SECTION 4

250 ARTICLE XII

251 PROPERTY TAX ASSESSMENTS; GROWTH RATE LIMITATIONS;
 252 DECLINING PROPERTY VALUE.—Proposing an amendment to the State
 253 Constitution:

254 (1) The State Constitution limits growth in the assessed
 255 value of homestead property to the lesser of 3 percent or the
 256 inflation rate. In certain circumstances, this could lead to the
 257 assessed value of homestead property growing at a faster rate
 258 than just value. Therefore, the amendment allows the Legislature
 259 to add an additional limit to the rate of growth for assessed
 260 value of homestead property. The growth rate would be limited to

261 3 percent, the inflation rate, or the percent change in the
 262 homestead property's just value, whichever is least. If approved
 263 by voters, the amendment takes effect January 1, 2017.

264 (2) The State Constitution limits growth in the assessed
 265 value of nonhomestead property to 10 percent of the prior year
 266 assessment. In certain circumstances, this could lead to the
 267 assessed value of the property growing at a faster rate than
 268 just value. Therefore, the amendment allows the Legislature to
 269 add an additional limit to the rate of growth for assessed value
 270 of specified nonhomestead property. The growth rate would be
 271 limited to the lesser of 10 percent of the prior year assessment
 272 or the percent change in the specified nonhomestead property's
 273 just value. If approved by voters, the amendment takes effect
 274 January 1, 2017.

275 (3) In certain circumstances, the State Constitution
 276 requires the assessed value of homestead and specified
 277 nonhomestead property to increase when the just value of the
 278 property decreases. Therefore, the amendment allows the
 279 Legislature to provide that the assessment of homestead and
 280 specified nonhomestead property does not increase if the just
 281 value of the property is less than its just value on the
 282 preceding date of assessment. If approved by voters, the
 283 amendment takes effect January 1, 2017.

**School District FCO
Funding**

SCHOOL DISTRICT FIXED CAPITAL OUTLAY FUNDING

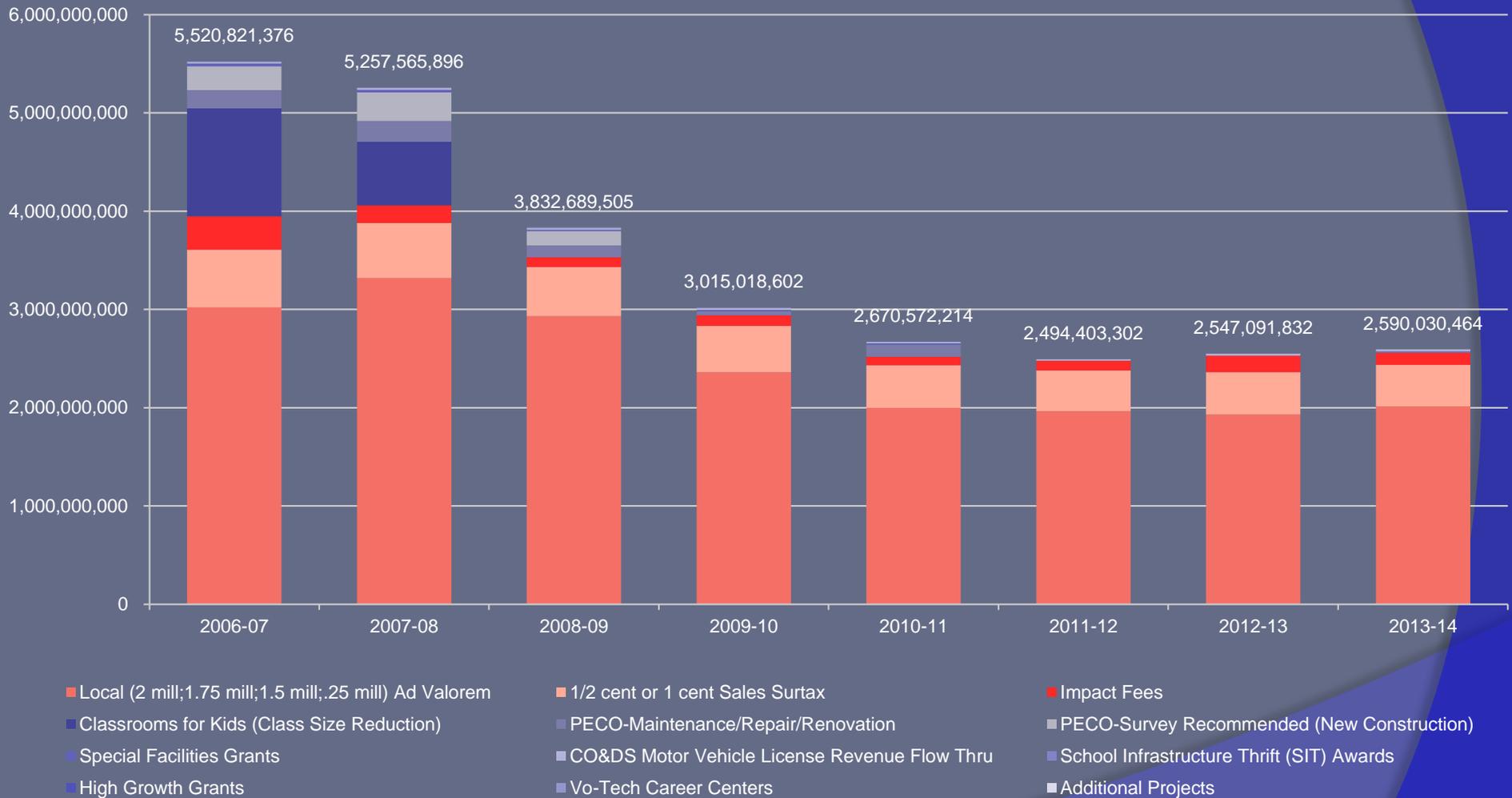
HOUSE APPROPRIATIONS COMMITTEE
RICHARD CORCORAN, CHAIRMAN



SCHOOL DISTRICT PRIMARY FCO REVENUE SOURCES

- ◎ Non-voted 1.5 millage levy - s. 1011.71(2), F.S.
 - 55 districts levy max of 1.5 mills
 - 12 districts levy less than 1.5 mills
- ◎ Voted Debt service millage – s. 1011.74, F.S.
 - 2 districts levy
- ◎ Voted 2-year or 4-year Millage – s. 1011.73(1), F.S.
 - No districts currently levy
- ◎ Voted ½ cent sales surtax – s. 212.055(6), F.S.
 - 15 districts levy sales surtax
- ◎ State appropriated PECO – s. 1013.64, F.S.
 - Special Facilities Construction Accounts
 - Maintenance and Repair
 - New Construction (formula)
 - Specific line item appropriation

Total Revenue Collections from all sources



Statutory Requirements

- ◎ Section 1013.64(6)(c), F.S.
 - 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).

Statutory Requirements

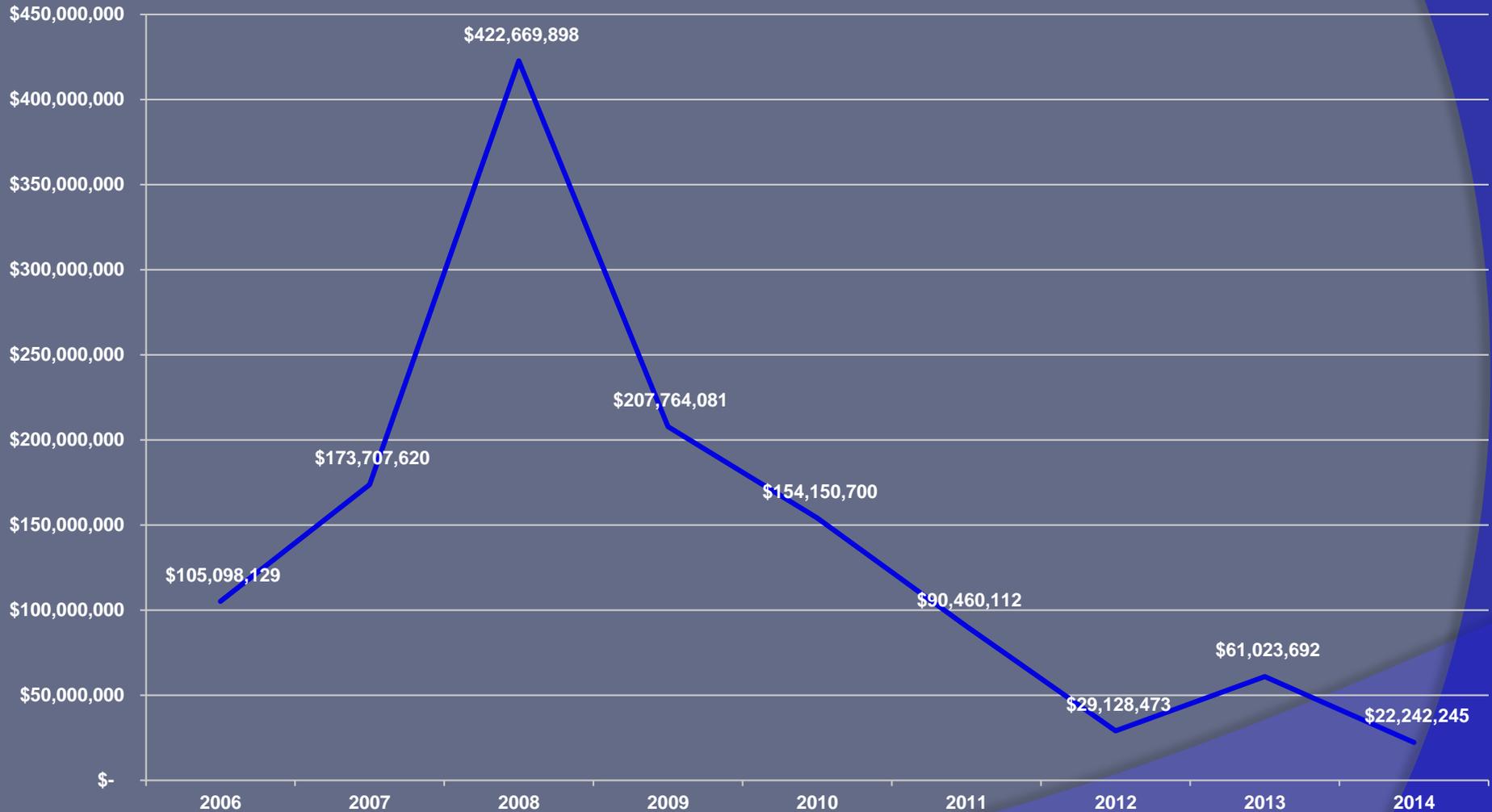
- ◎ Section 1013.64(6)(e), F.S.
 - The restrictions of this subsection on the cost per student station of new construction do not apply to a project funded entirely from proceeds received by districts through provisions of:
 - ½ cent Sales Surtax;
 - 2- and 4-year voted millages; and
 - Bond referendums.
 - if the school board approves the project by majority vote.

Cost of Construction Limitations

- ◎ Construction of facilities is limited to a cost per student station.
- ◎ 2014 Student Station Cost Factors are:
 - Elementary \$21,194
 - Middle \$22,886
 - High \$29,728
- ◎ Actual average cost per student station:
 - Elementary \$23,219 +11.3%
 - Middle \$37,744 +67.6%
 - High \$40,092 +37.0%

Funds Expended Over Statutory Limit

9-year total = \$1,266,244,950



CHARTER SCHOOLS

Charter School FCO Funding

FY	Appropriation		FY	Appropriation
1998-1999	351,432		2007-2008	54,039,458
1999-2000	7,876,274		2008-2009	55,066,208
2000-2001	22,845,142		2009-2010	56,112,466
2001-2002	27,700,000		2010-2011	56,112,466
2002-2003	27,700,000		2011-2012	55,209,106
2003-2004	27,700,000		2012-2013	55,209,106
2004-2005	27,700,000		2013-2014	90,604,553
2005-2006	27,700,000		2014-2015	75,000,000
2006-2007	53,083,947		2015-2016	50,000,000

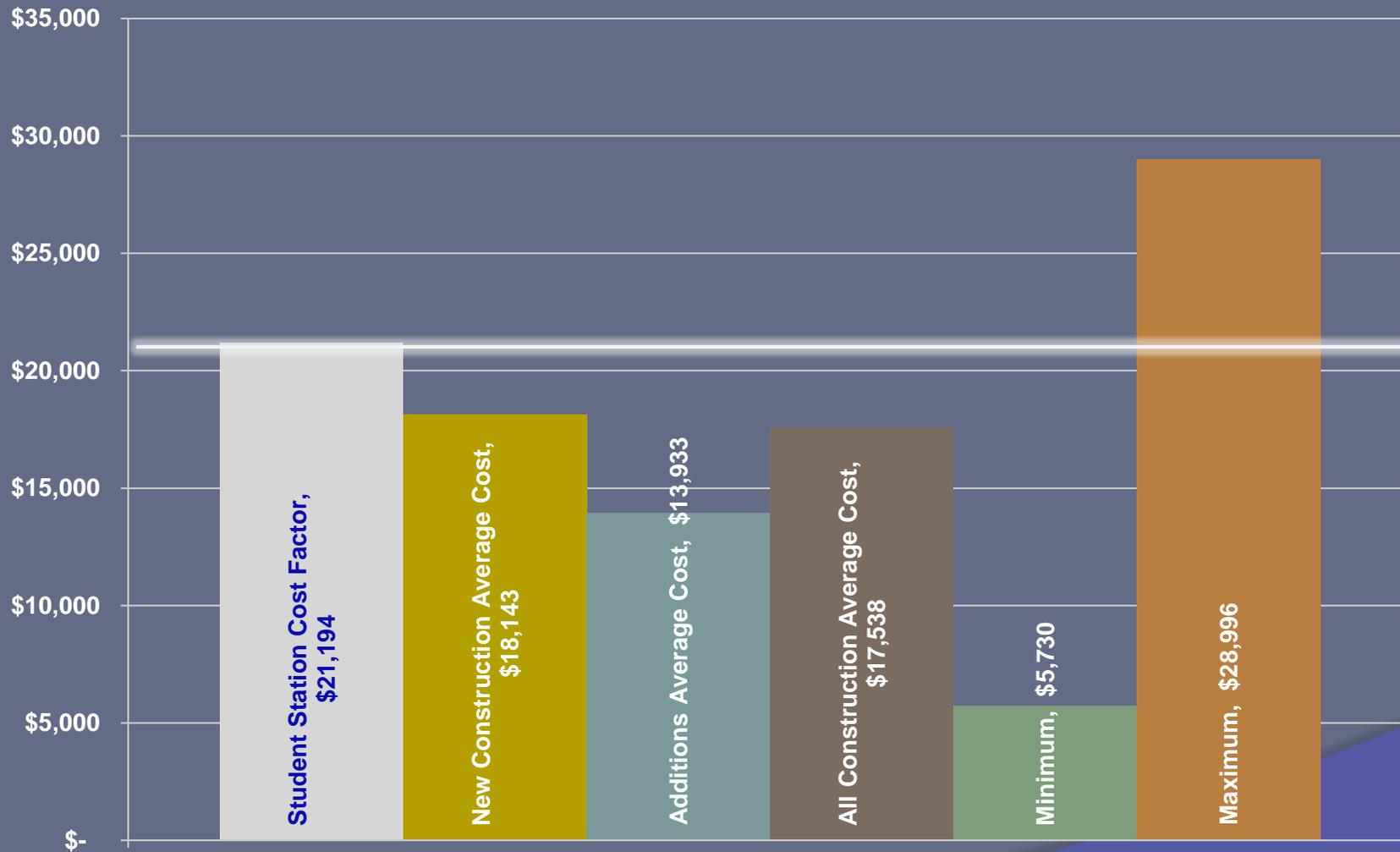
10 years of Charter School Funding 2006-07 through 2015-16

- ◎ 628 charter schools
 - \$597,790,233 in payments
- ◎ 220 charters schools in 2006-07
- ◎ 485 charter schools in 2015-16
 - Includes 73 of 2006-07 charter schools
- ◎ 143 charter schools - no FCO funding in 2015-16
 - 114 closed charter schools = \$35,121,974
 - 29 open charter schools = \$11,851,313

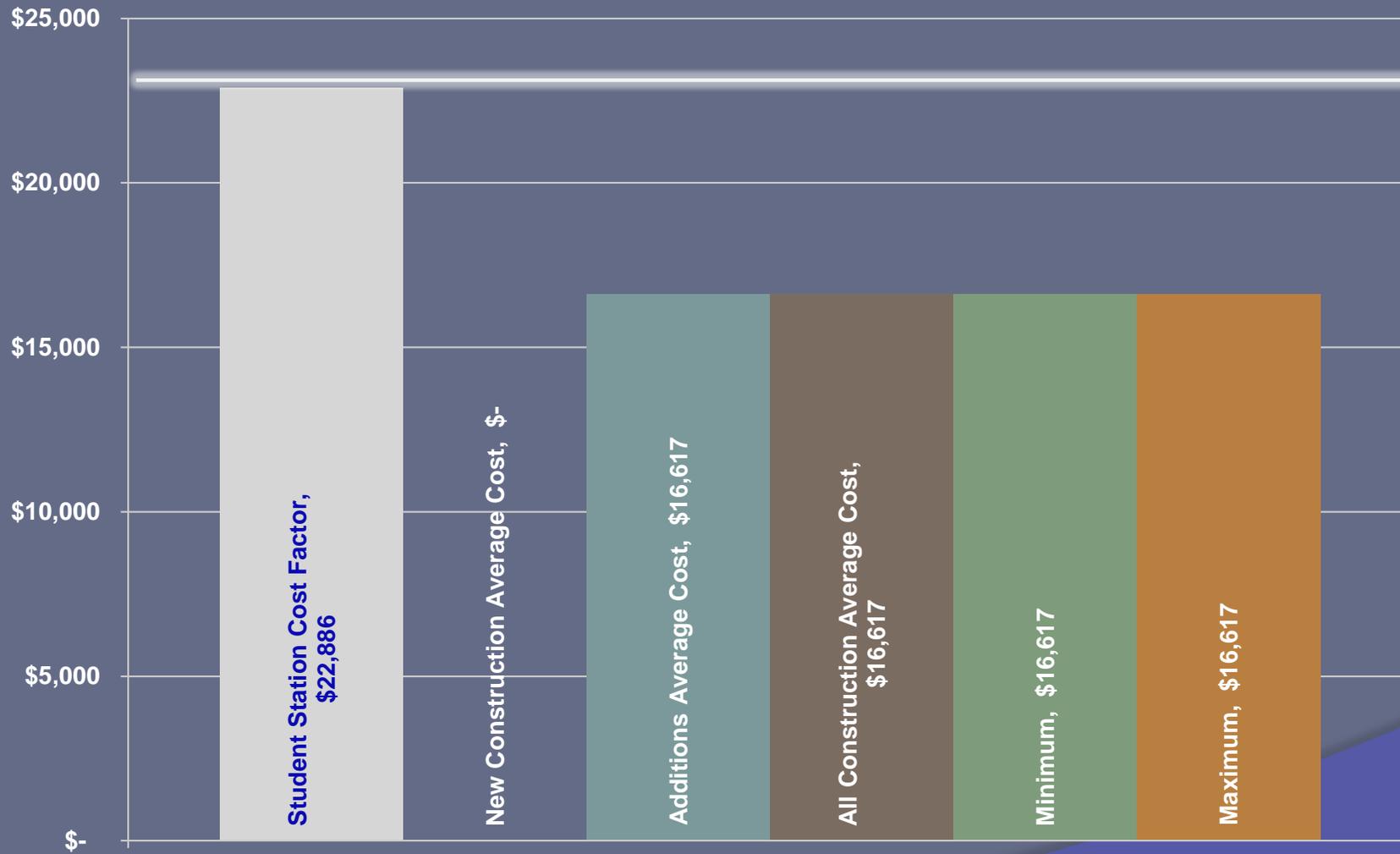
ADDITIONAL INFORMATION BY FISCAL YEAR

2014

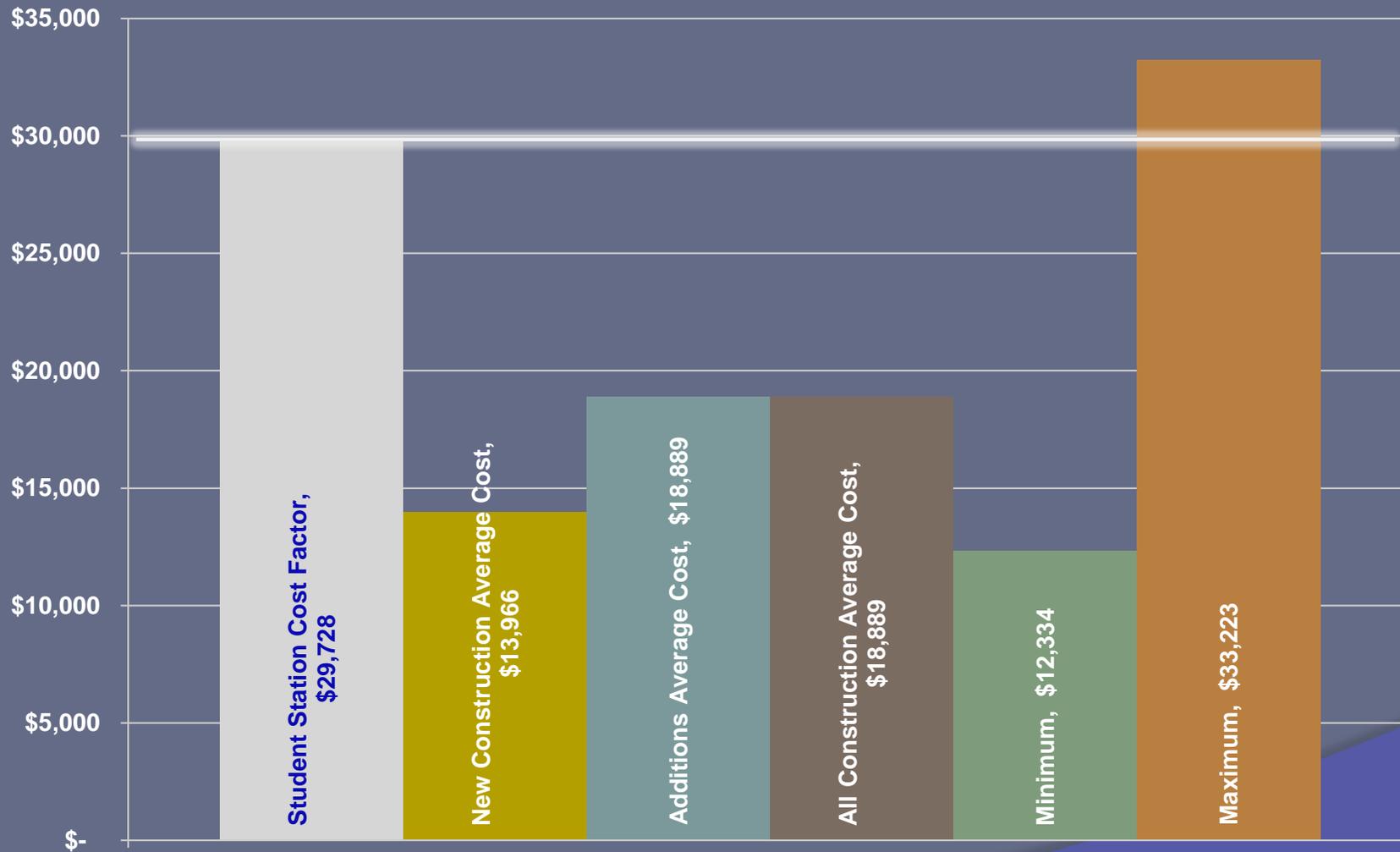
2014 Construction Costs Elementary Schools



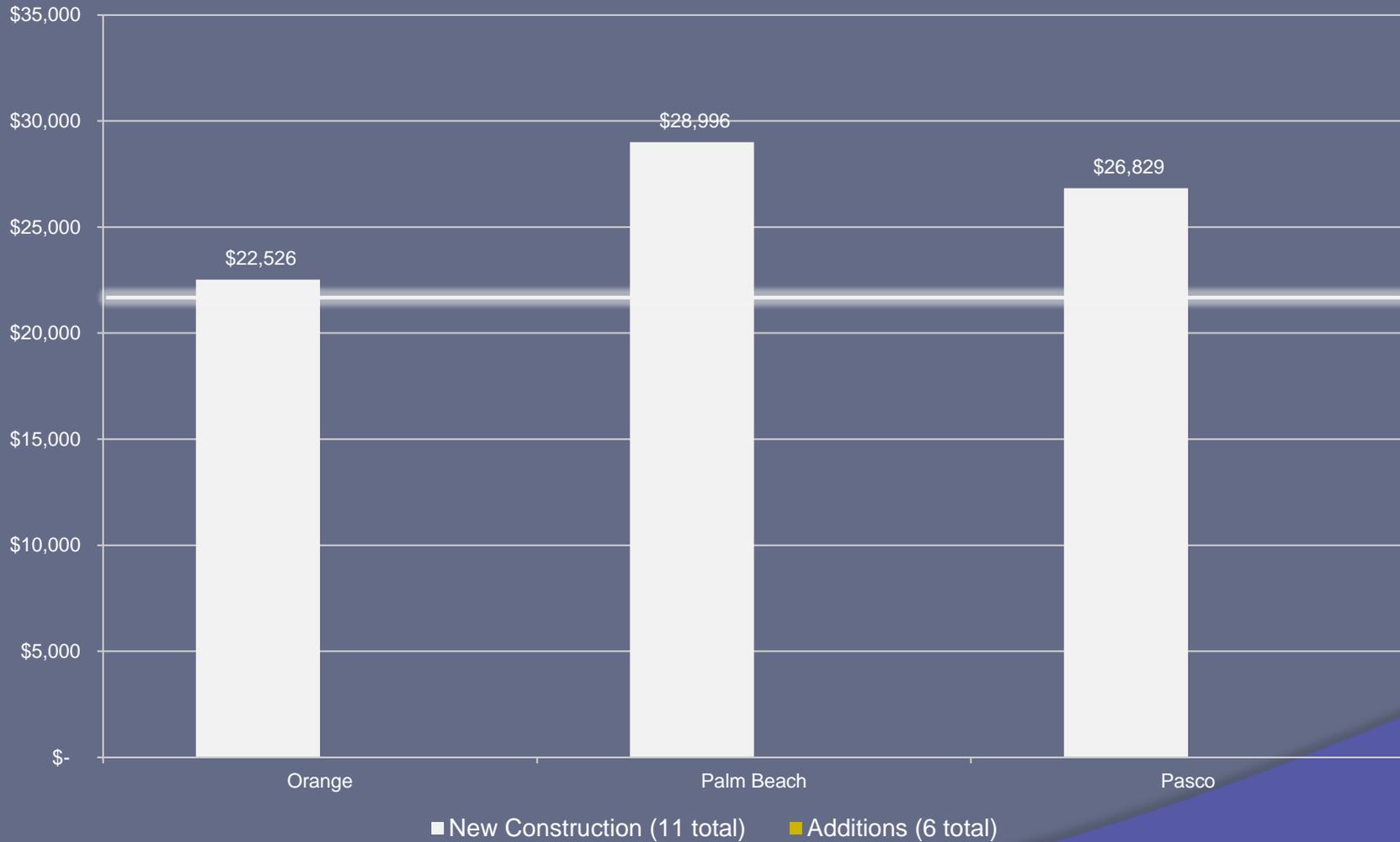
2014 Construction Costs Middle Schools



2014 Construction Costs High Schools



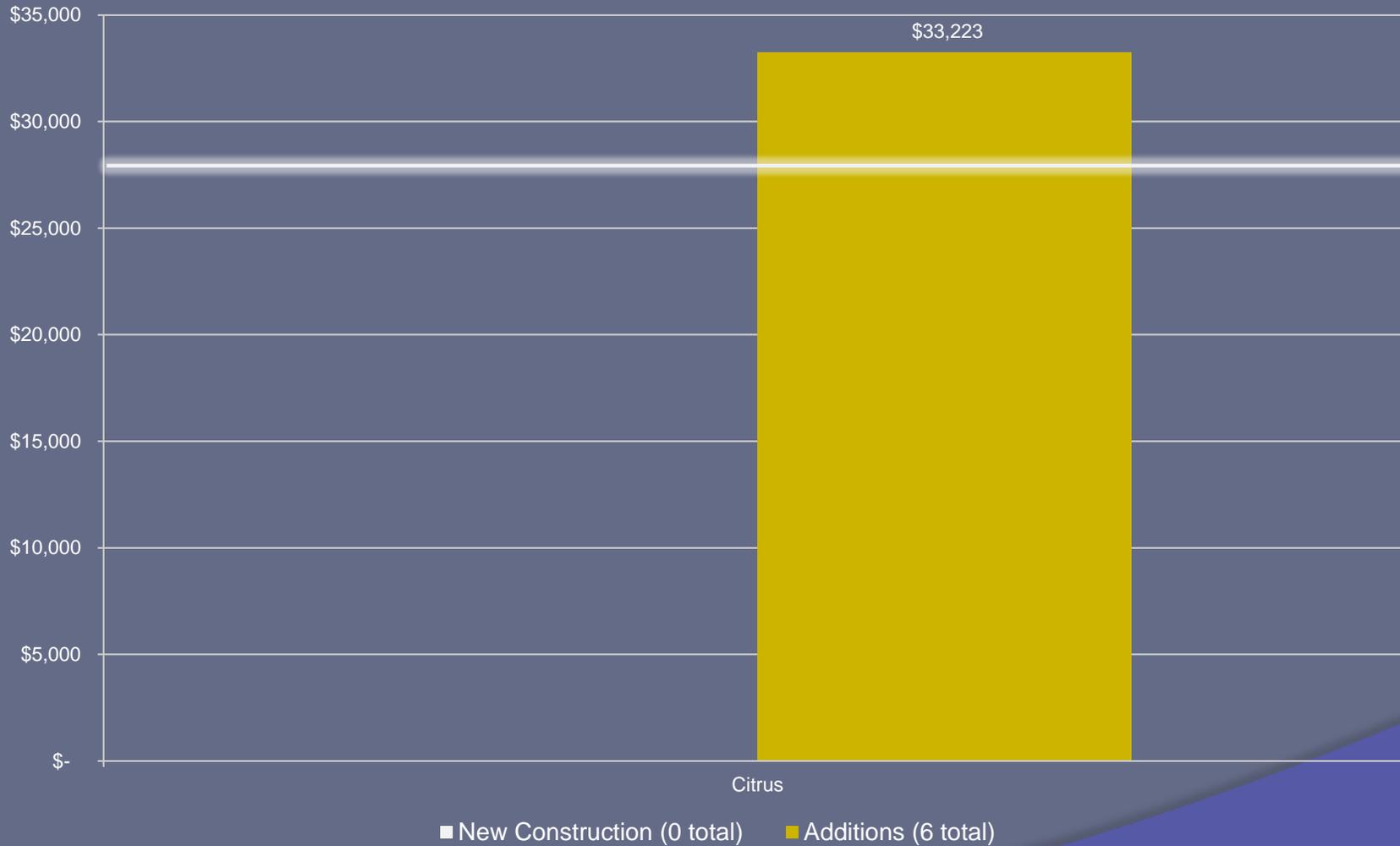
2014 Projects Above Elementary School Student Station Cost of \$21,194



2014 Middle School Student Station Cost of \$22,886

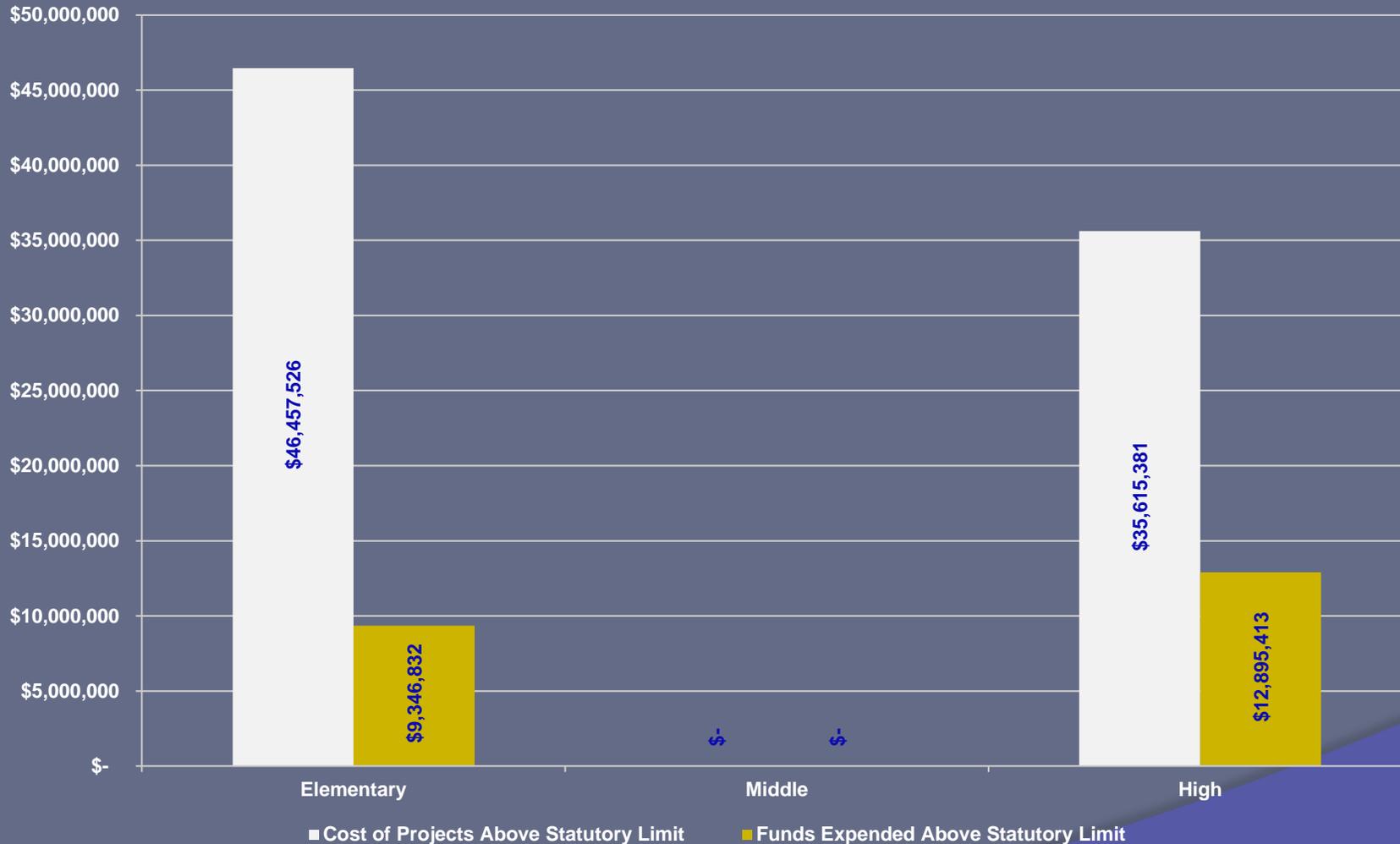


2014 Projects Above High School Student Station Cost of \$29,728



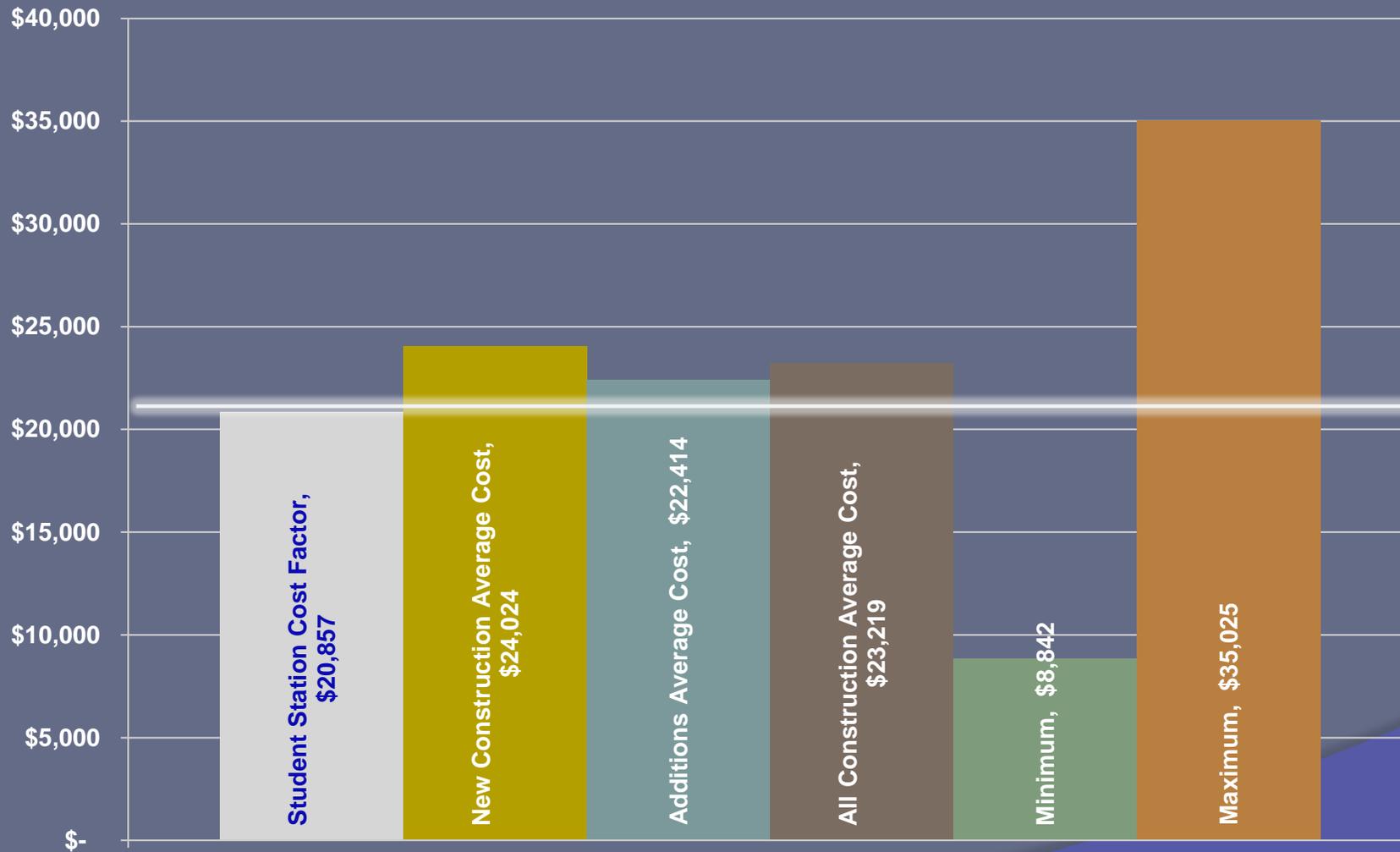
2014 Total Construction Costs for Schools Exceeding the Statutory Limit = \$82.0 million

Excess of Statutory Limit = \$22 million

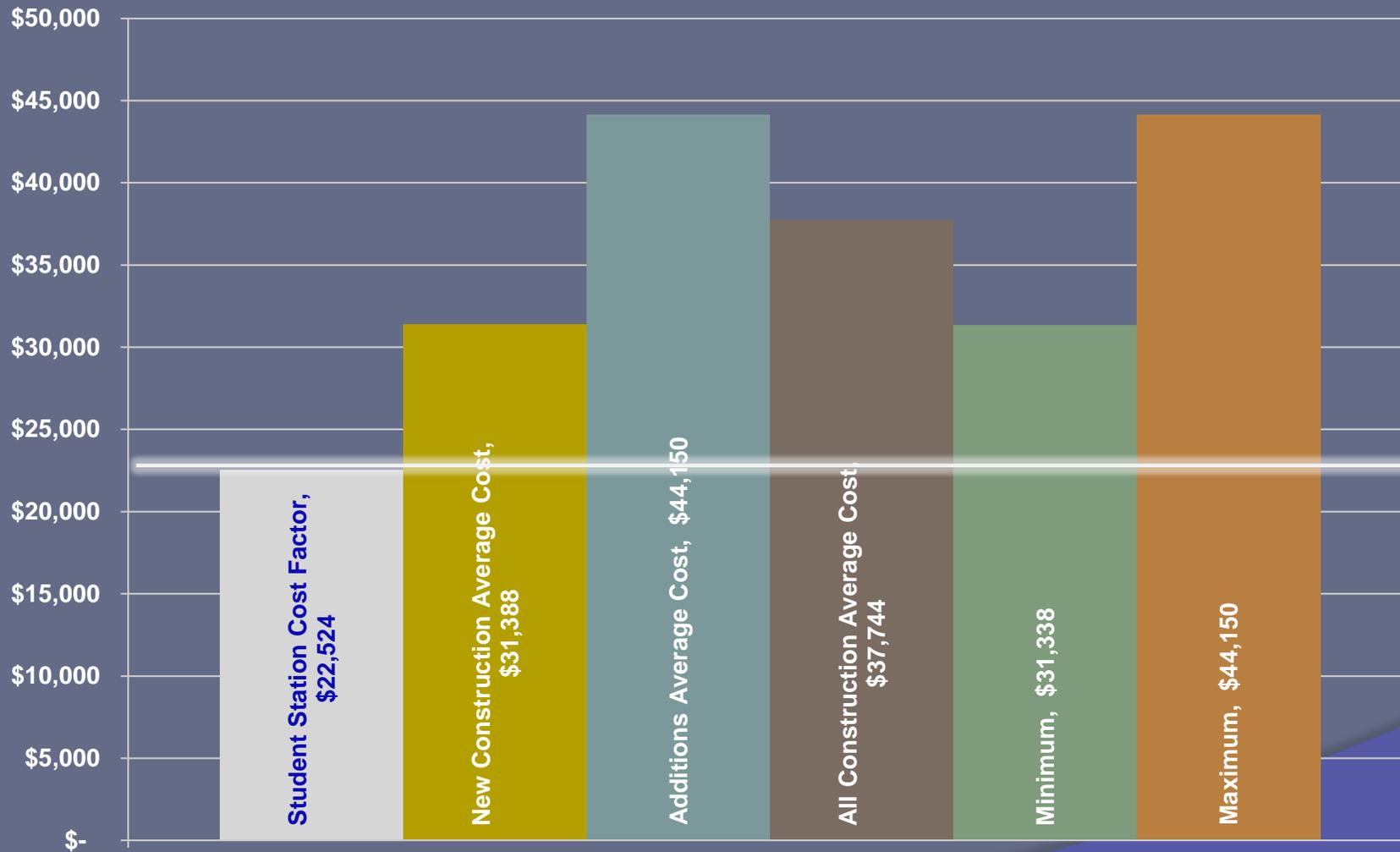


2013

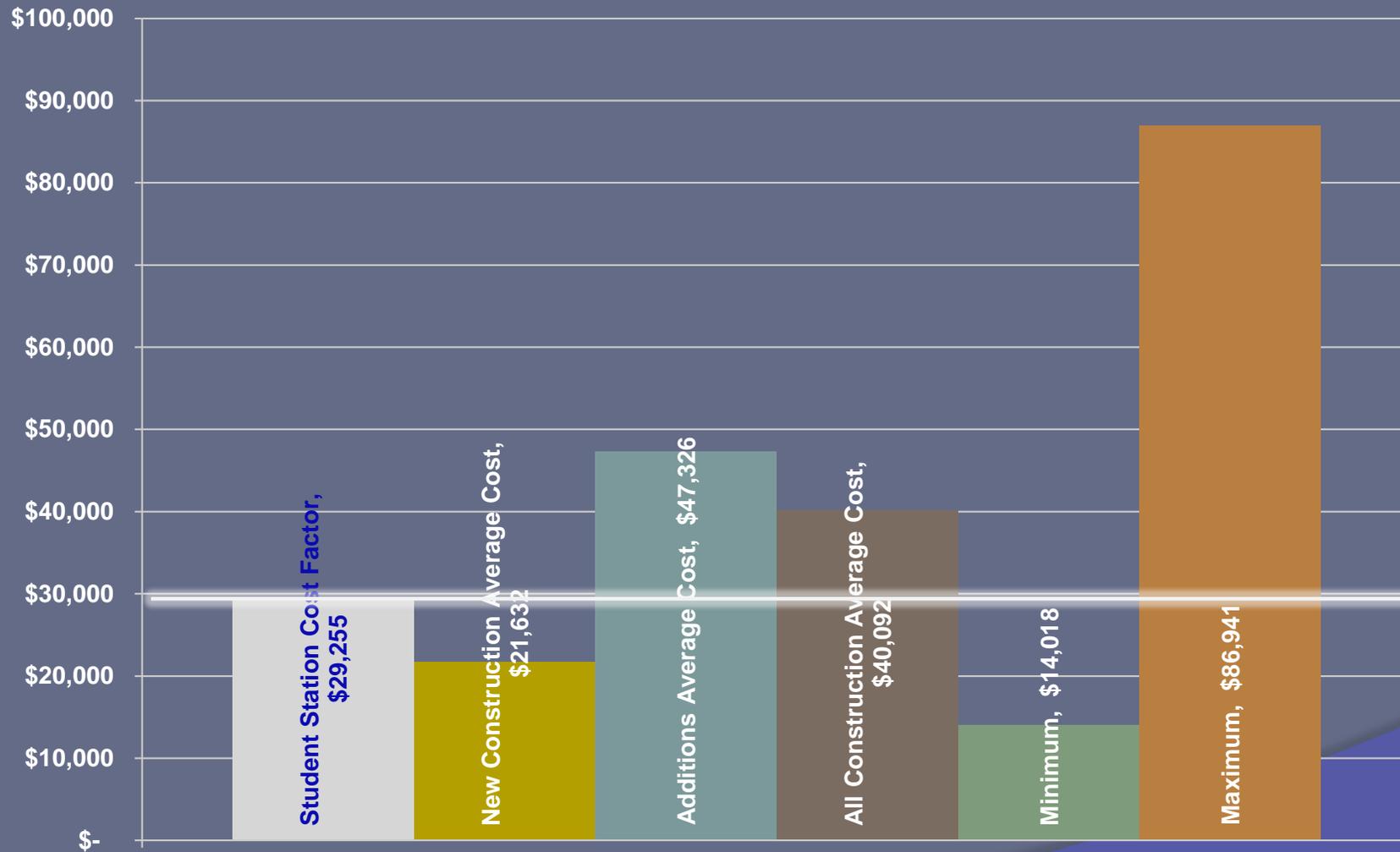
2013 Construction Costs Elementary Schools



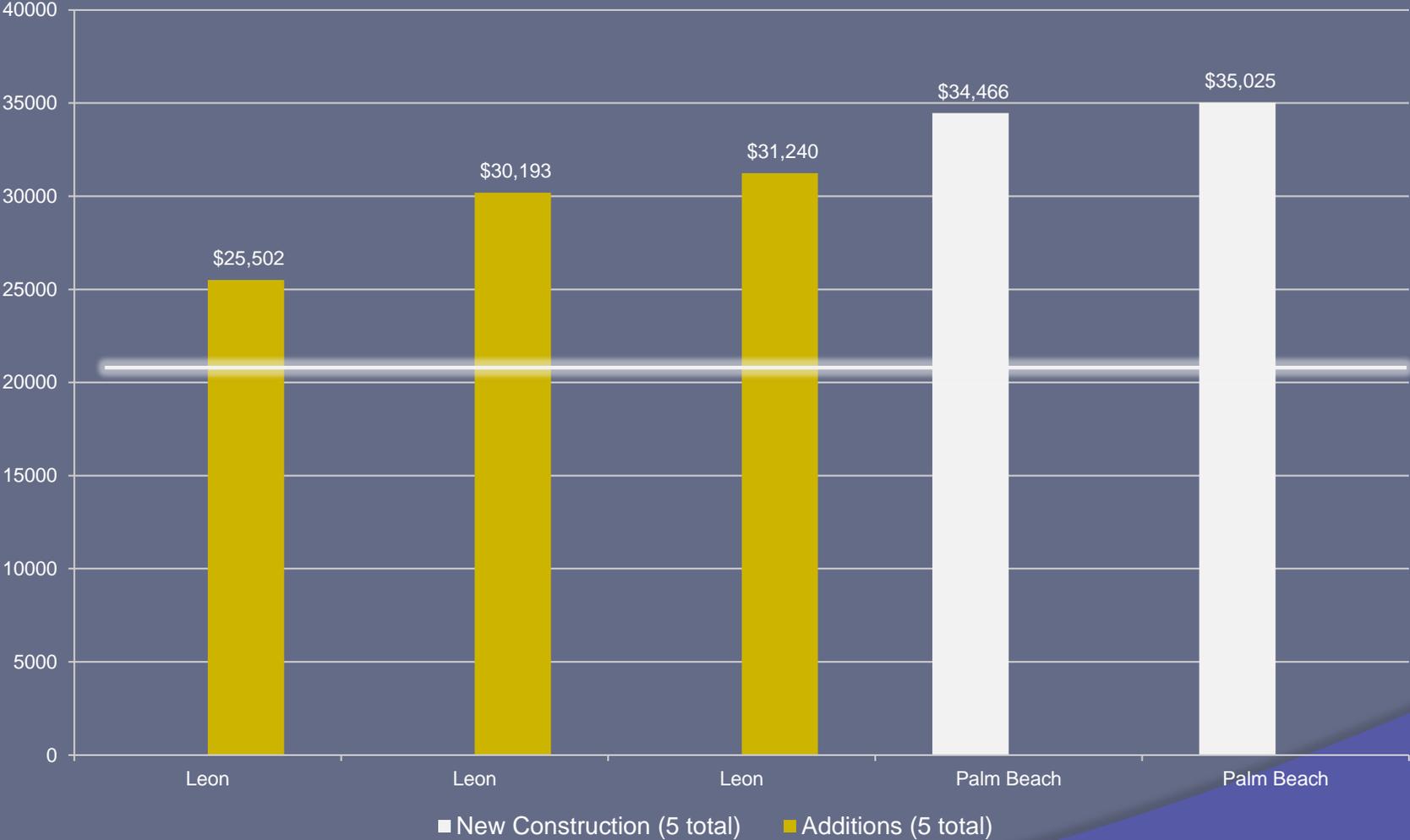
2013 Construction Costs Middle Schools



2013 Construction Costs High Schools



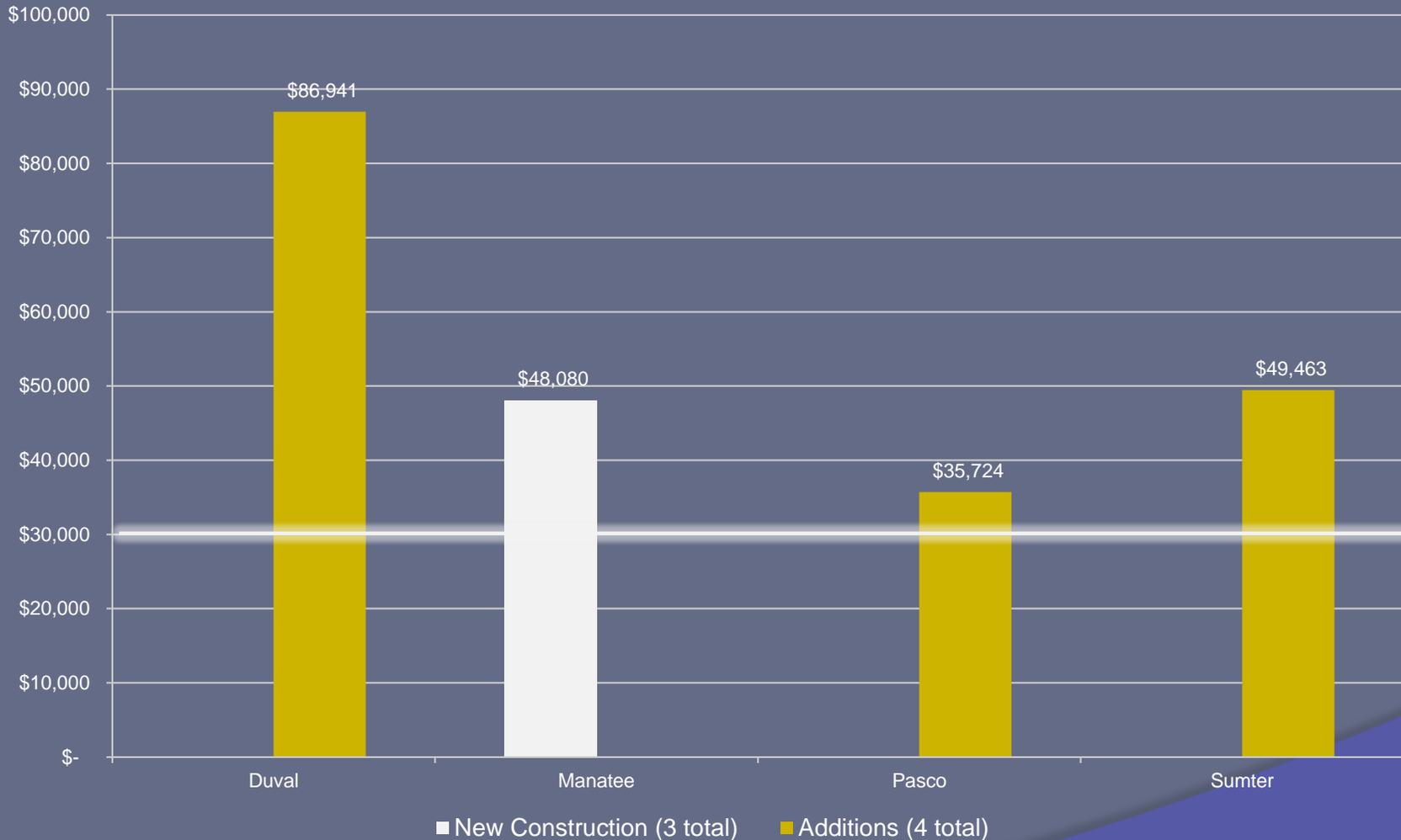
2013 Projects Above Elementary School Student Station Cost of \$20,857



2013 Projects Above Middle School Student Station Cost of \$22,524

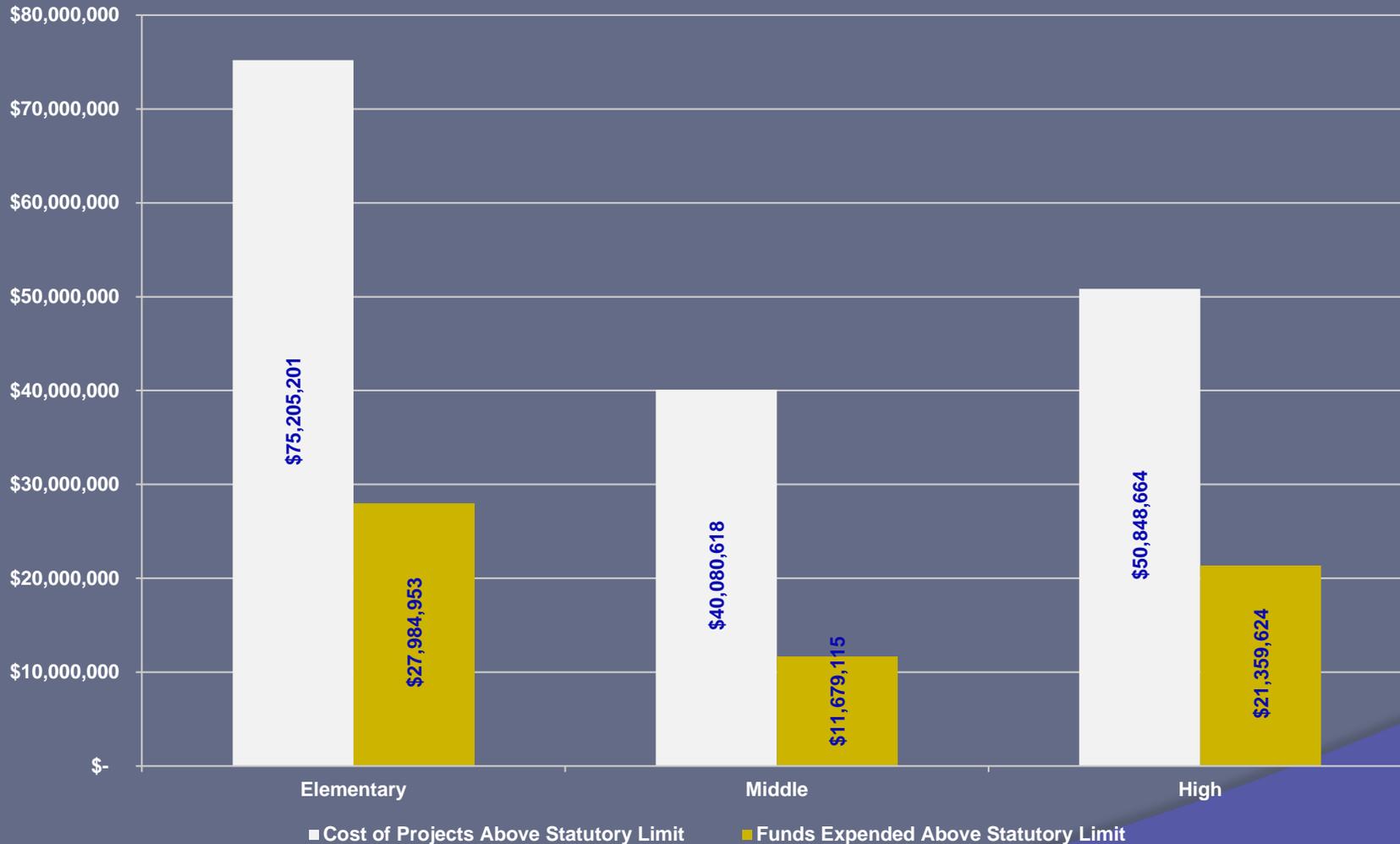


2013 Projects Above High School Student Station Cost of \$29,255



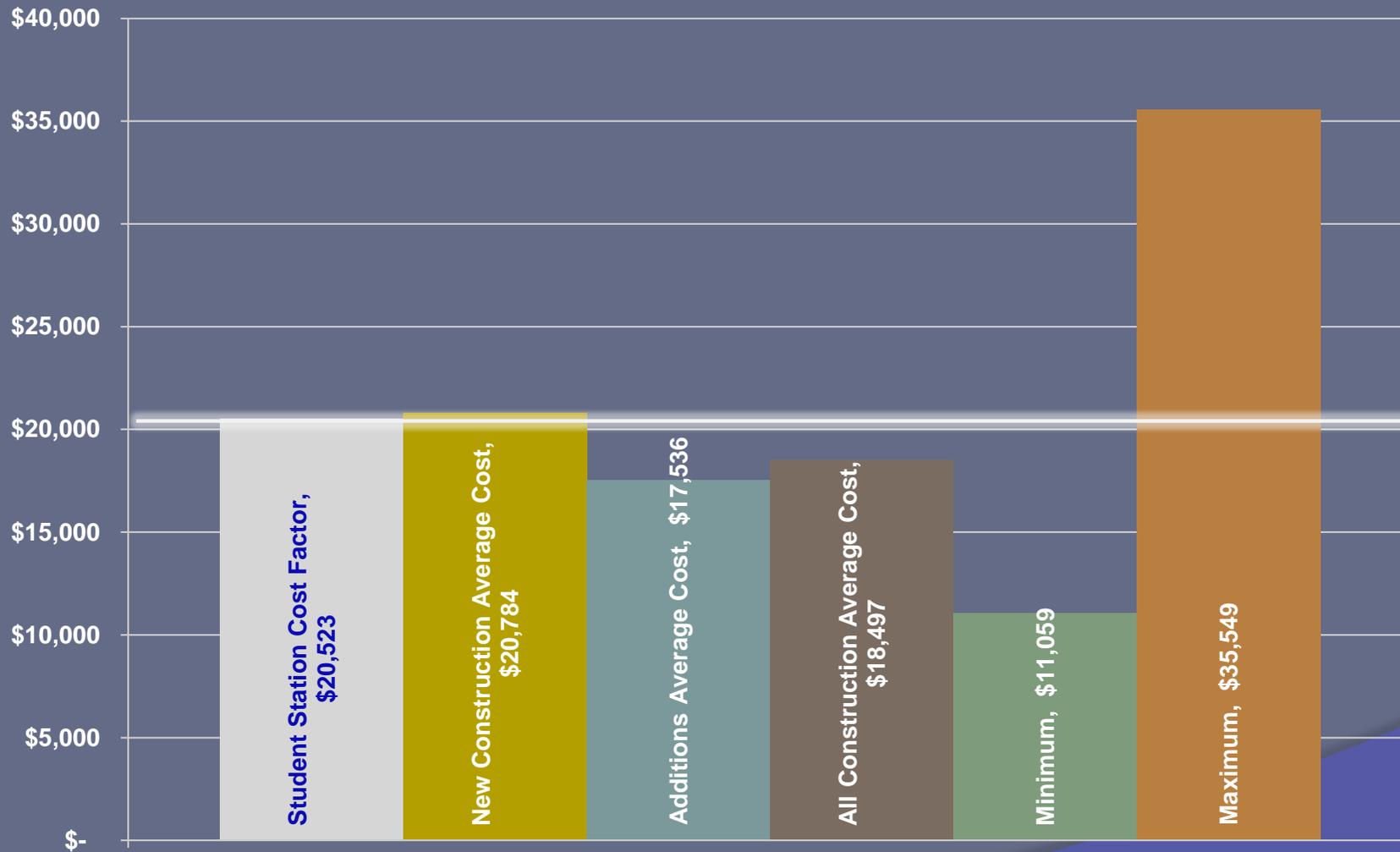
2013 Total Construction Costs for Schools Exceeding the Statutory Limit = \$166 million

Amount in Excess of Statutory Limit = \$61 million

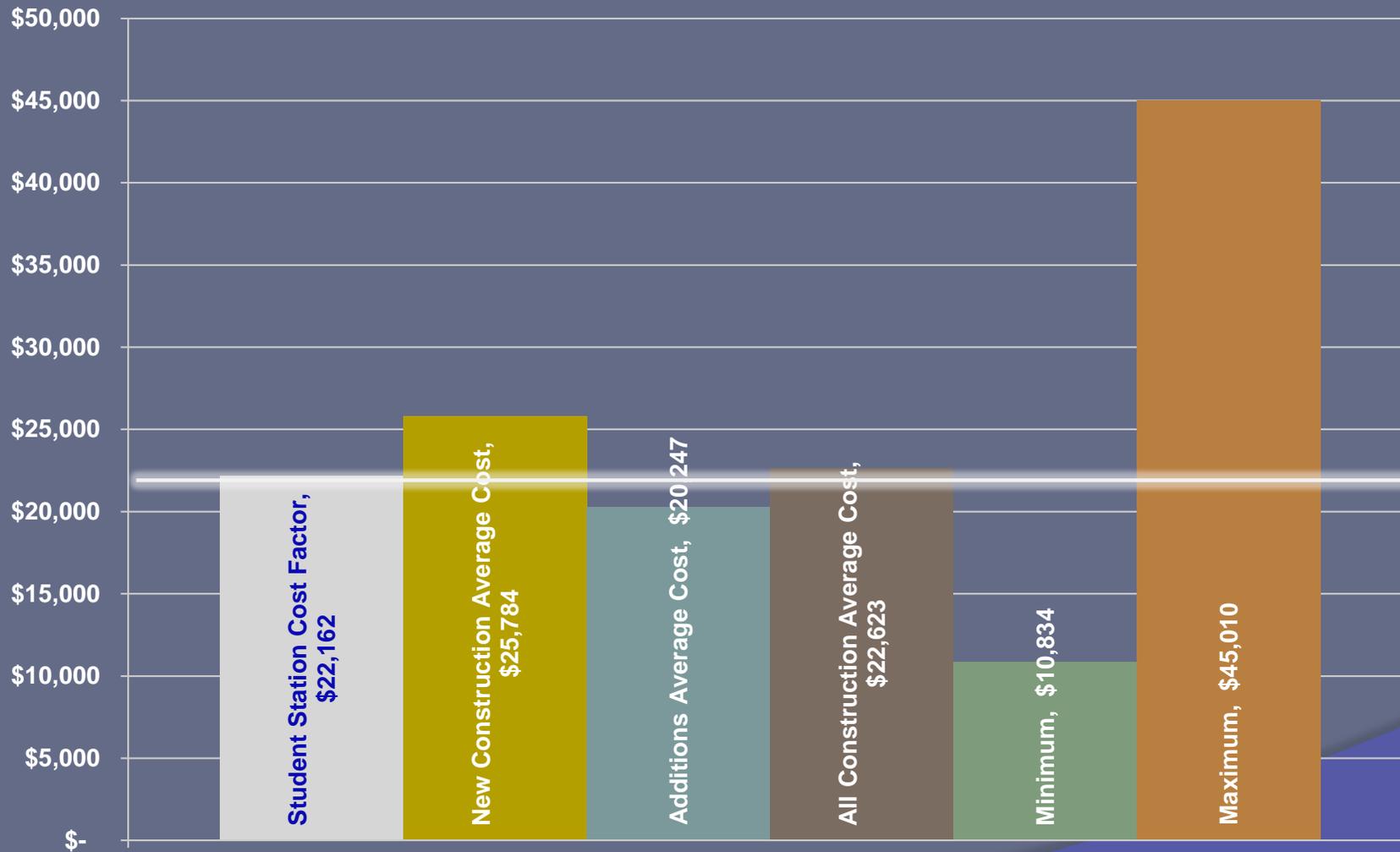


2012

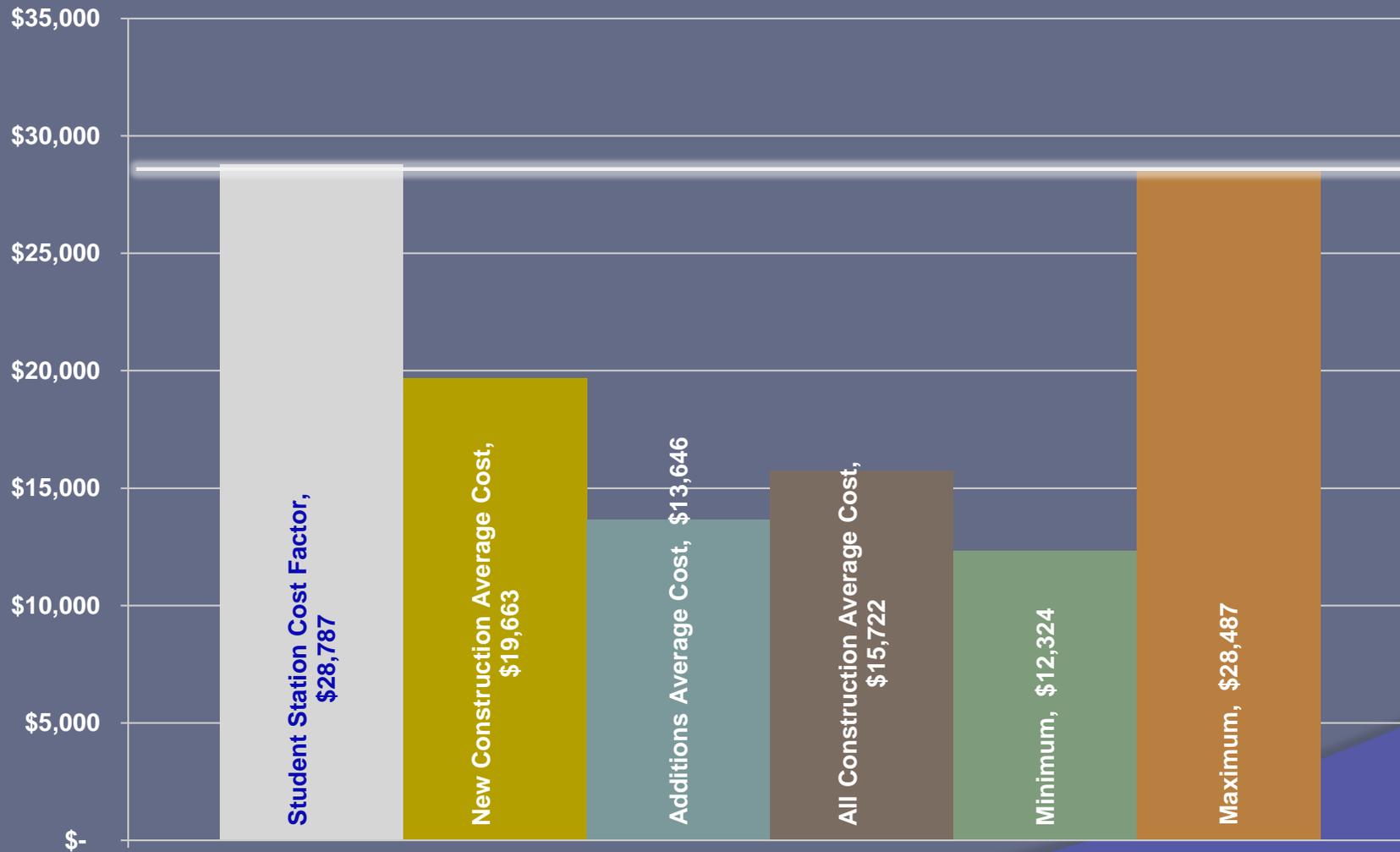
2012 Construction Costs Elementary Schools



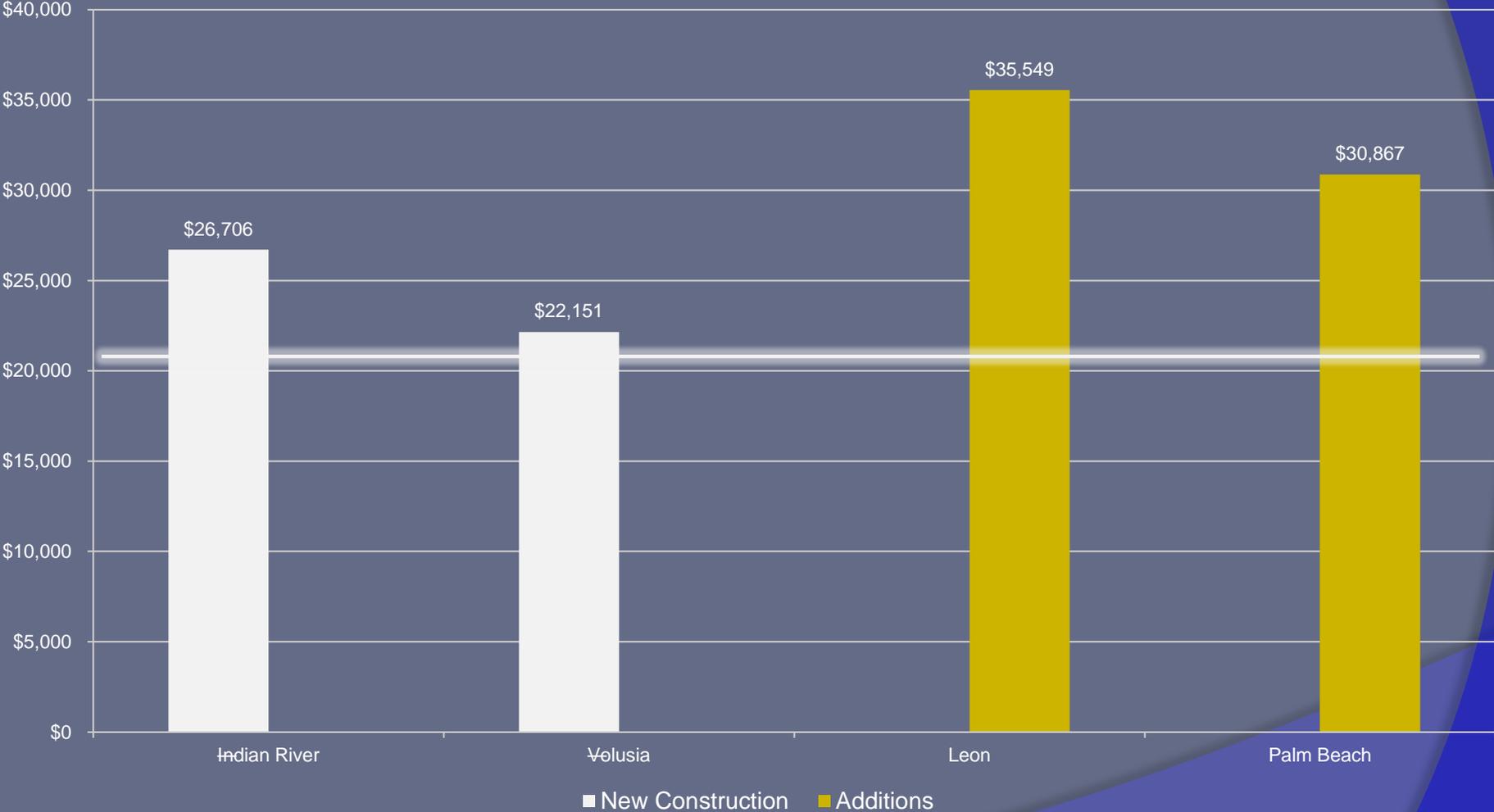
2012 Construction Costs Middle Schools



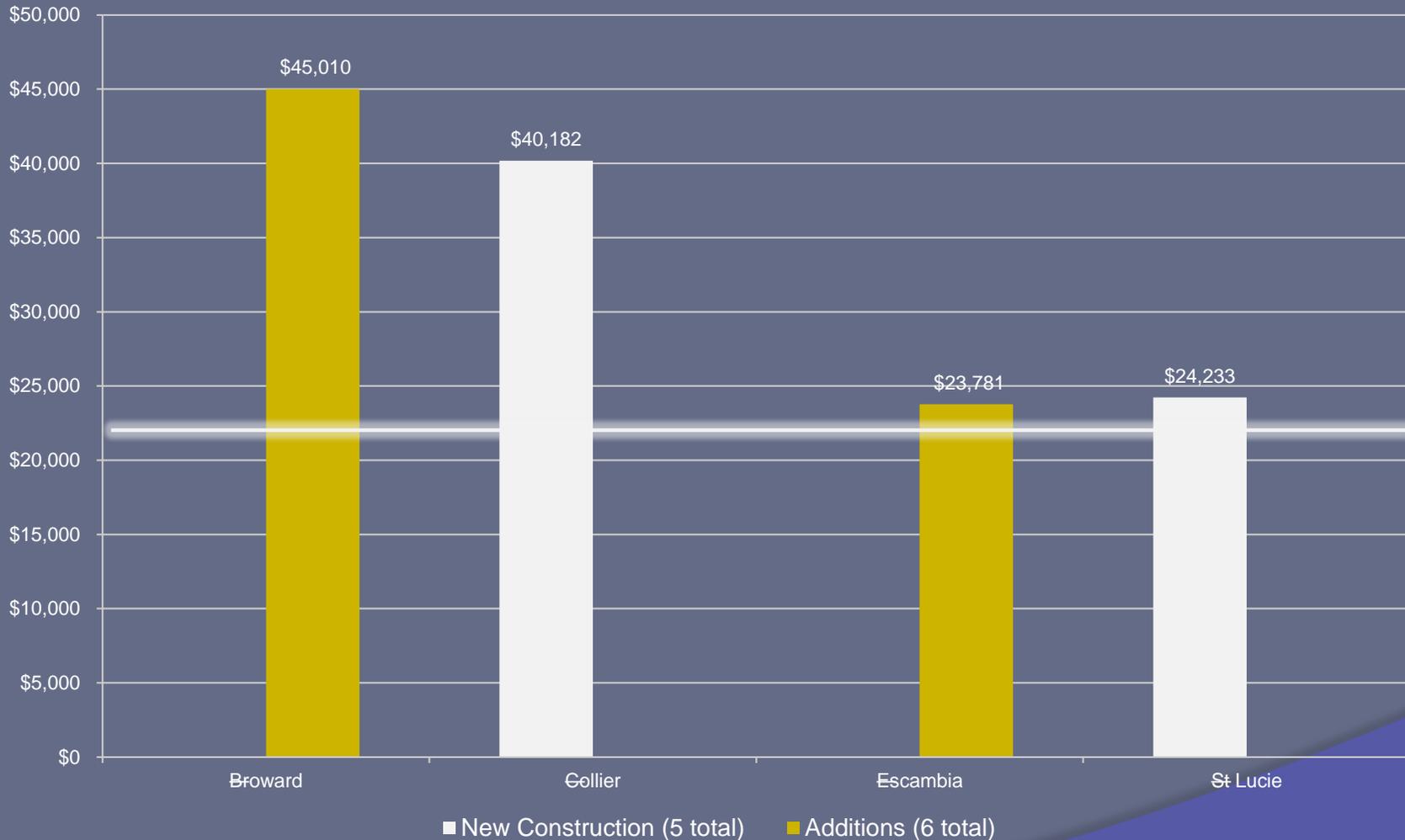
2012 Construction Costs High Schools



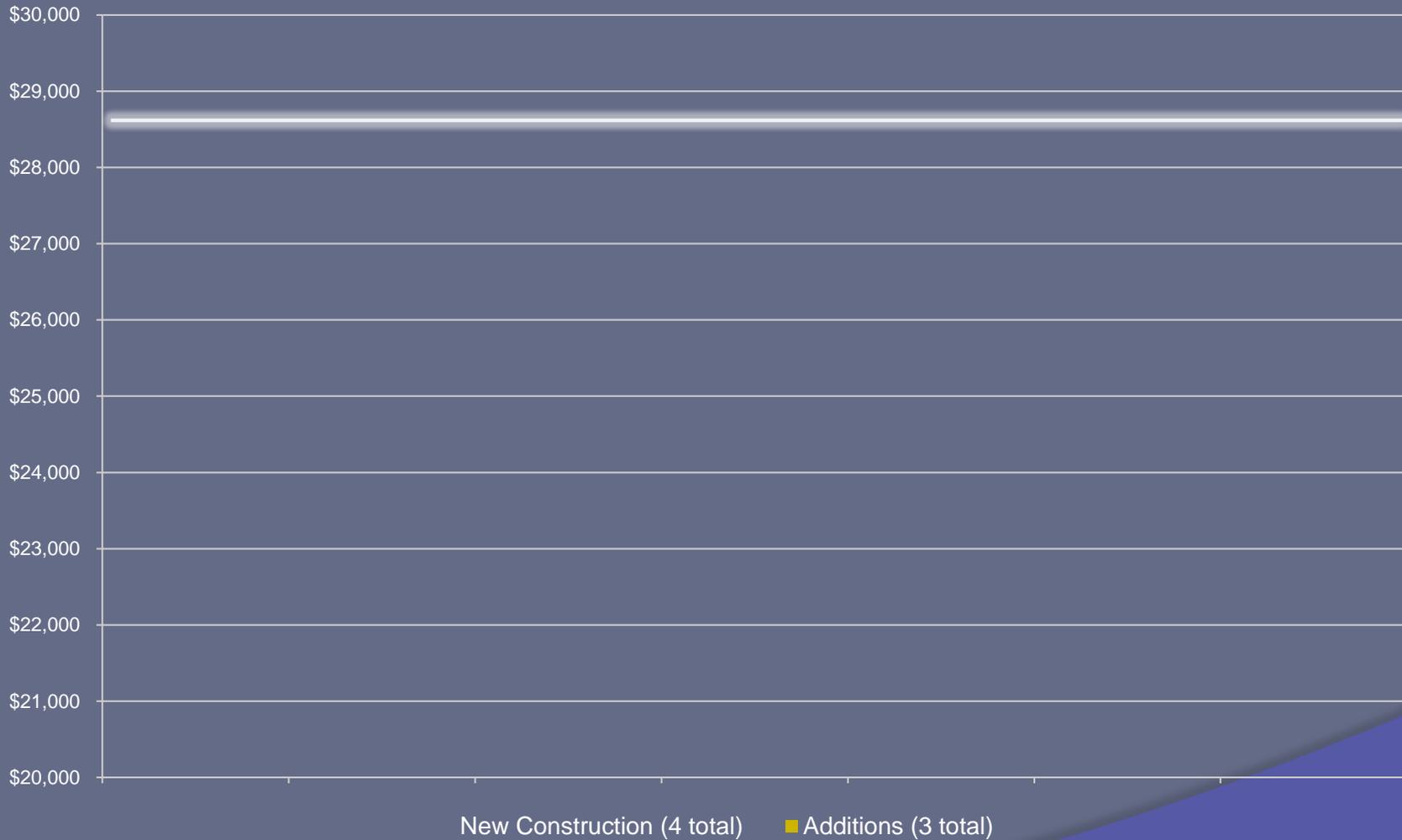
2012 Projects Above Elementary School Student Station Cost of \$20,523



2012 Projects Above Middle School Student Station Cost of \$22,162

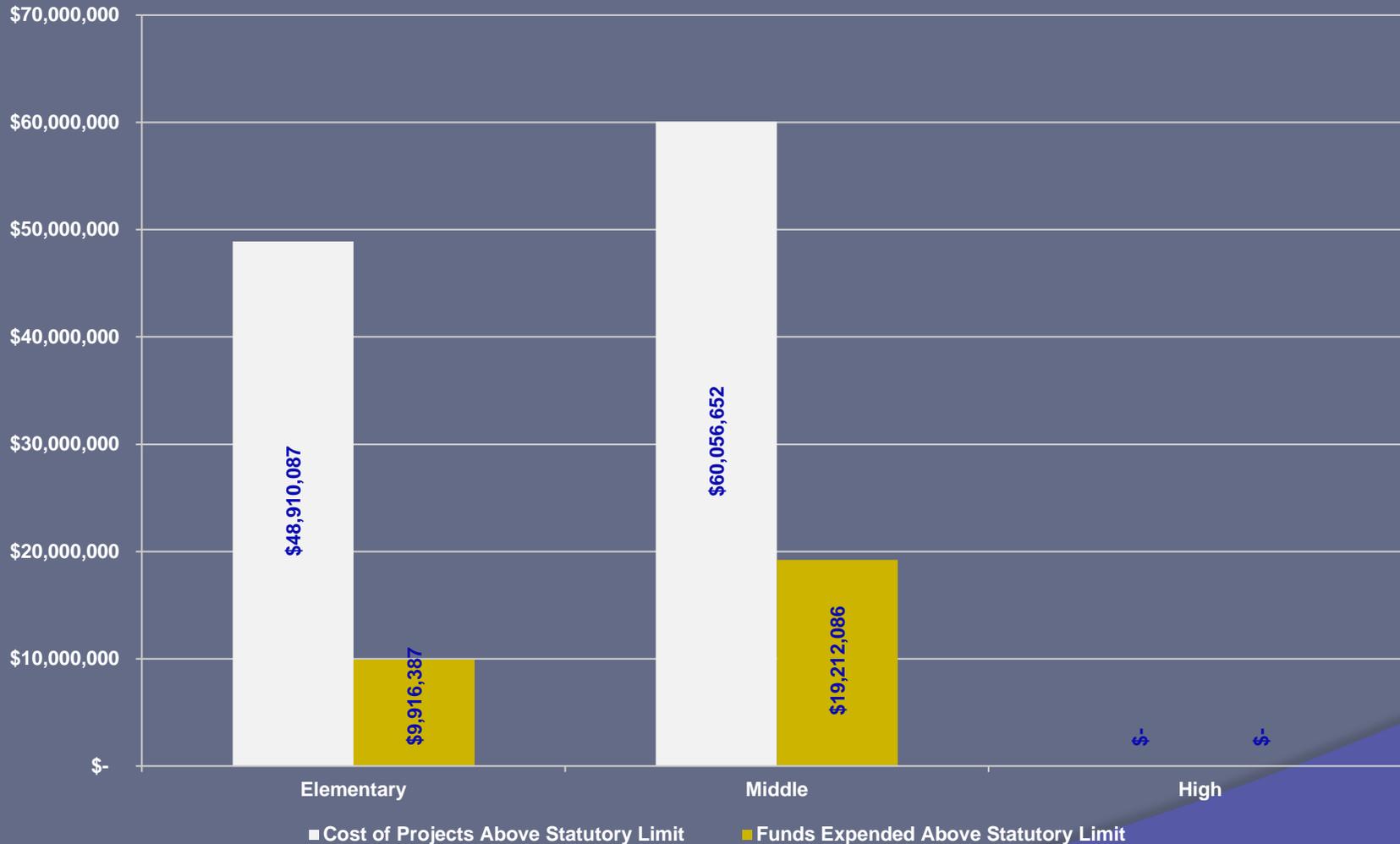


2012 Projects Above High School Student Station Cost of \$28,787



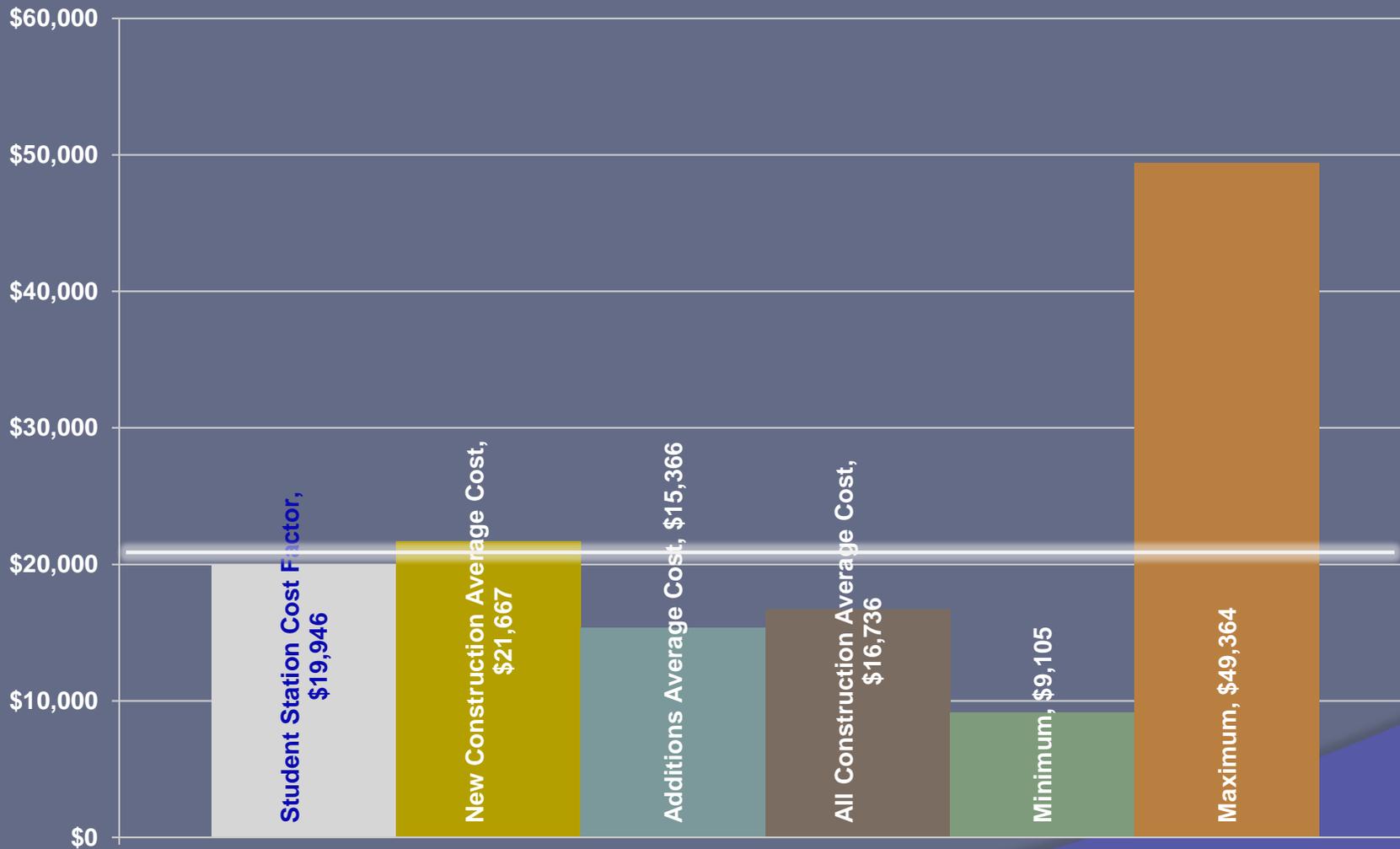
2012 Total Construction Costs for Schools Exceeding the Statutory Limit = \$109 million

Amount in Excess of Statutory Limit = \$29 million

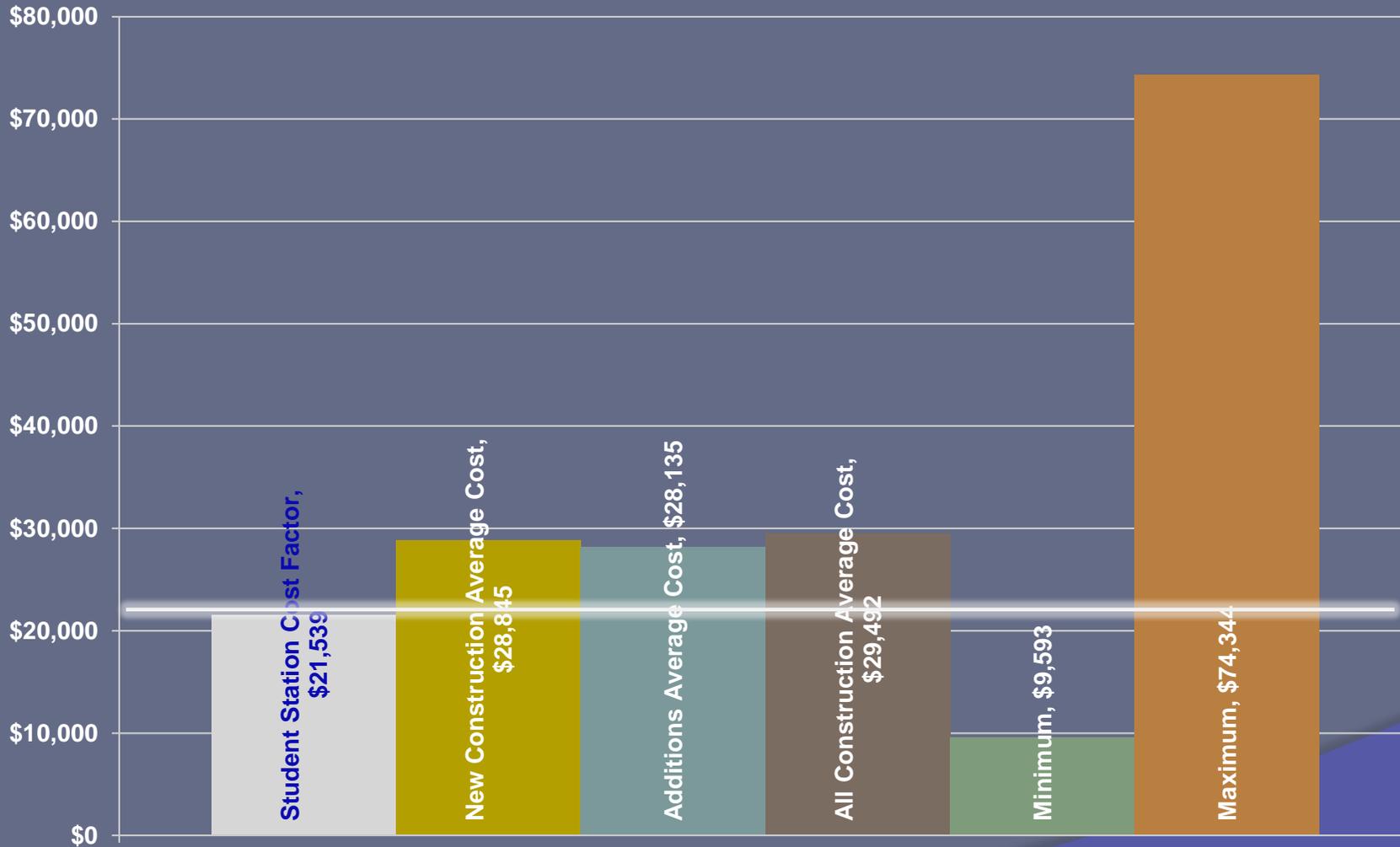


2011

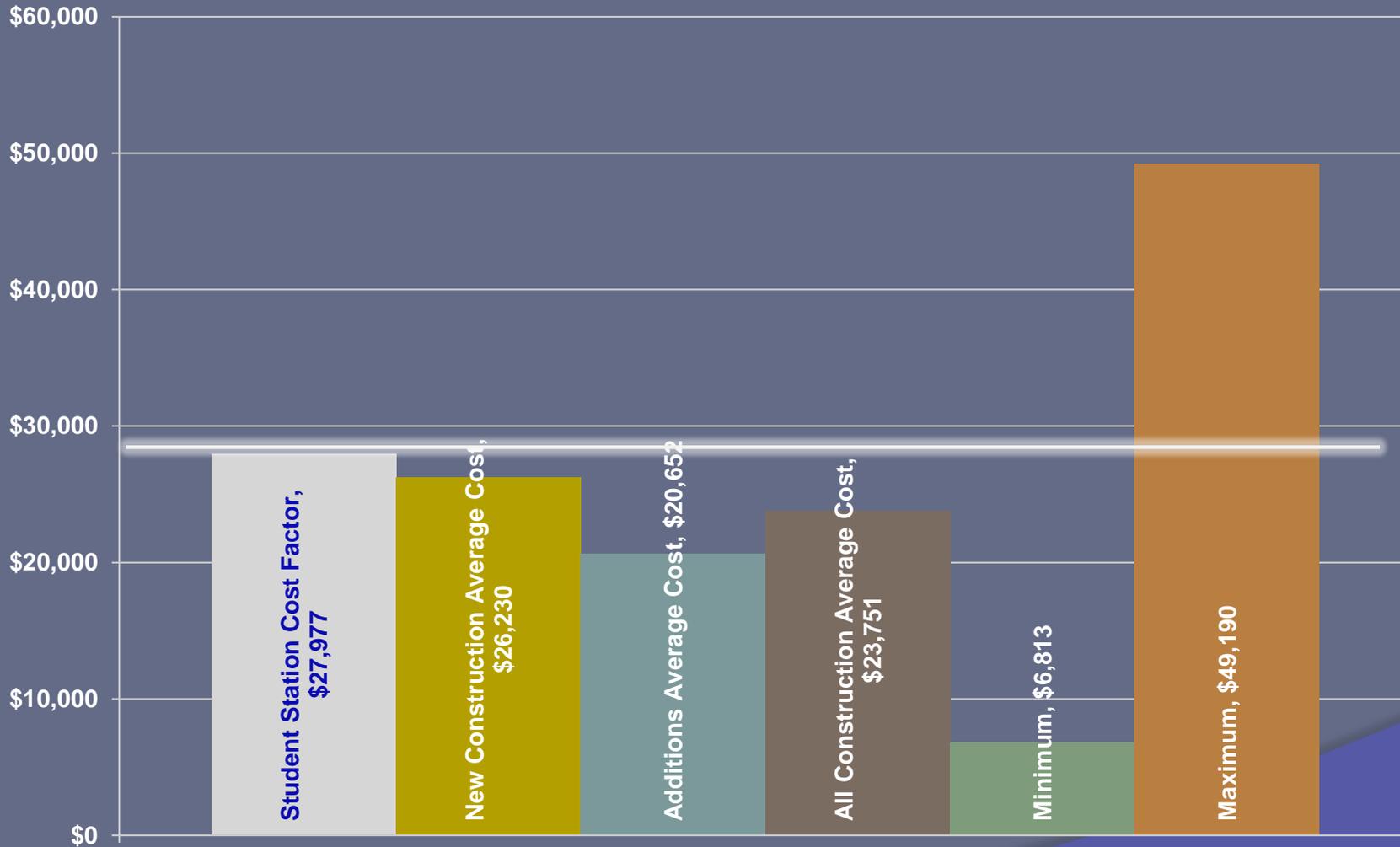
2011 Construction Costs Elementary Schools



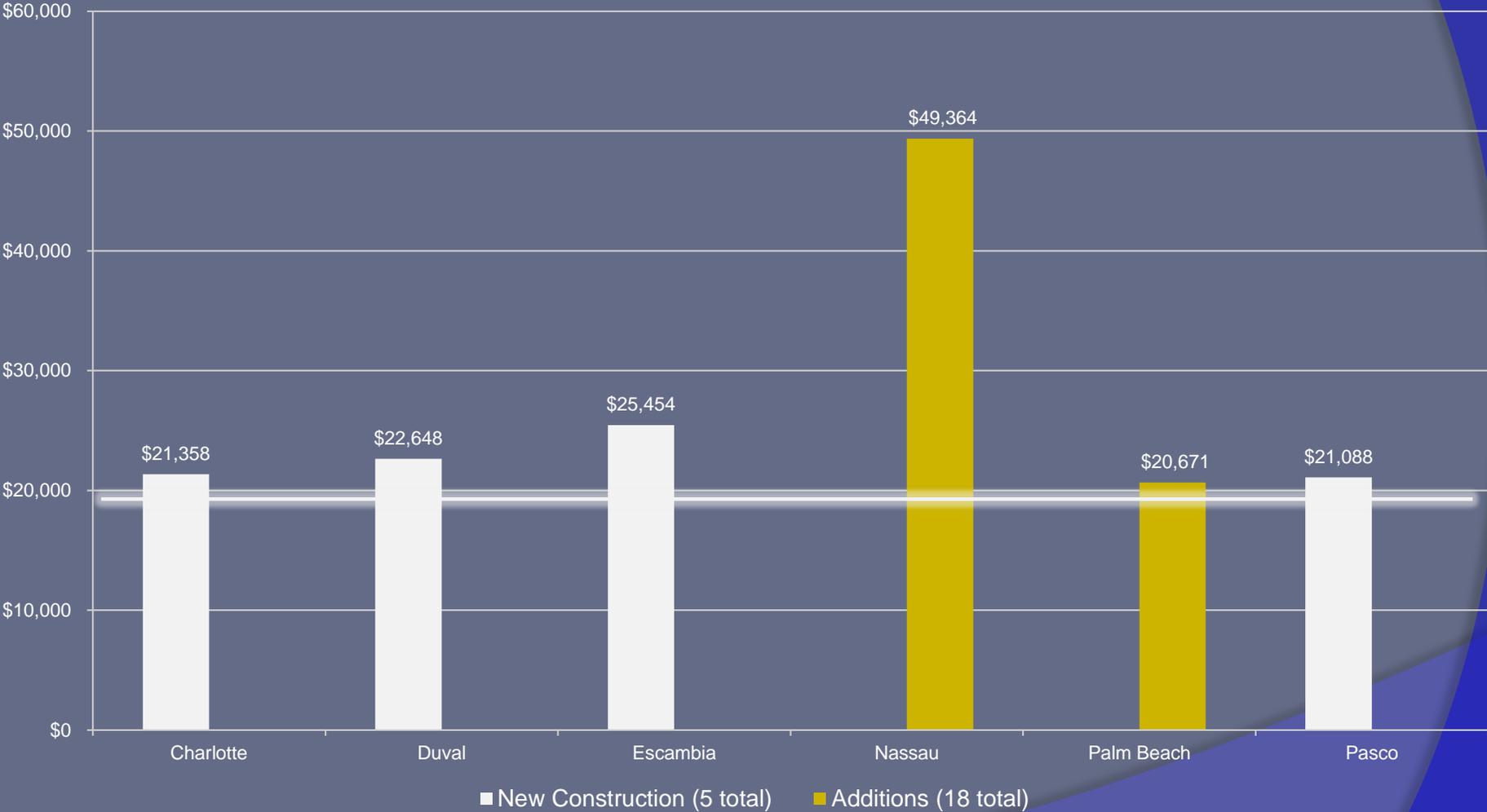
2011 Construction Costs Middle Schools



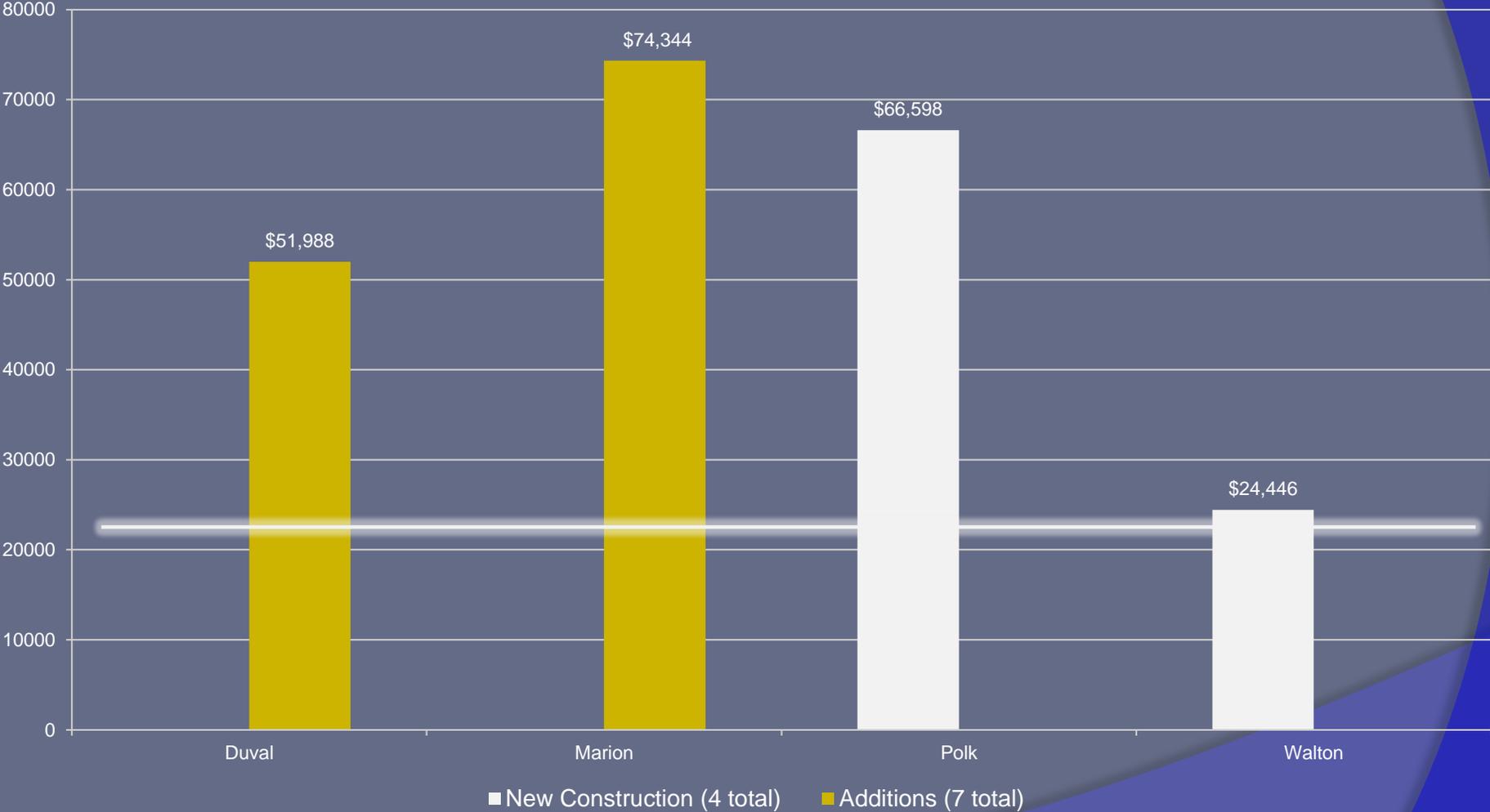
2011 Construction Costs High Schools



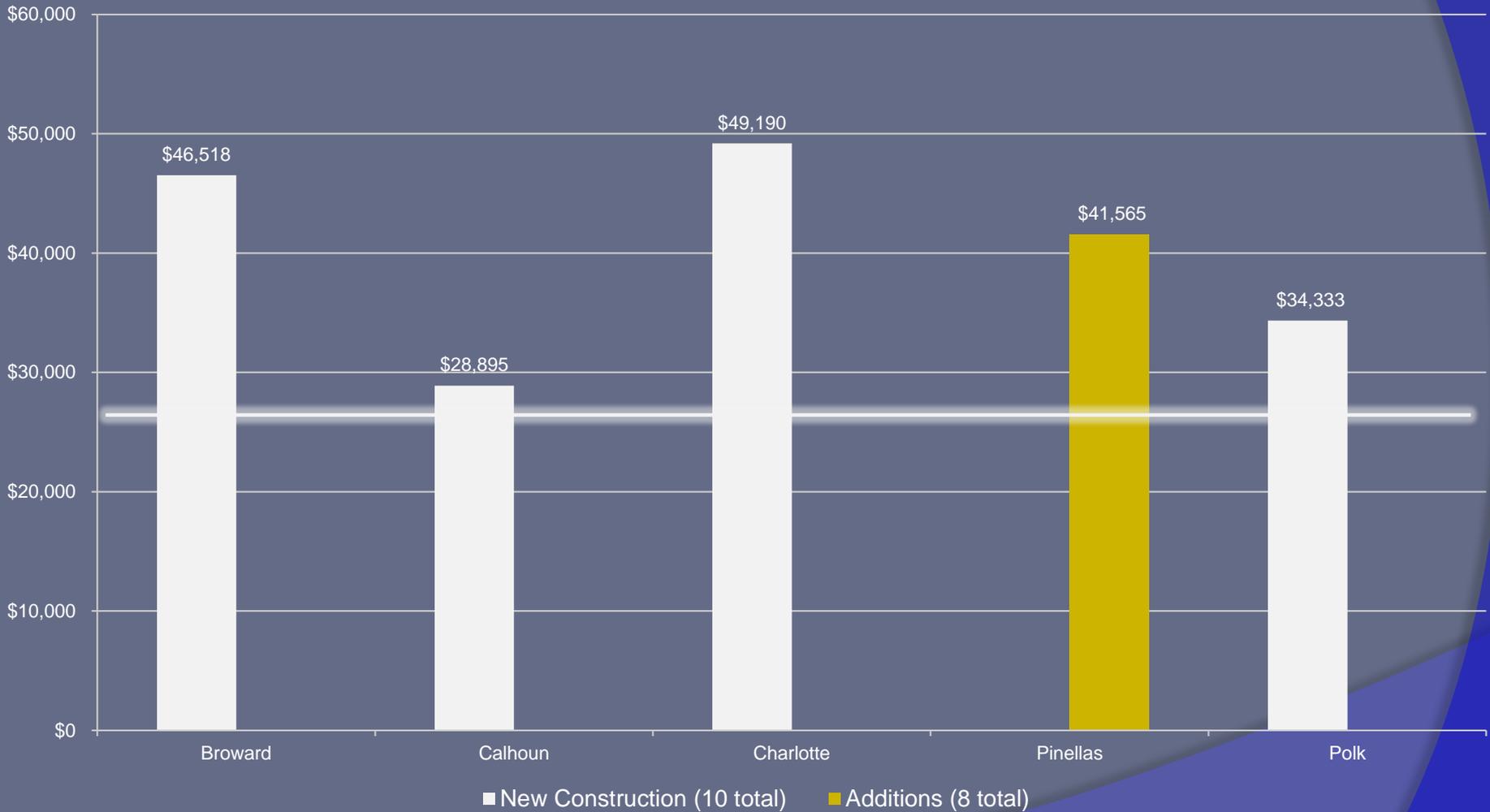
2011 Projects Above Elementary School Student Station Cost of \$19,946



2011 Projects Above Middle School Student Station Cost of \$21,539

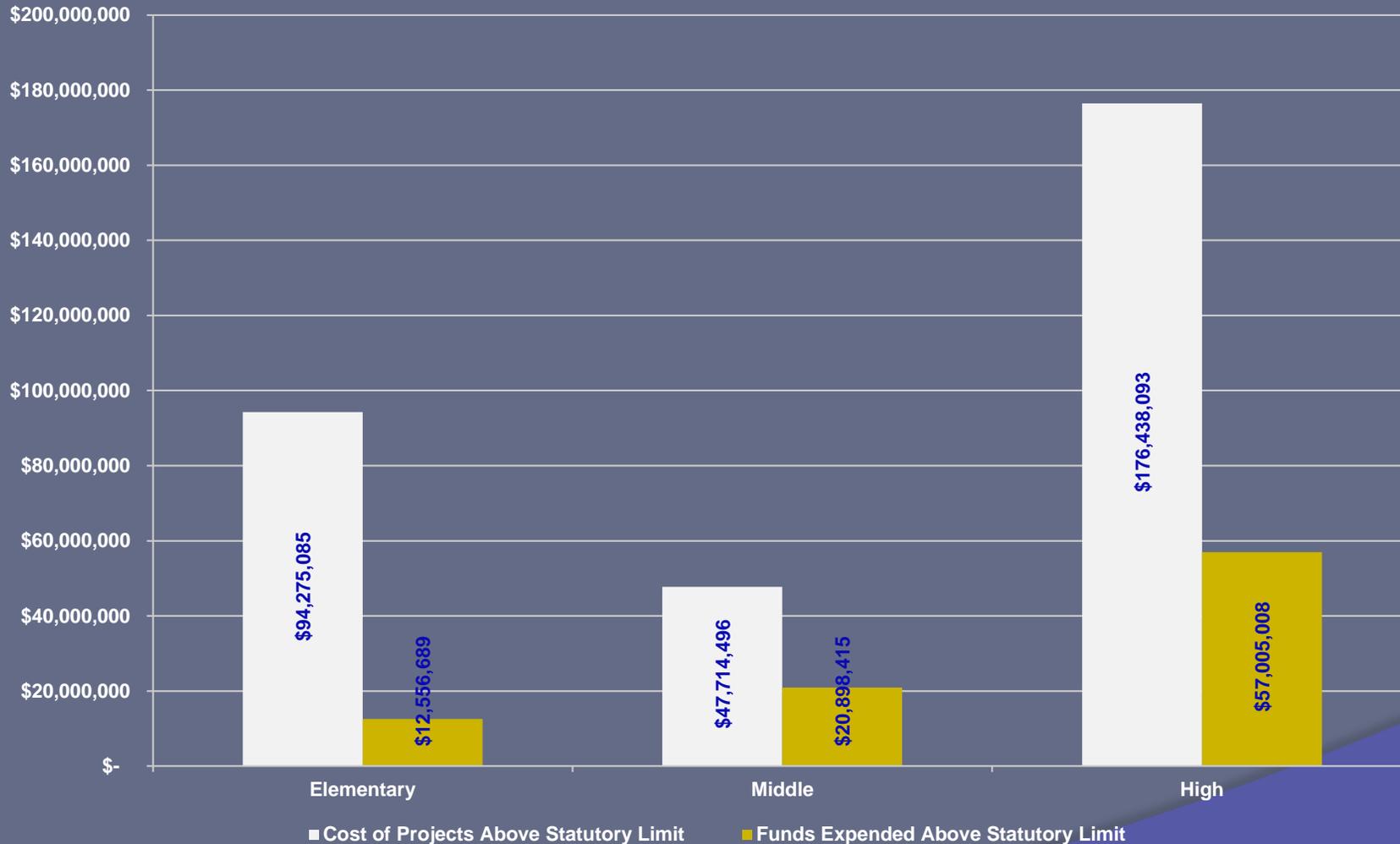


2011 Projects Above High School Student Station Cost of \$27,977



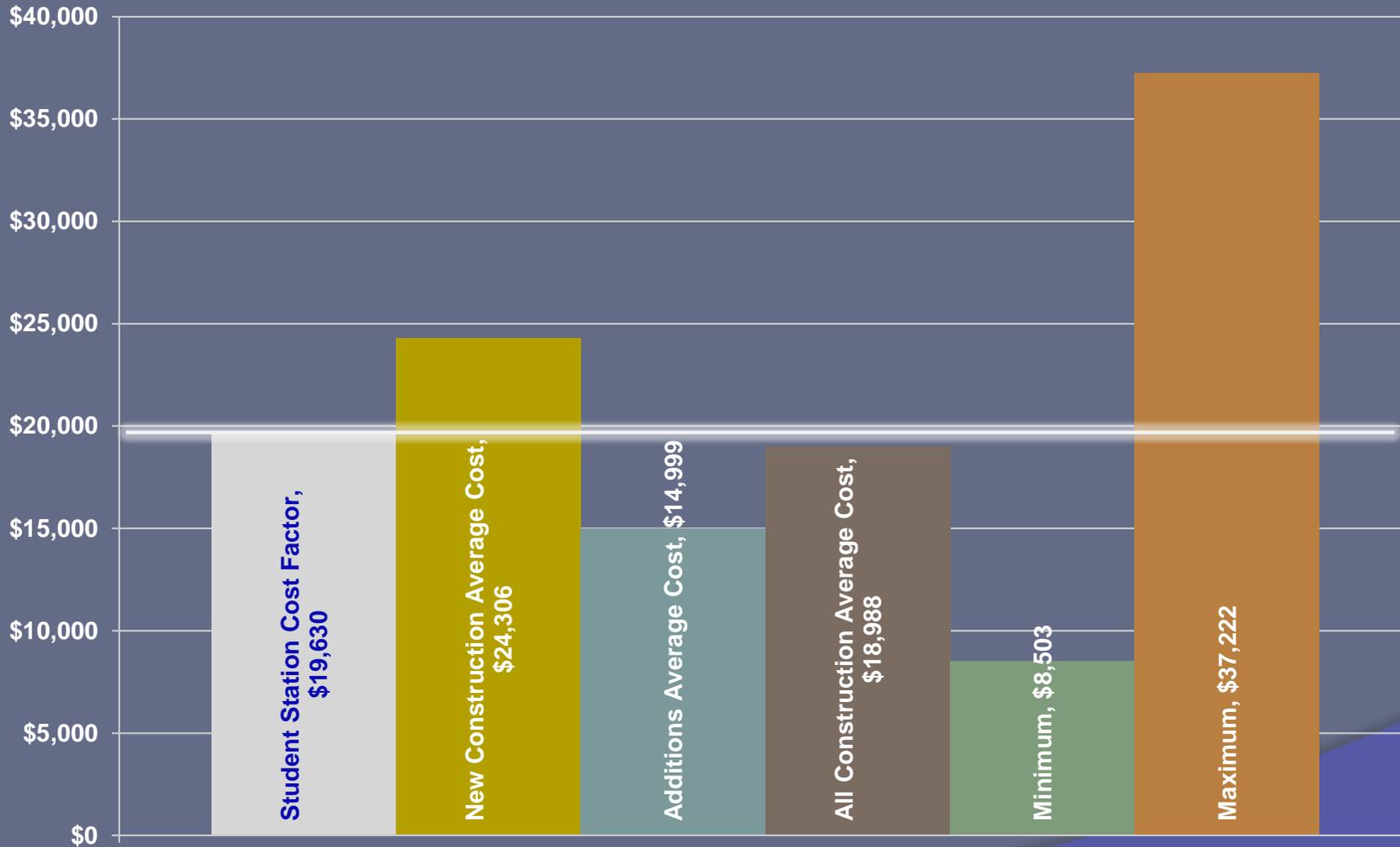
2011 Total Construction Costs for Schools Exceeding the Statutory Limit = \$318 million

Amount in Excess of Statutory Limit = \$90 million

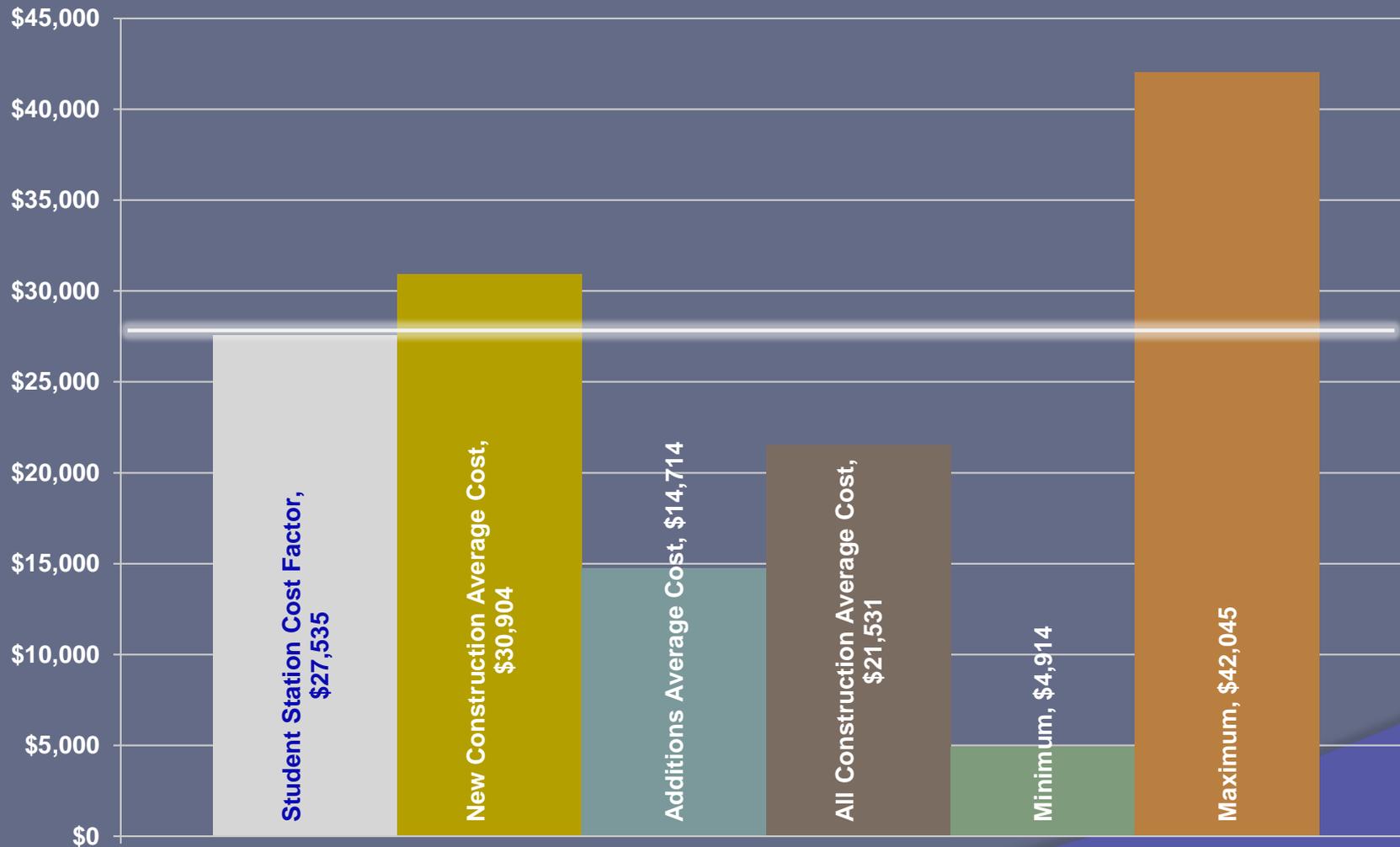


2010

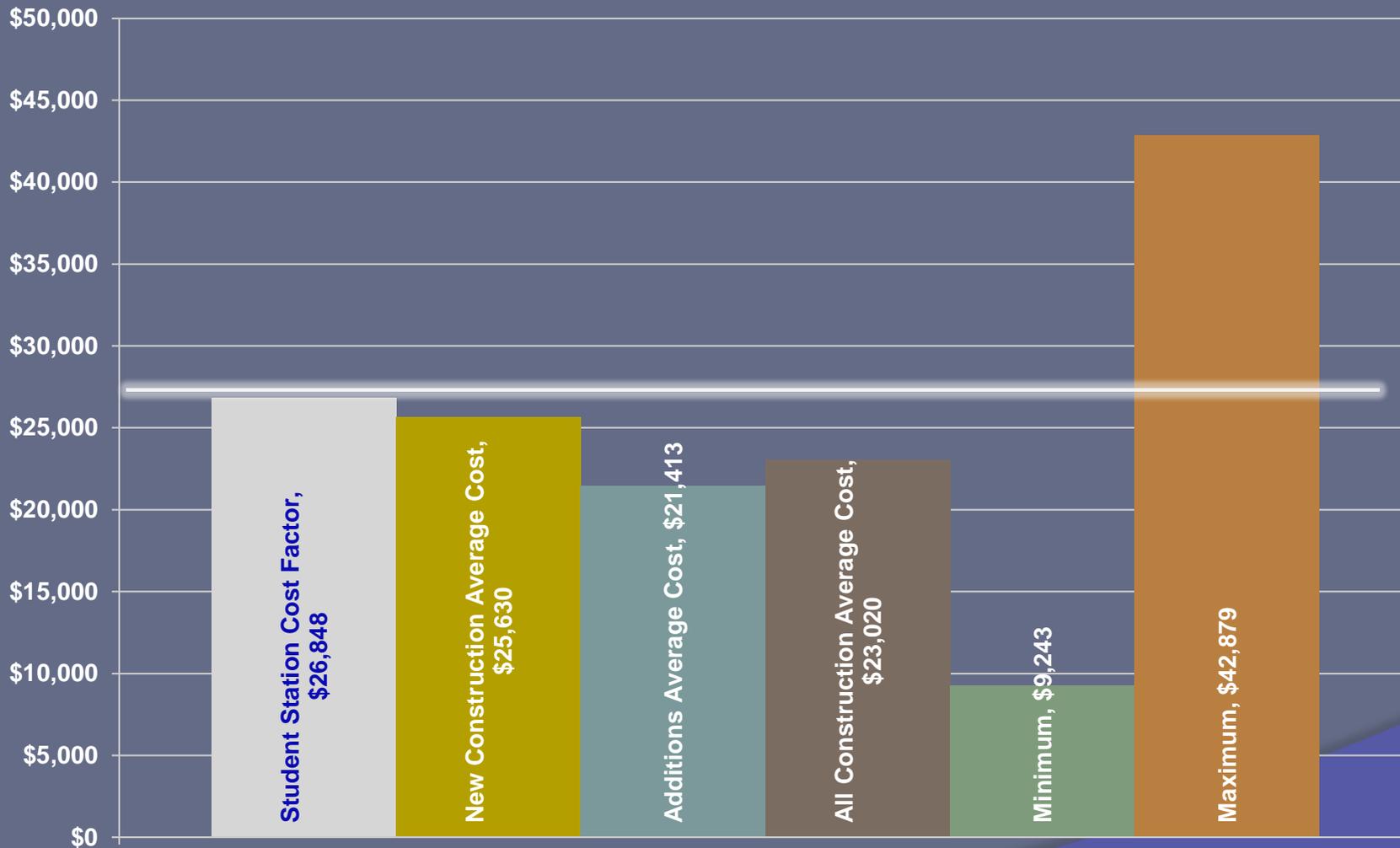
2010 Construction Costs Elementary Schools



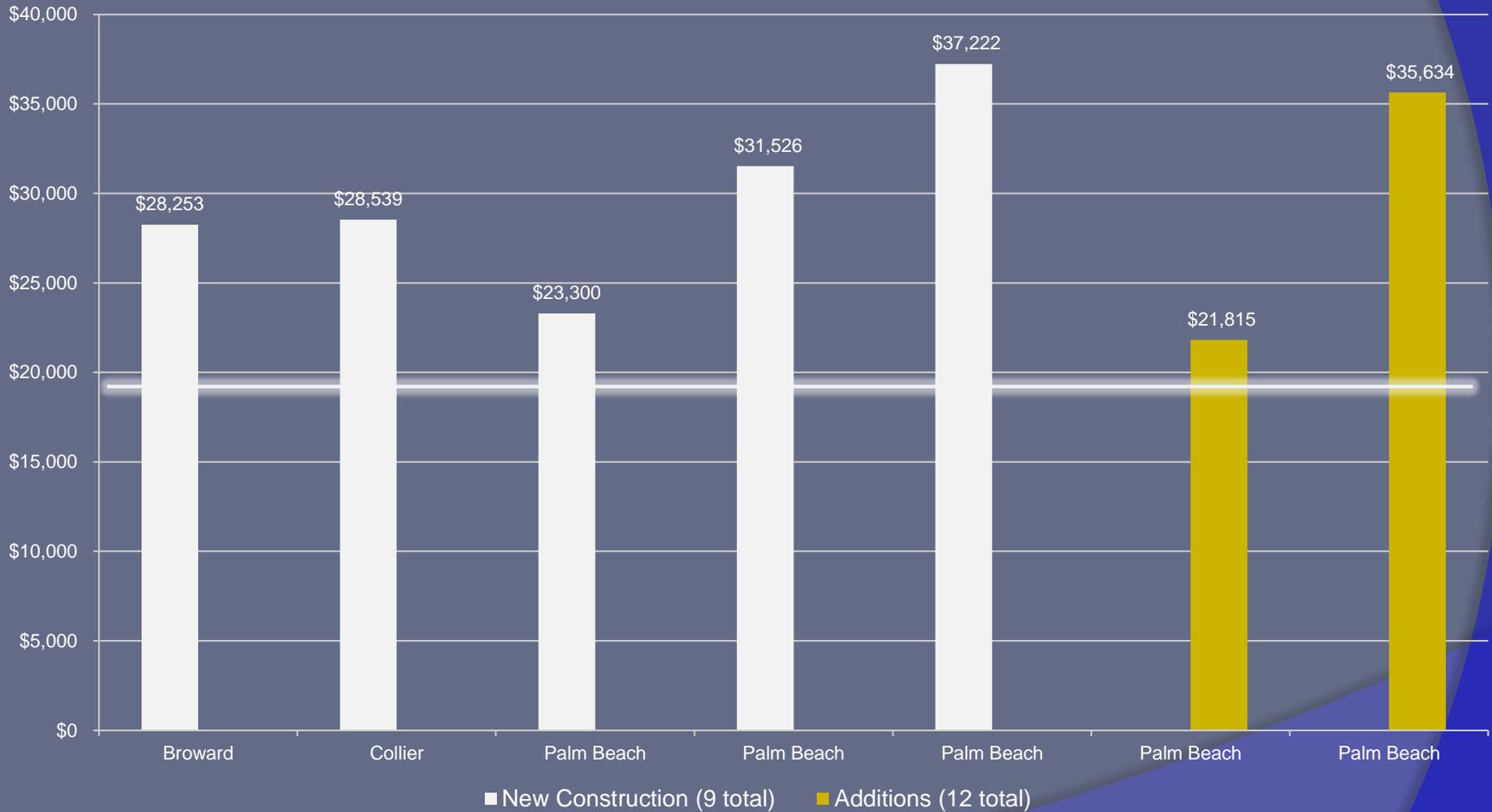
2010 Construction Costs Middle Schools



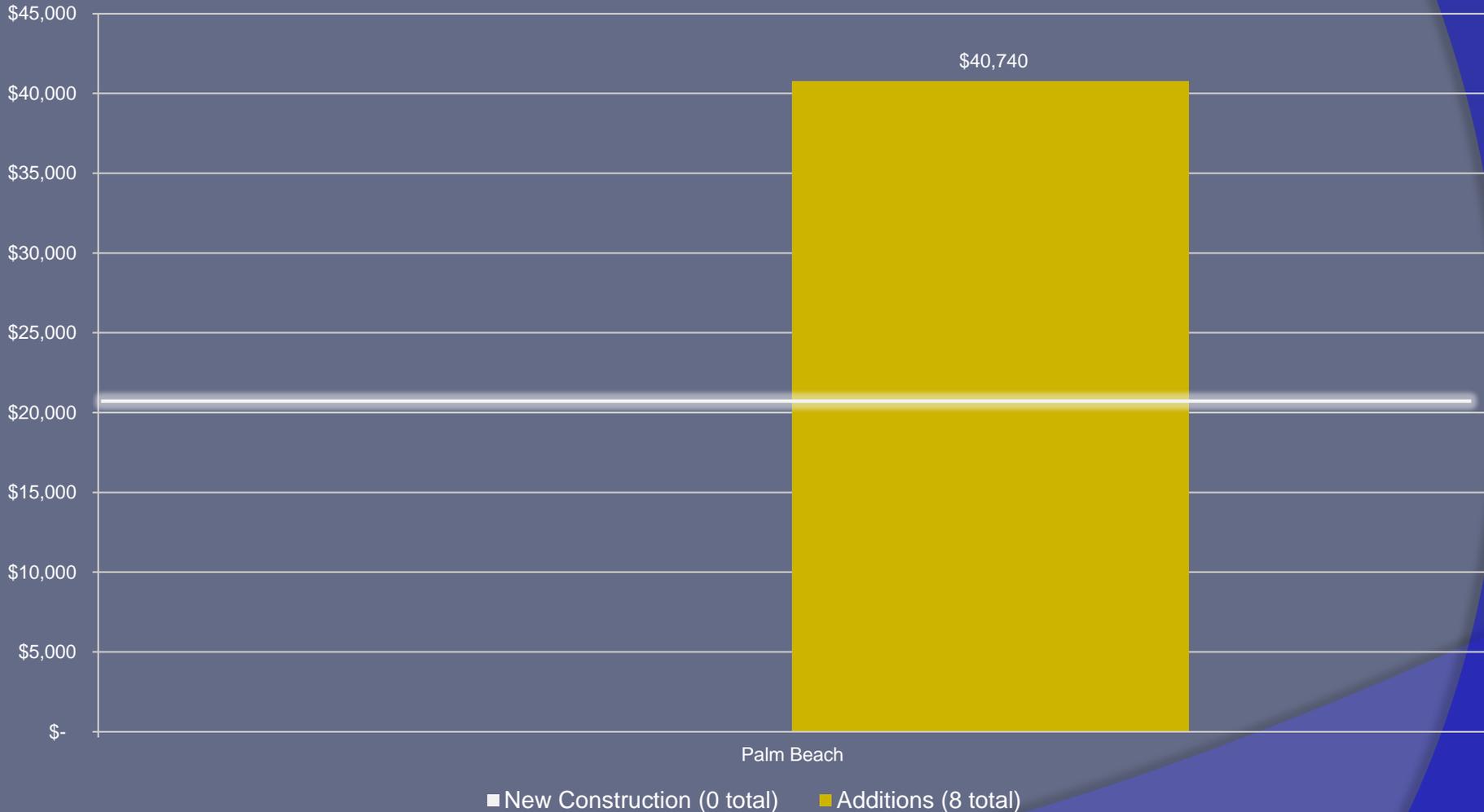
2010 Construction Costs High Schools



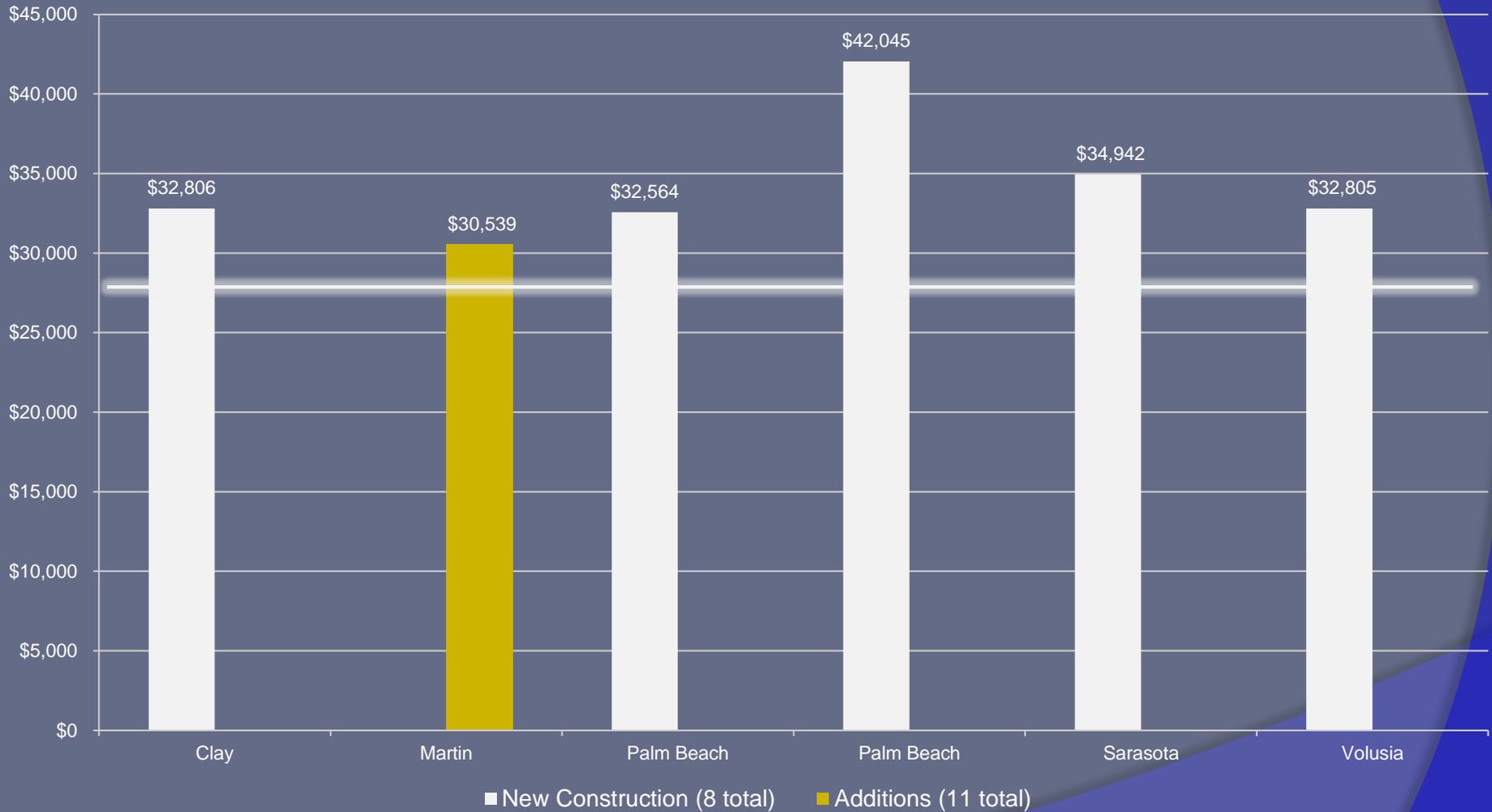
2010 Projects Above Elementary School Student Station Cost of \$19,630



2010 Projects Above Middle School Student Station Cost of \$21,198

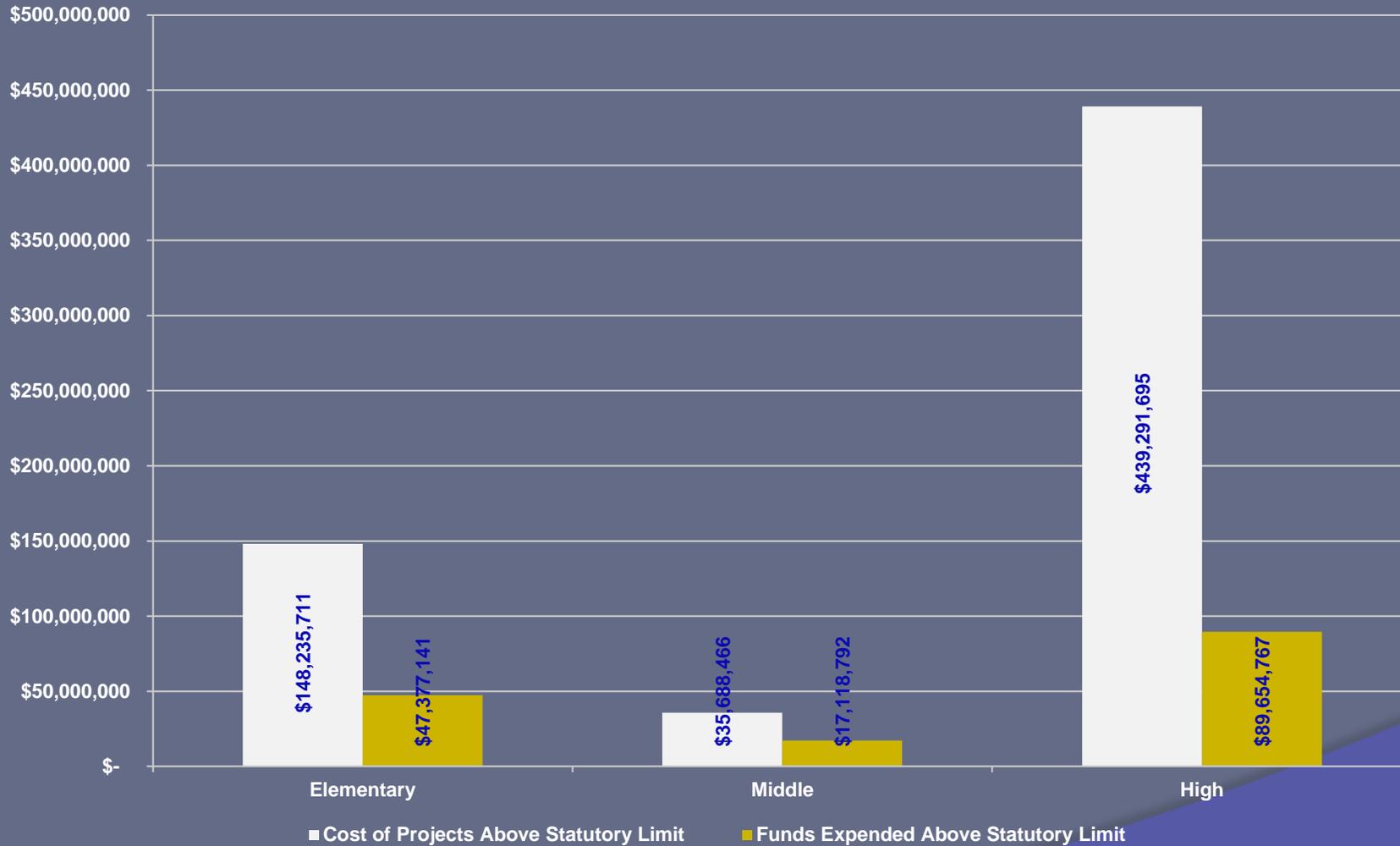


2010 Projects Above High School Student Station Cost of \$27,535



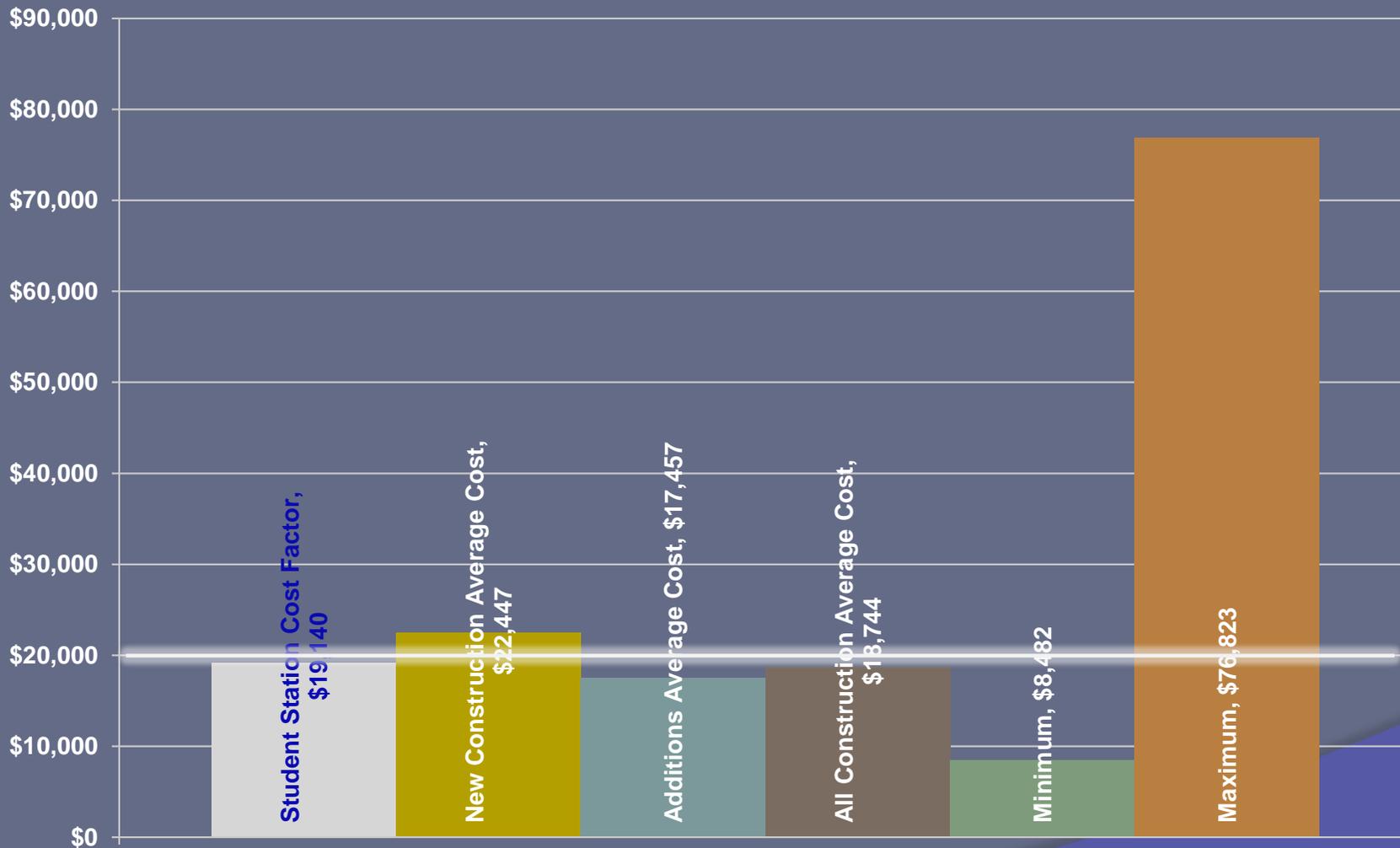
2010 Total Construction Costs for Schools Exceeding the Statutory Limit = \$623 million

Amount in Excess of Statutory Limit = \$154 million

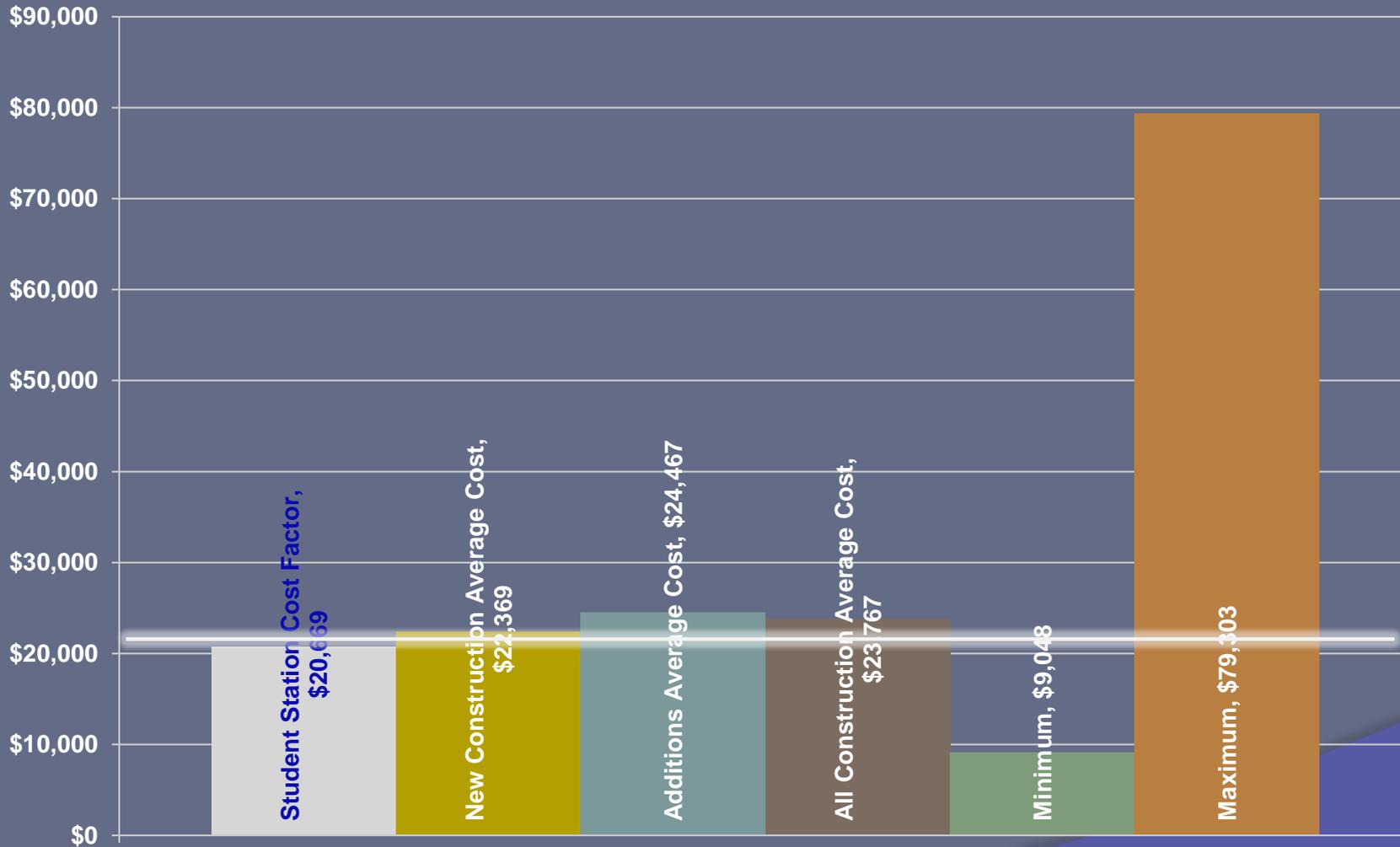


2009

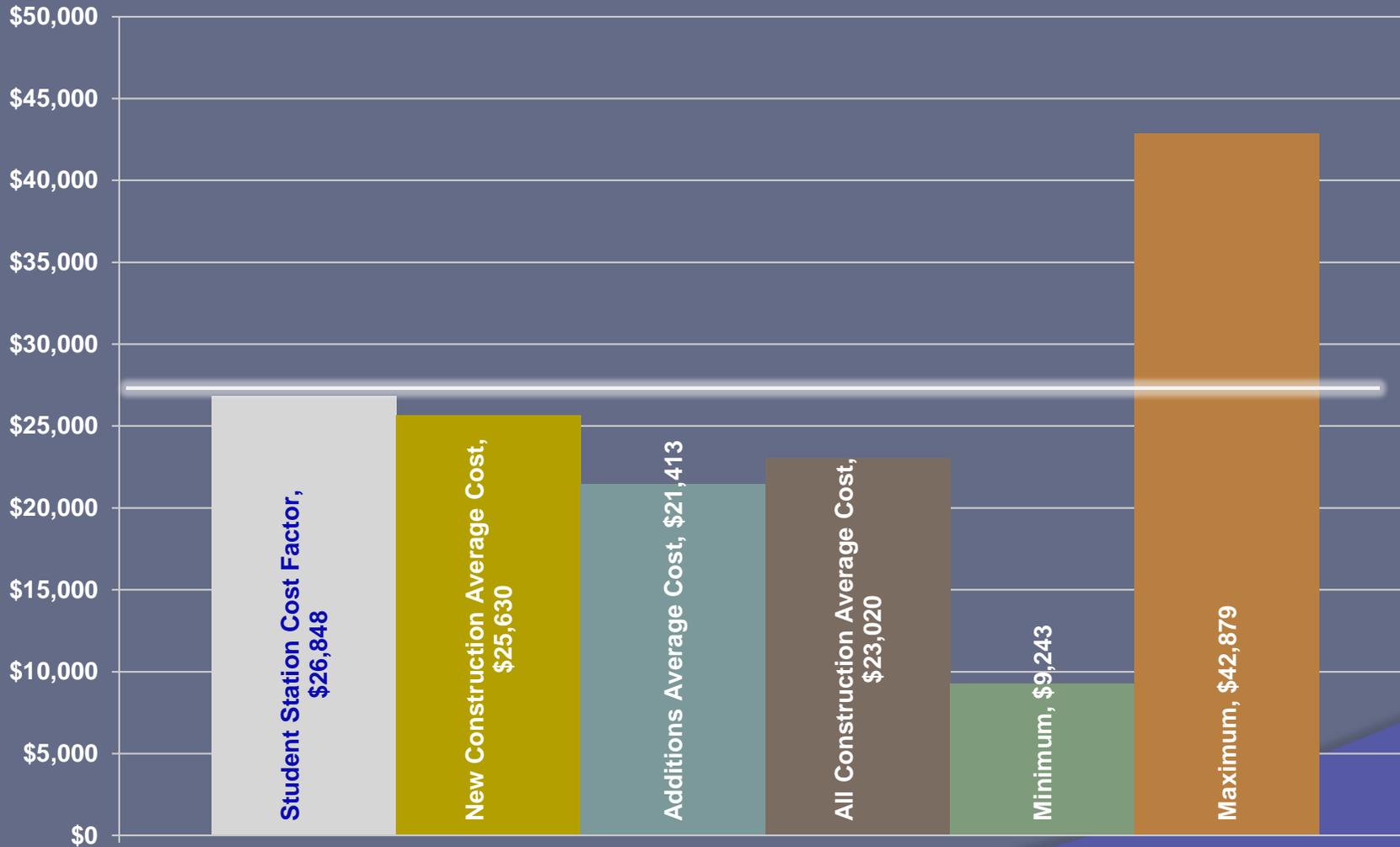
2009 Construction Costs Elementary Schools



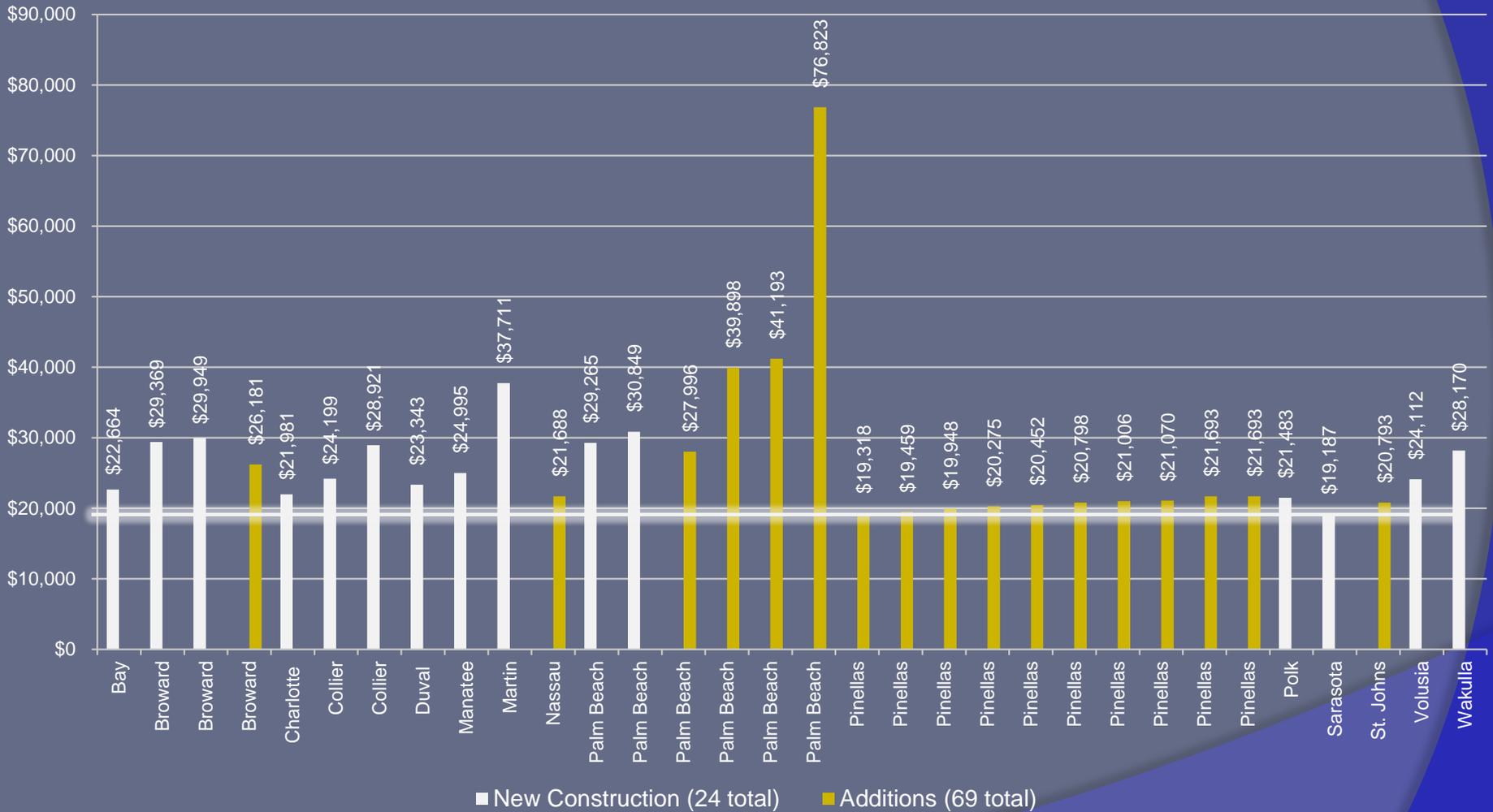
2009 Construction Costs Middle Schools



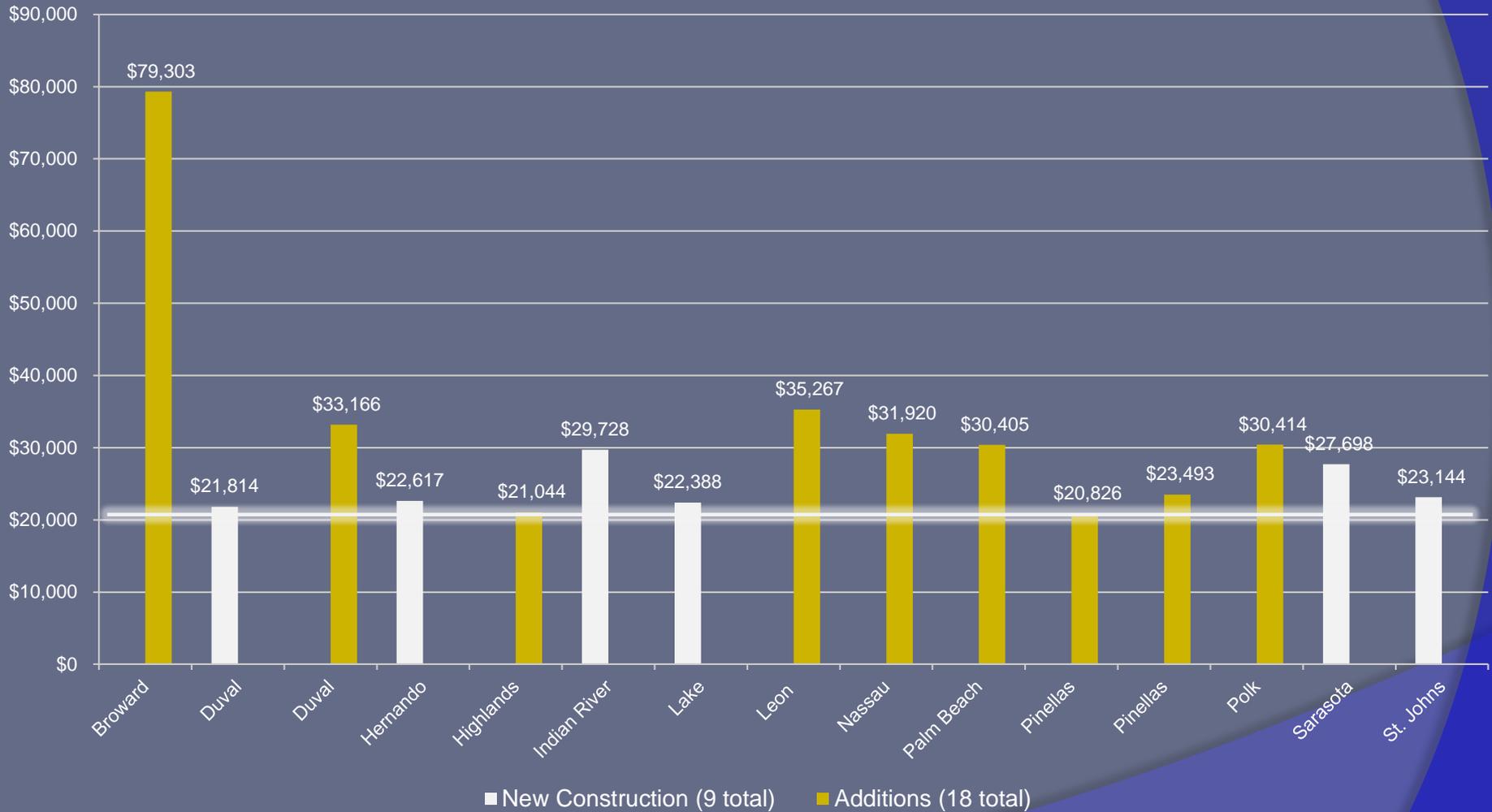
2009 Construction Costs High Schools



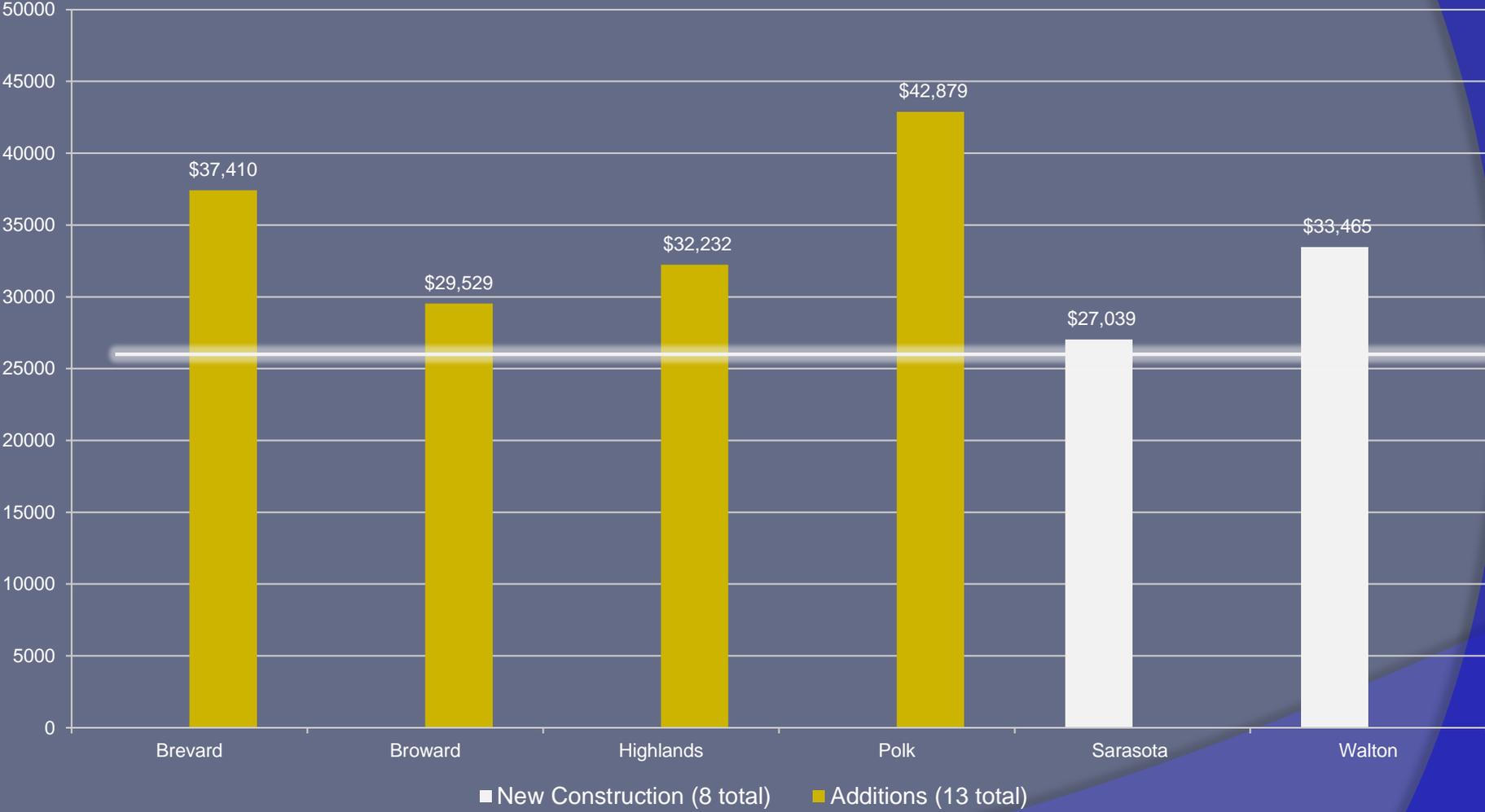
2009 Projects Above Elementary School Student Station Cost of \$19,140



2009 Projects Above Middle School Student Station Cost of \$20,669

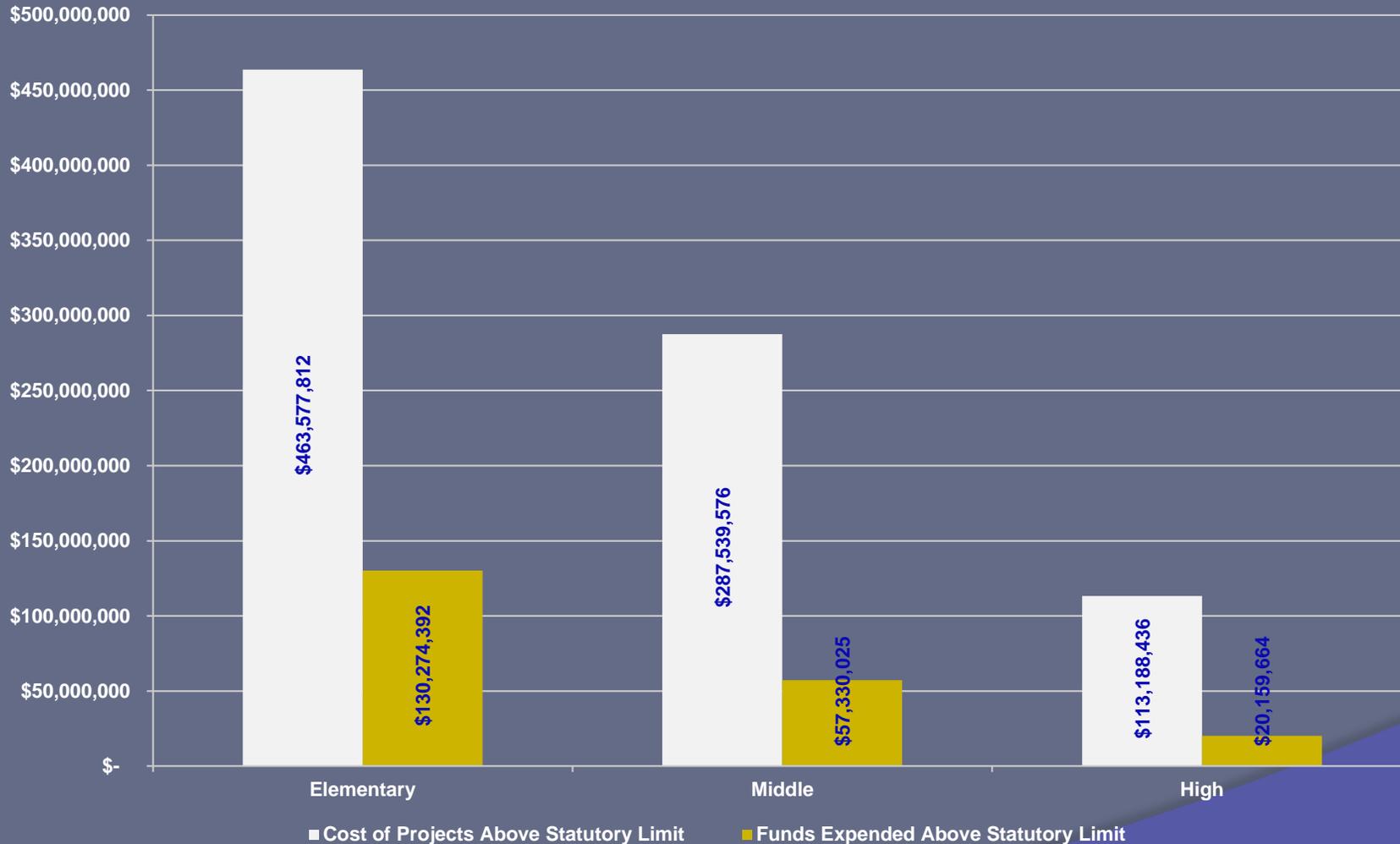


2009 Projects Above High School Student Station Cost of \$26,848



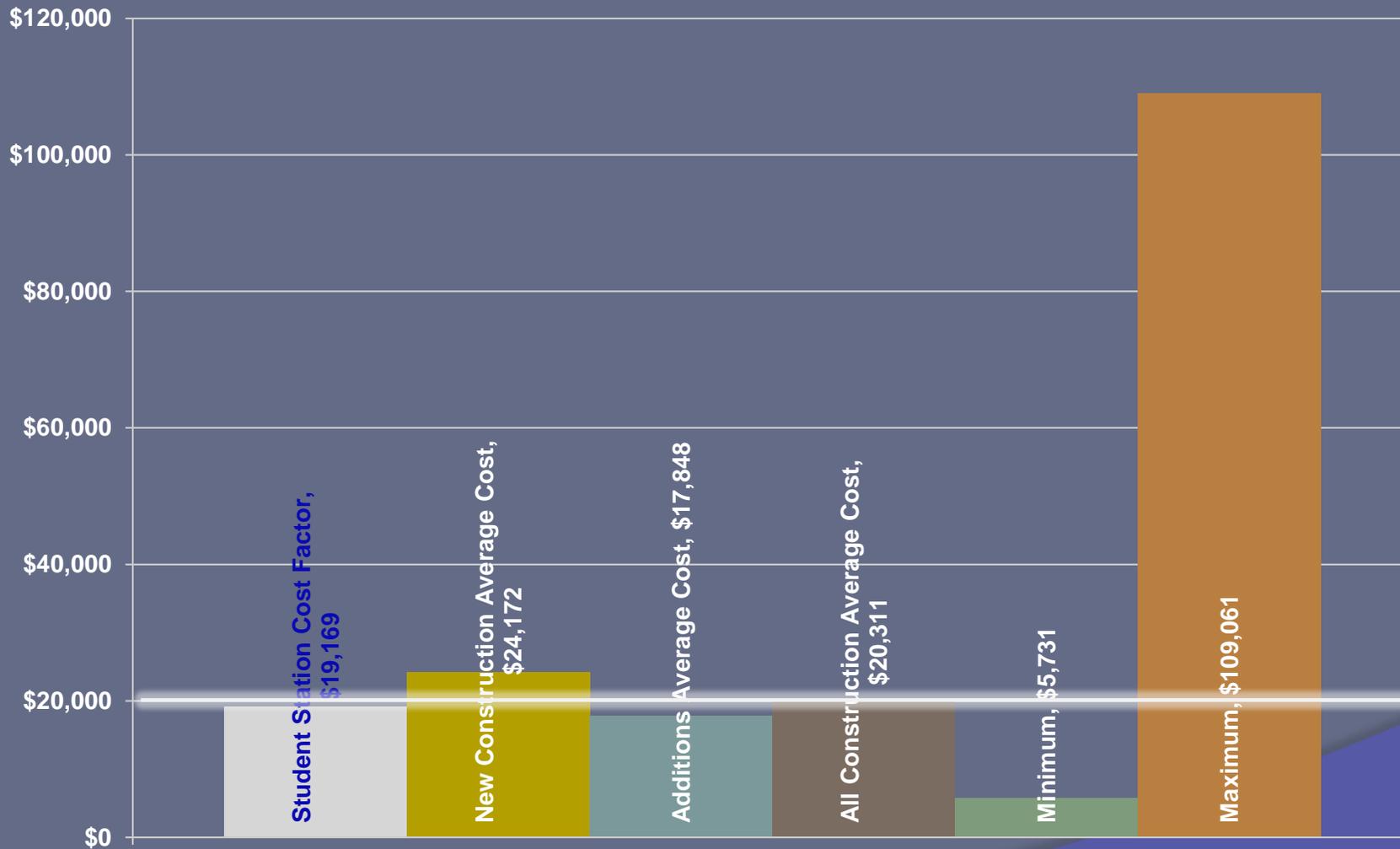
2009 Total Construction Costs for Schools Exceeding the Statutory Limit = \$864 million

Amount in Excess of Statutory Limit = \$207 million

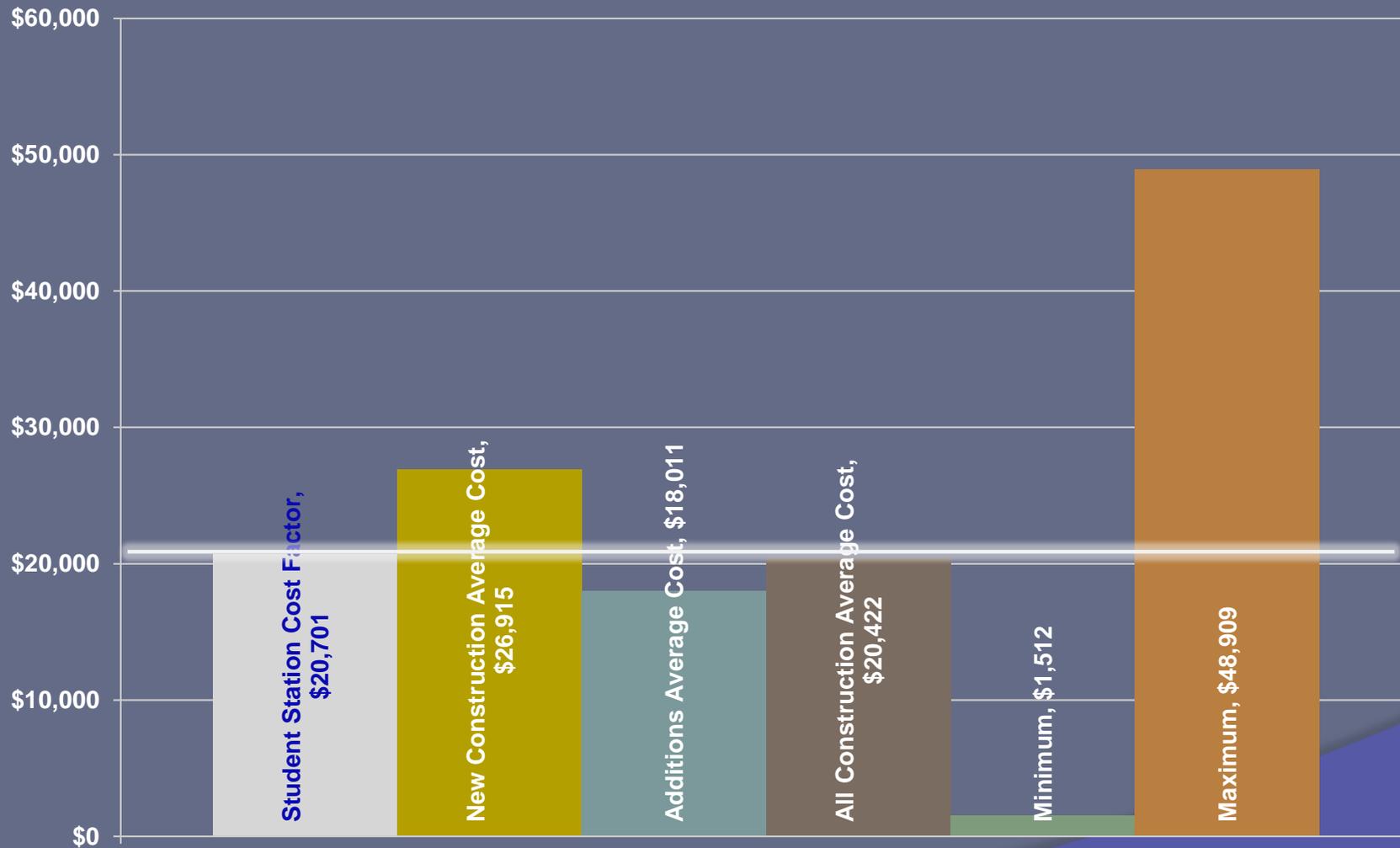


2008

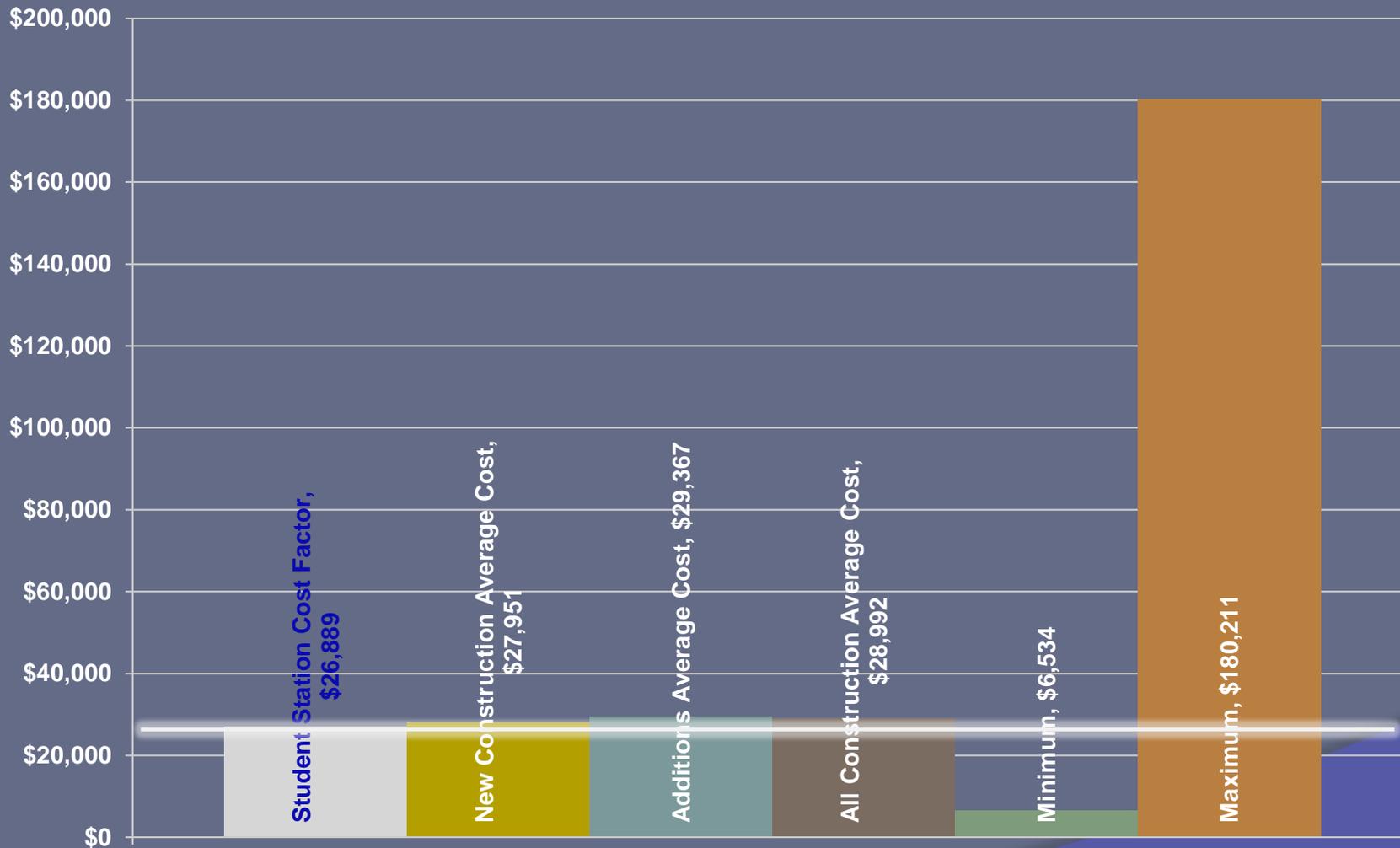
2008 Construction Costs Elementary Schools



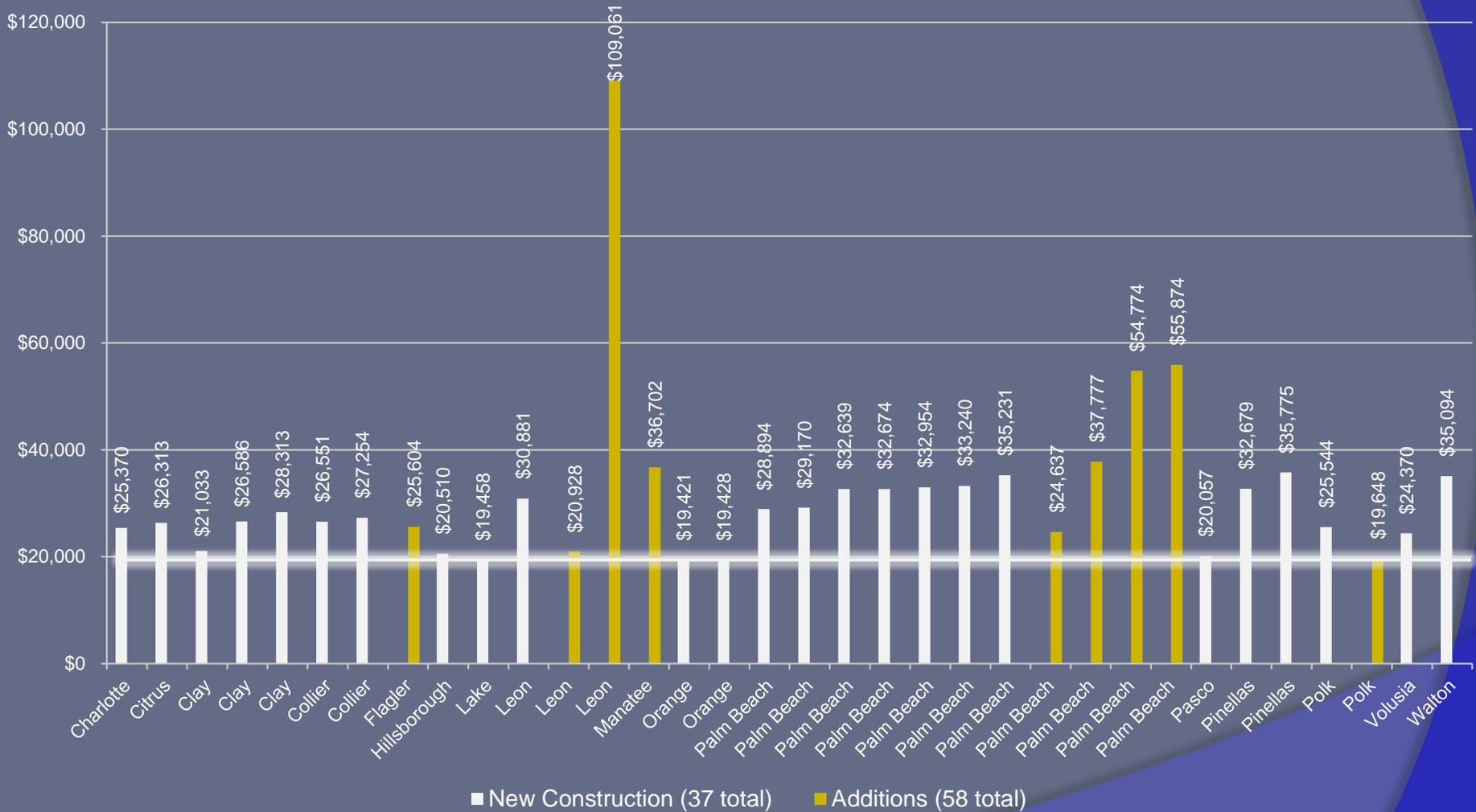
2008 Construction Costs Middle Schools



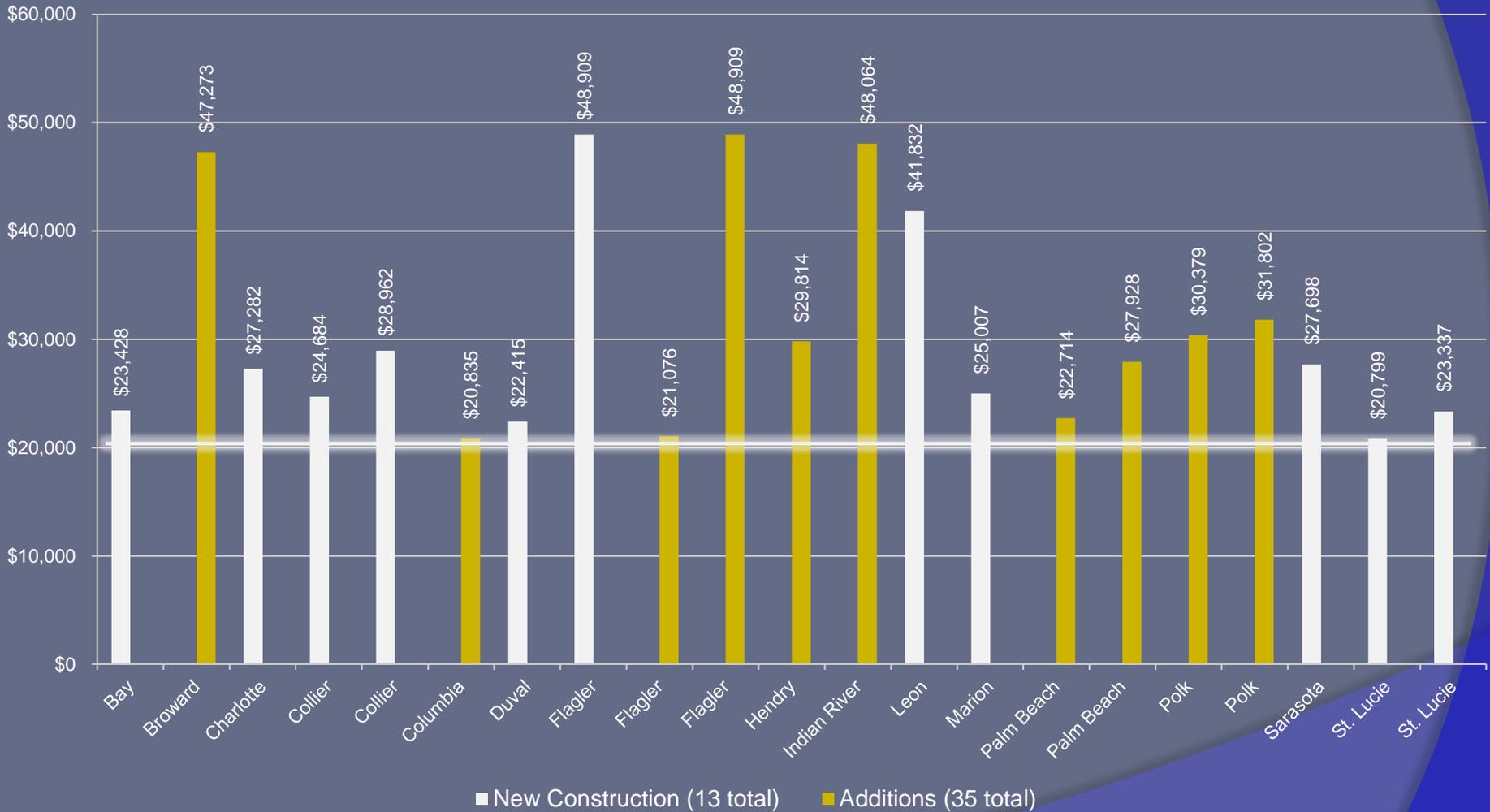
2008 Construction Costs High Schools



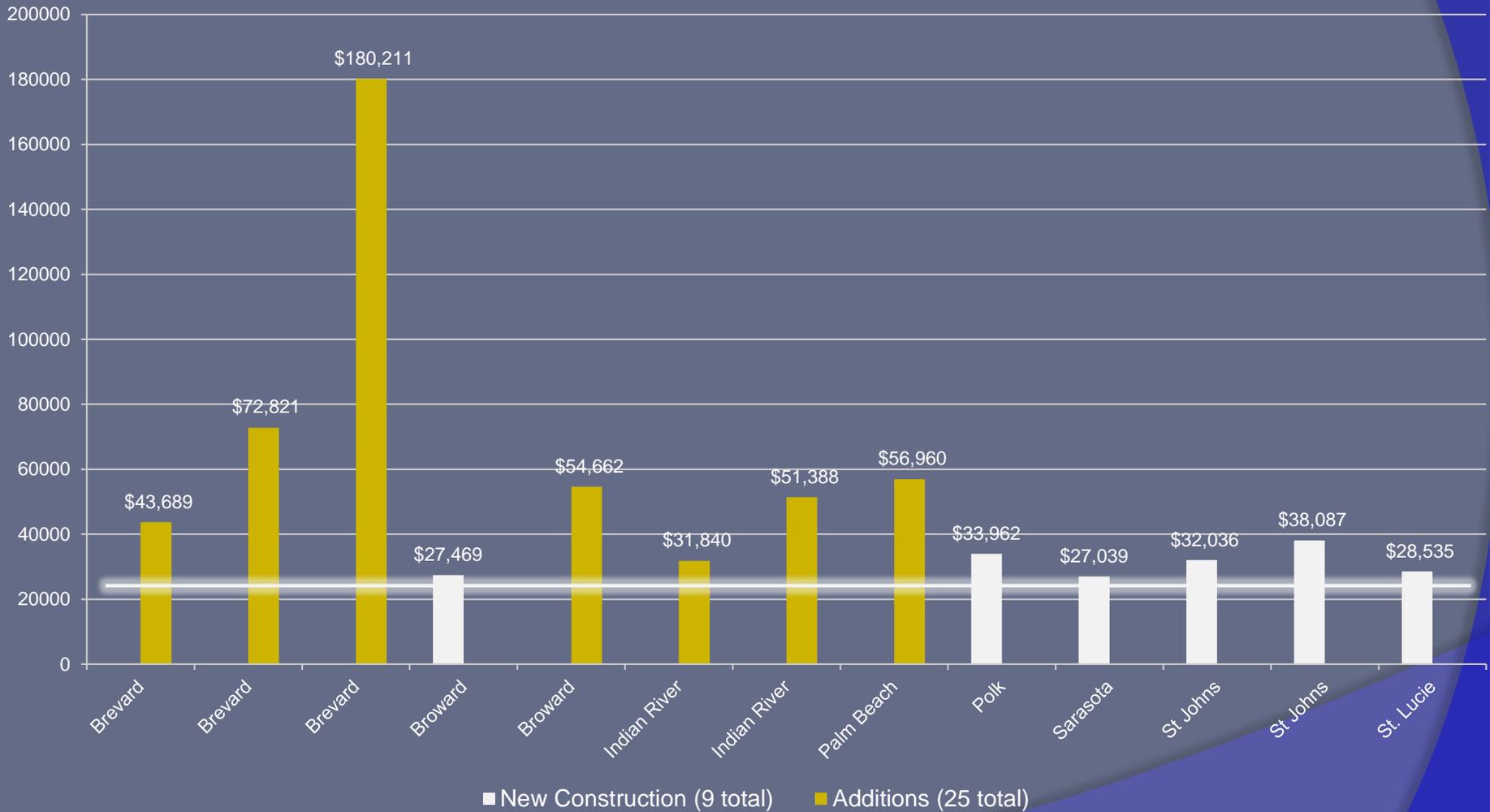
2008 Projects Above Elementary School Student Station Cost of \$19,169



2008 Projects Above Middle School Student Station Cost of \$20,701

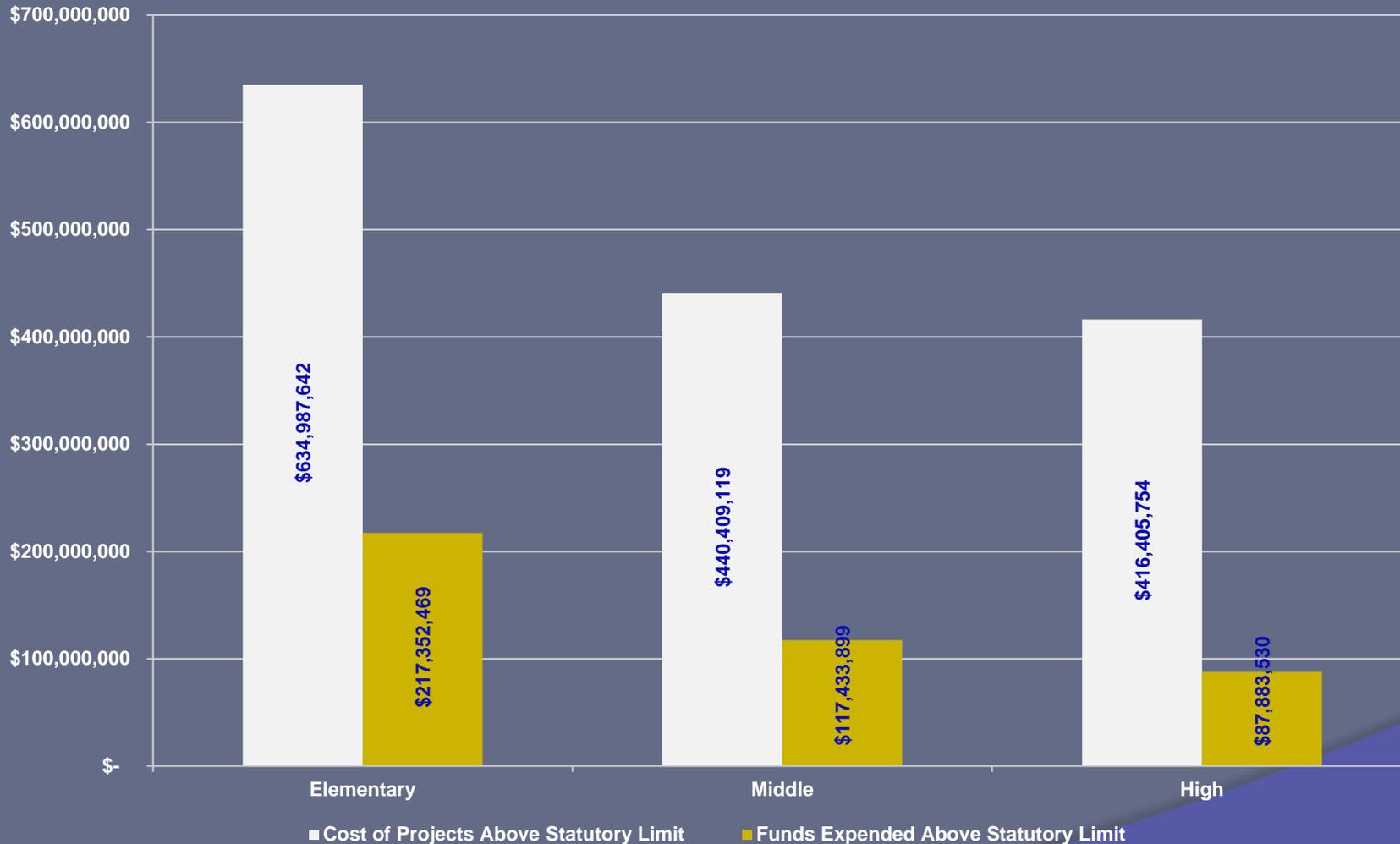


2008 Projects Above High School Student Station Cost of \$26,889



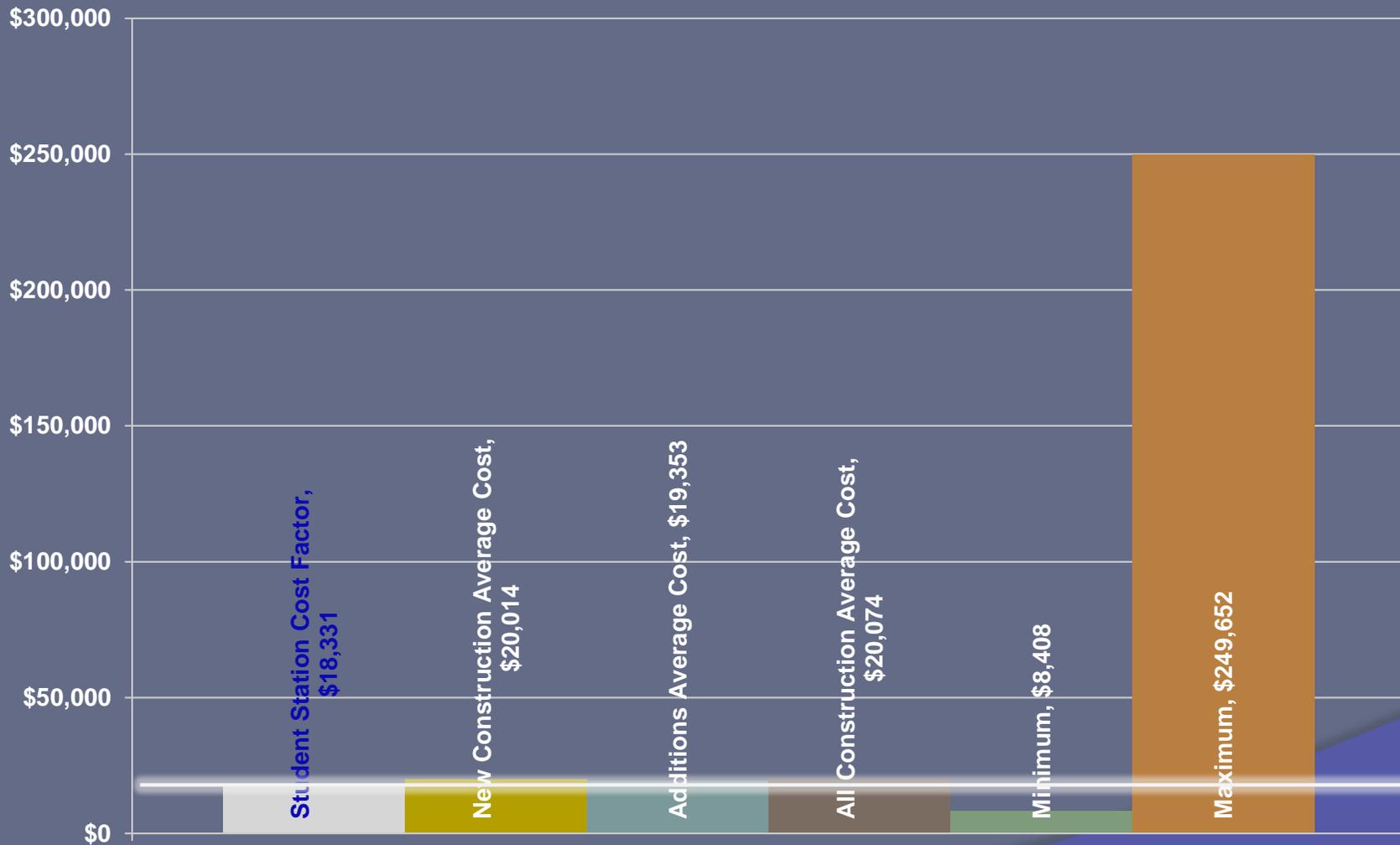
2008 Total Construction Costs for Schools Exceeding the Statutory Limit = \$1.5 billion

Amount in Excess of Statutory Limit = \$423 million

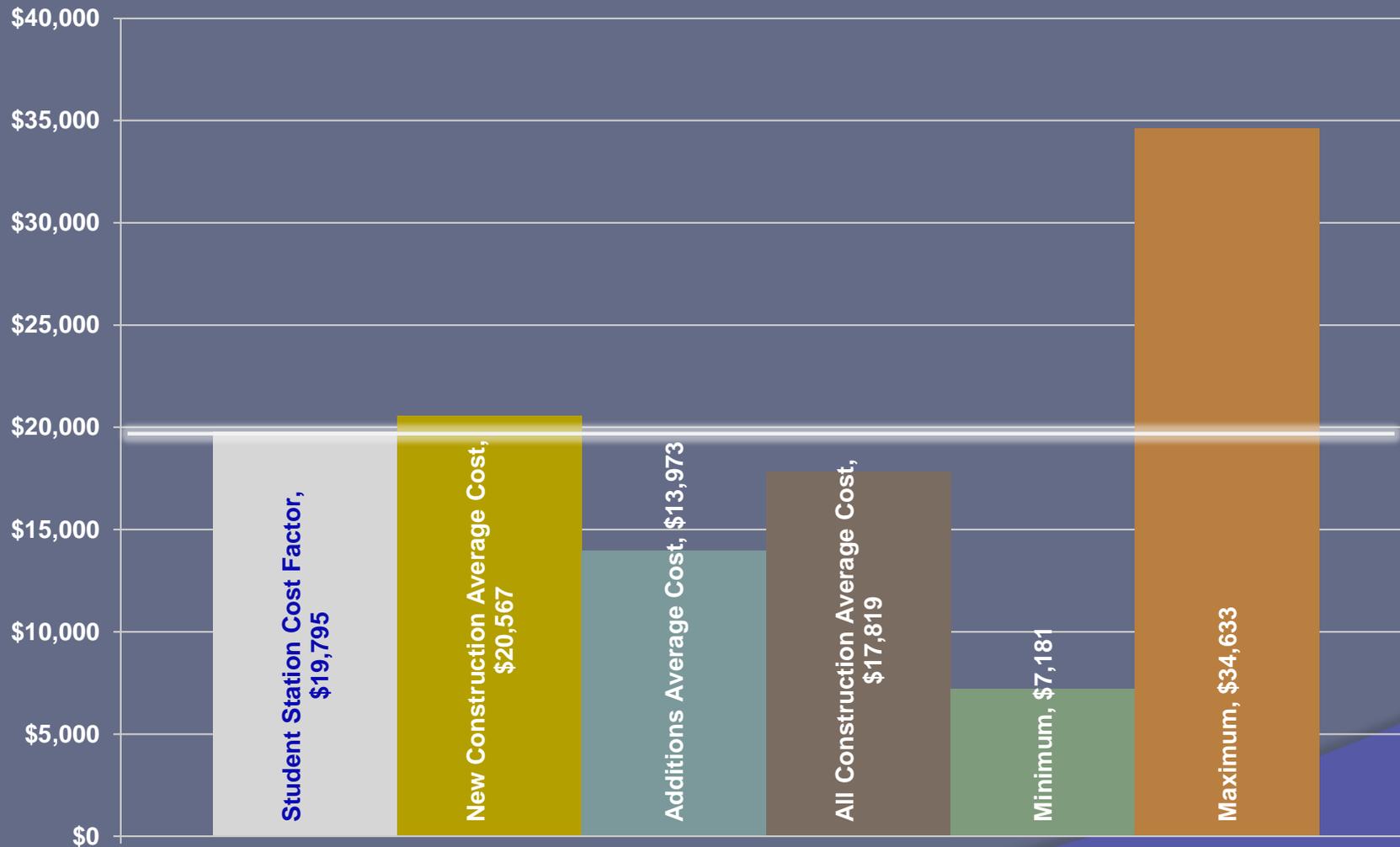


2007

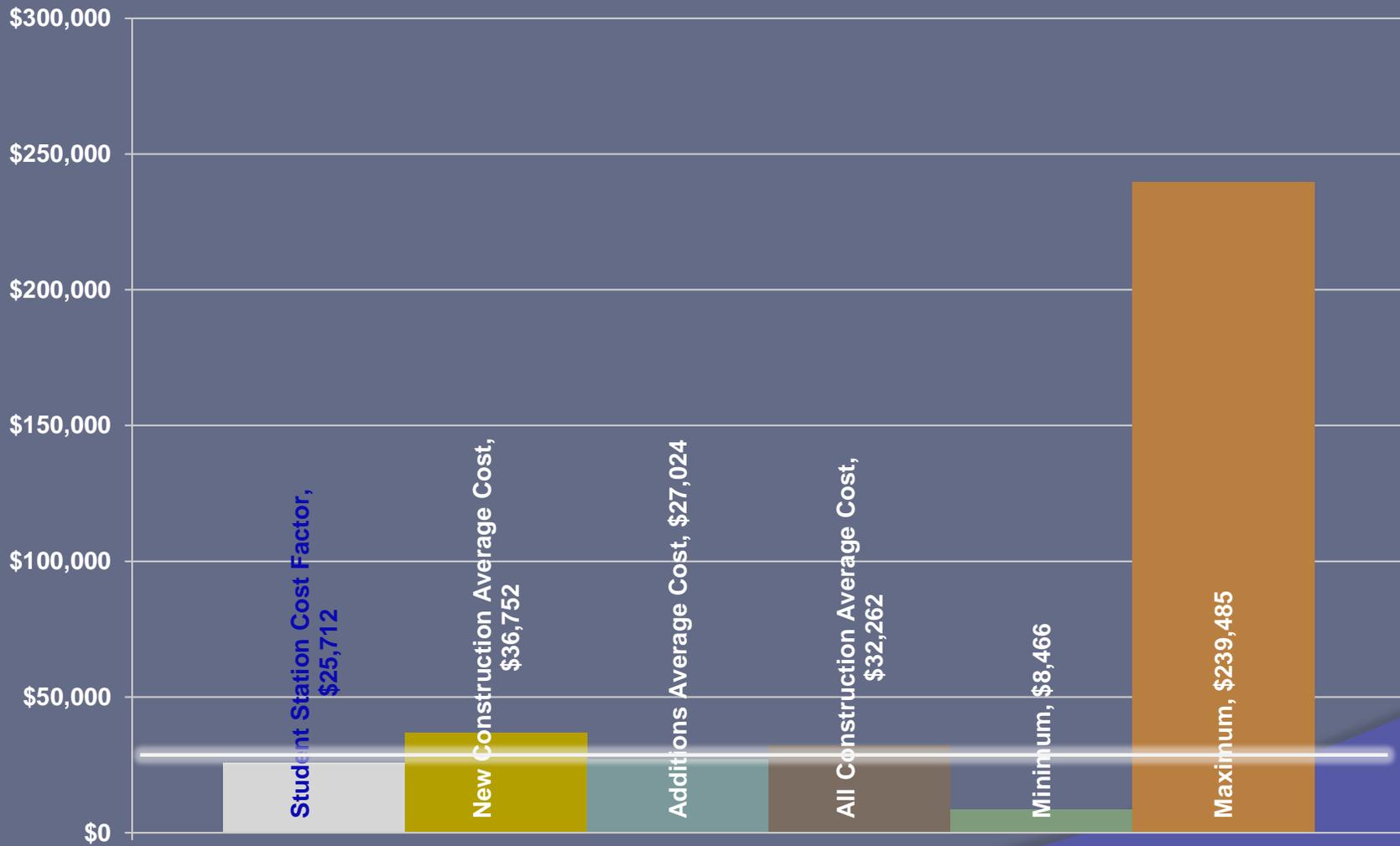
2007 Construction Costs Elementary Schools



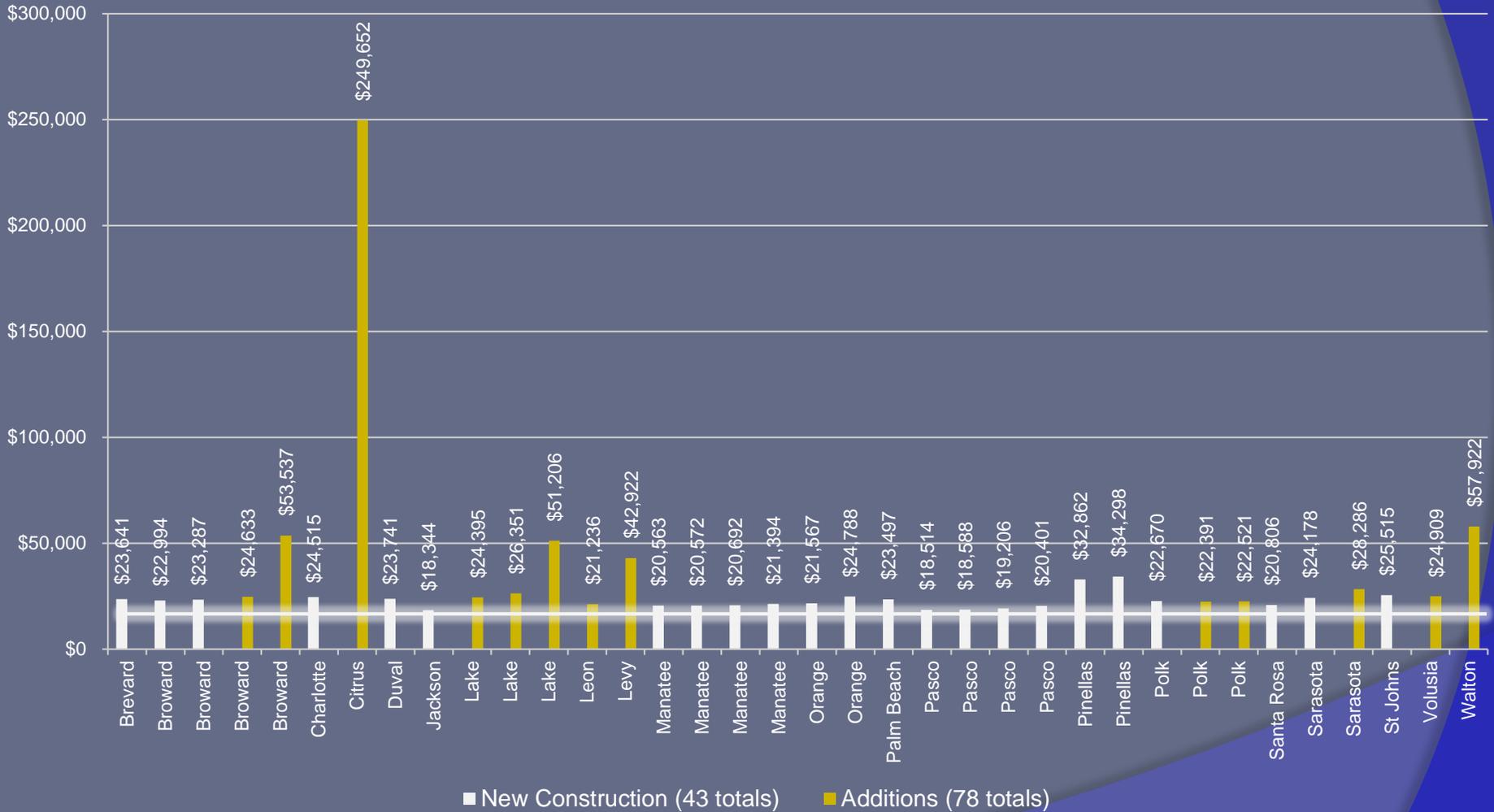
2007 Construction Costs Middle Schools



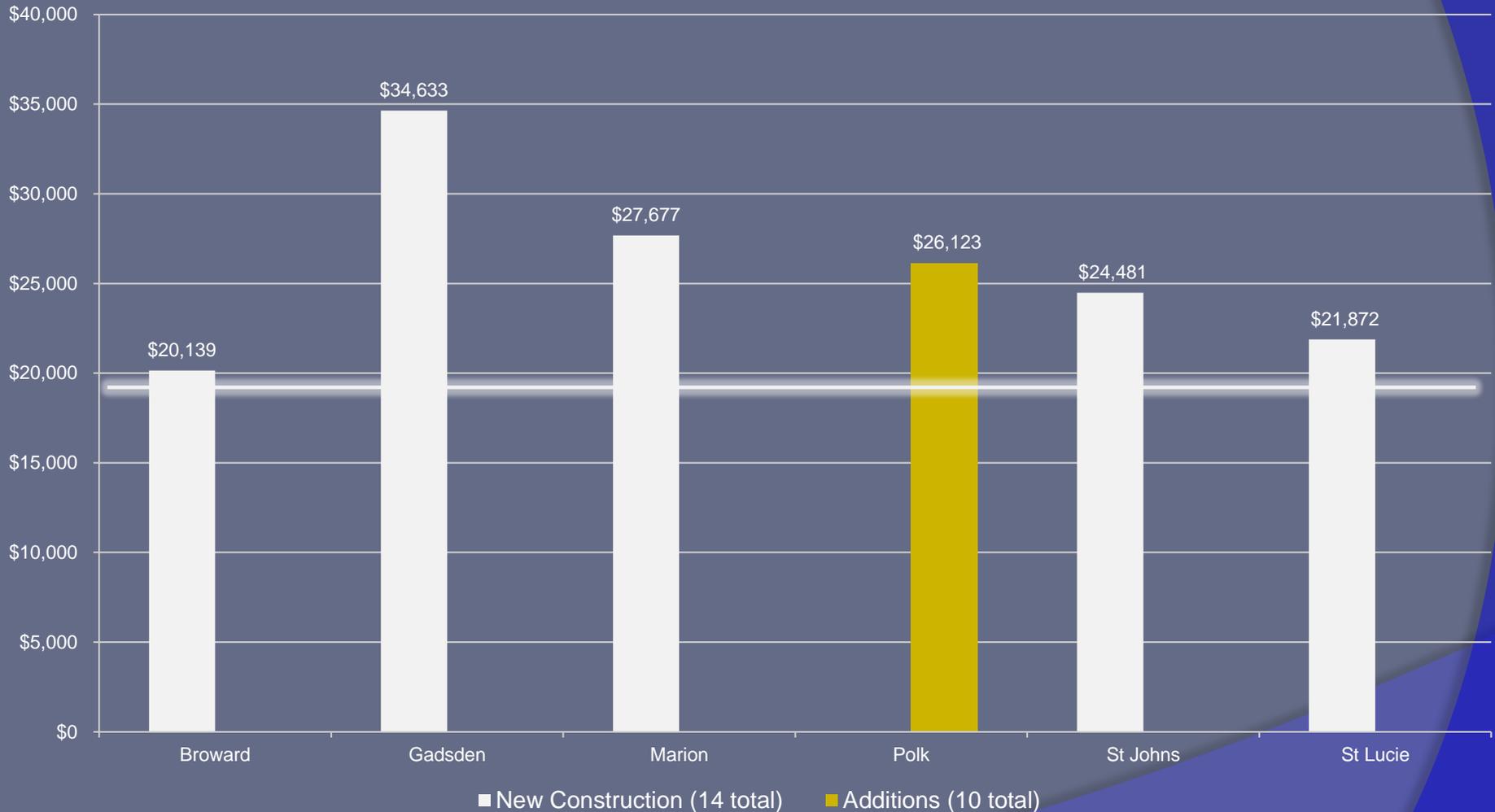
2007 Construction Costs High Schools



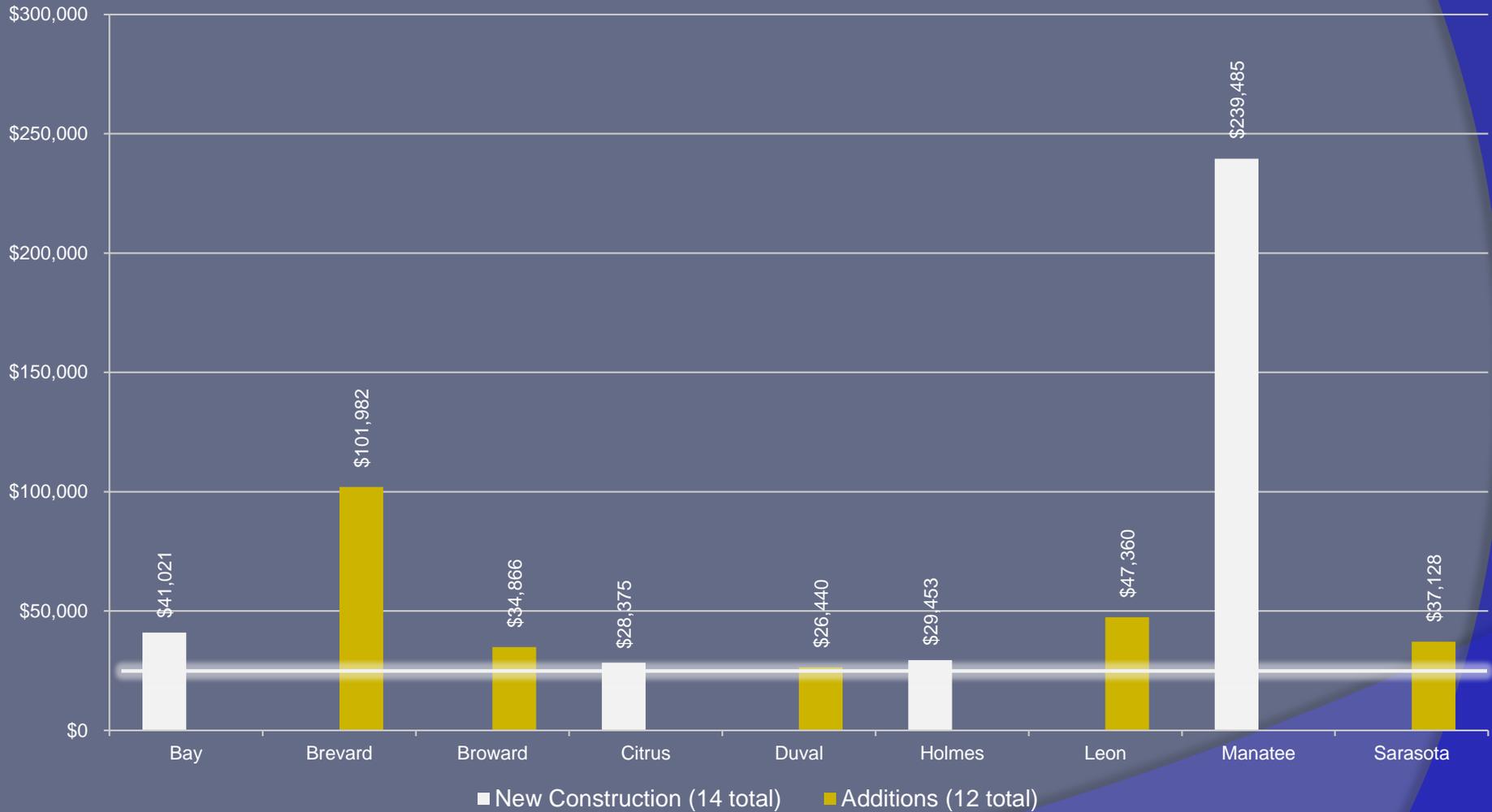
2007 Projects Above Elementary School Student Station Cost of \$18,331



2007 Projects Above Middle School Student Station Cost of \$19,795

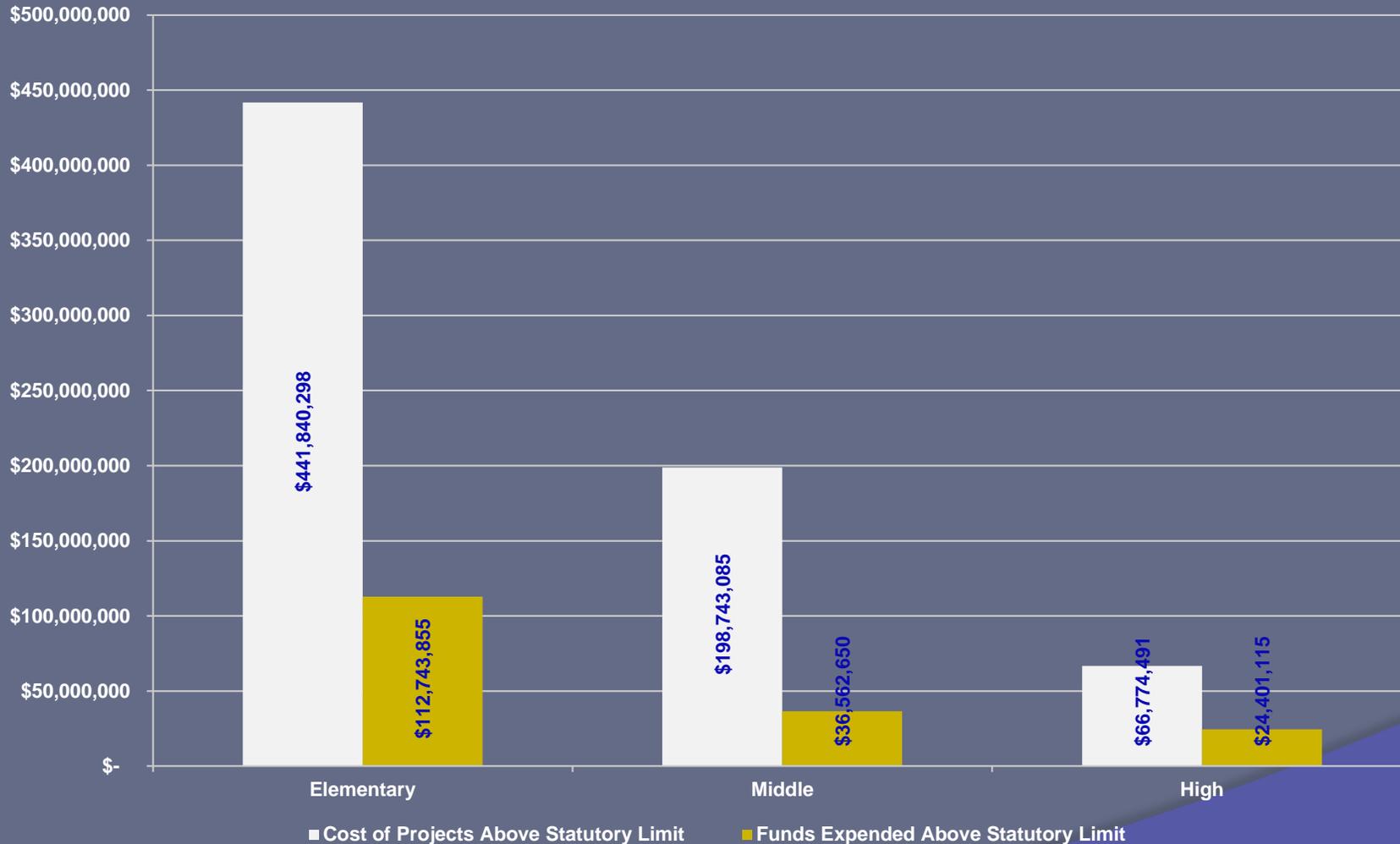


2007 Projects Above High School Student Station Cost of \$25,712



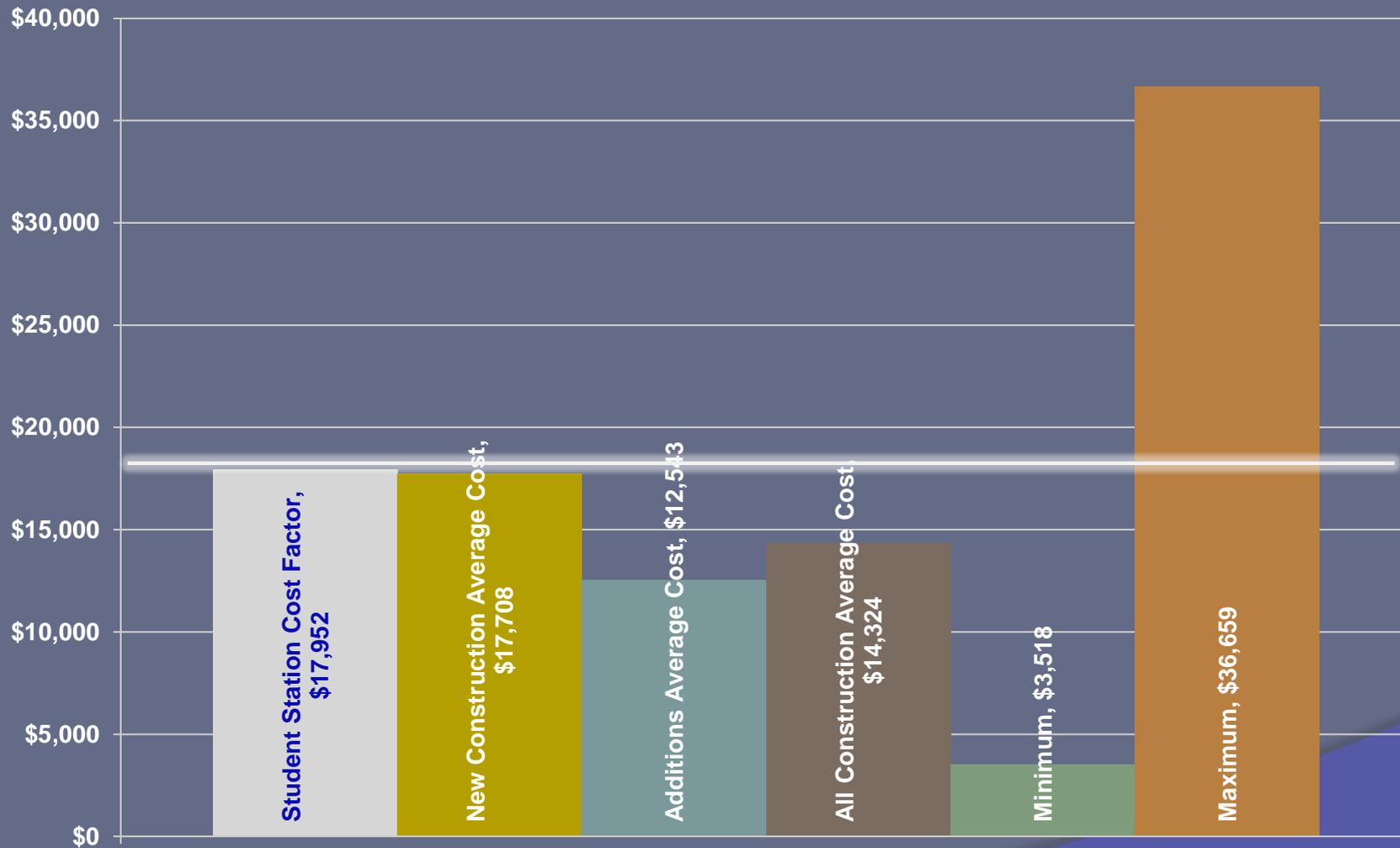
2007 Total Construction Costs for Schools Exceeding the Statutory Limit = \$707 million

Amount in Excess of Statutory Limit = \$174 million

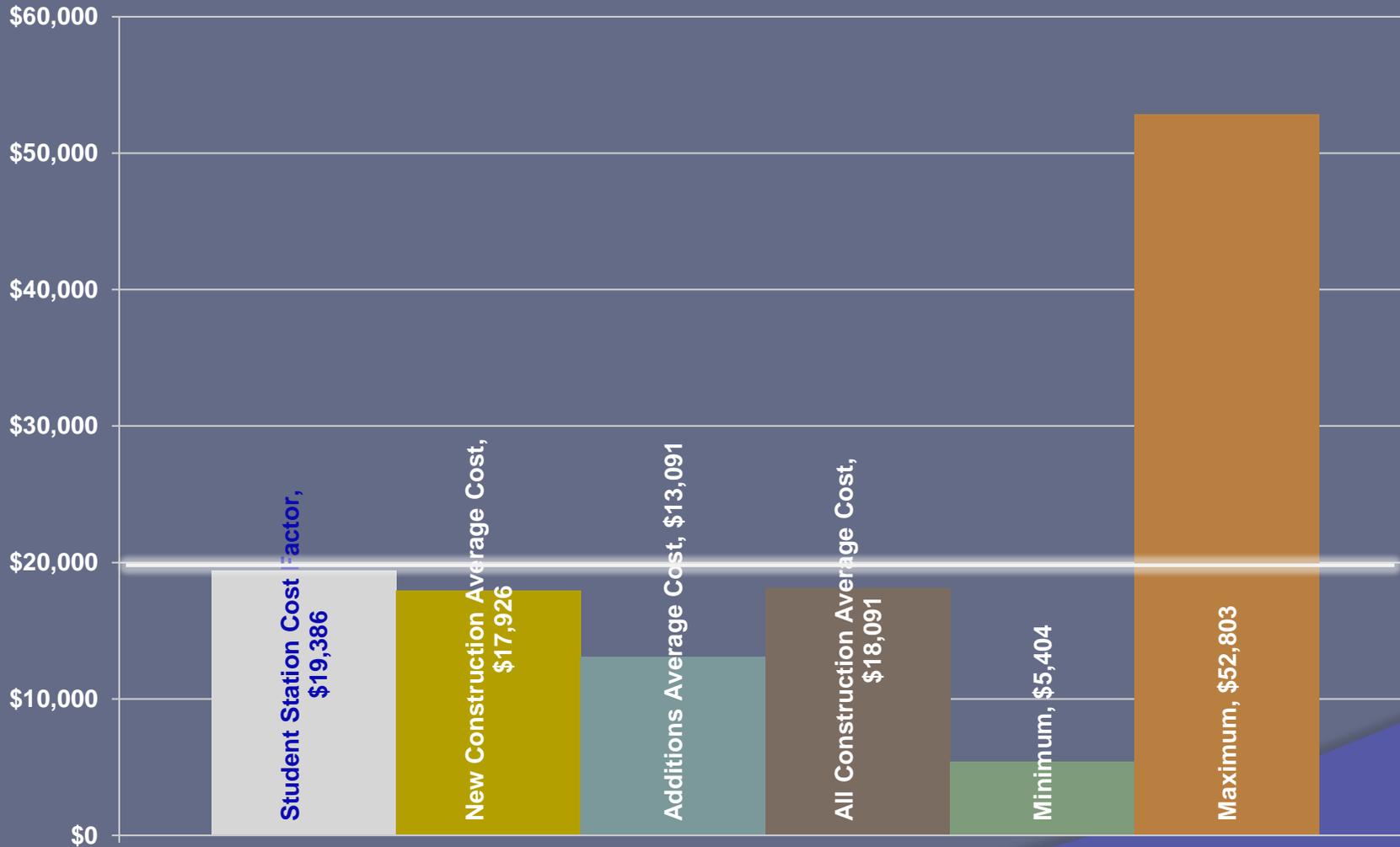


2006

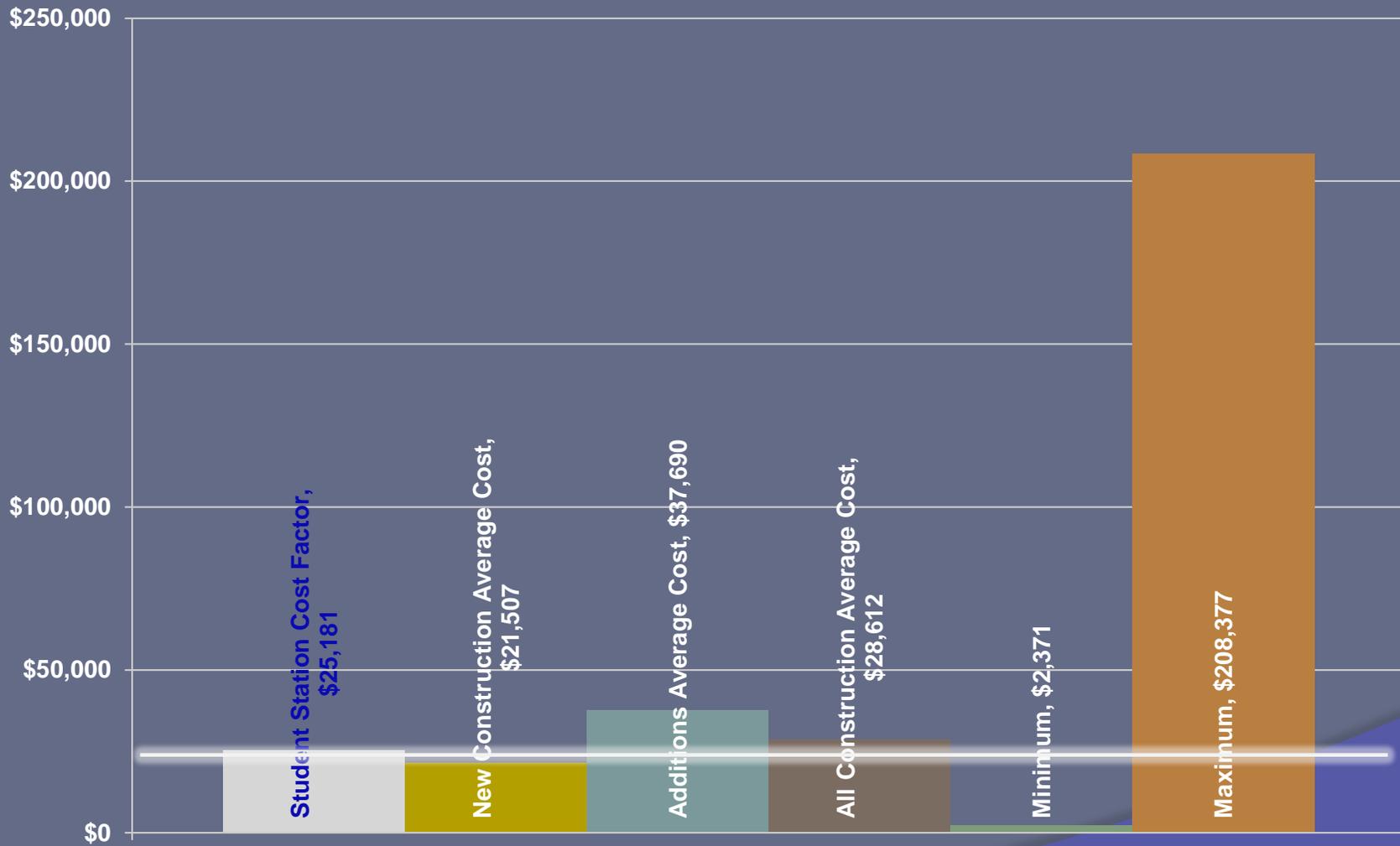
2006 Construction Costs Elementary Schools



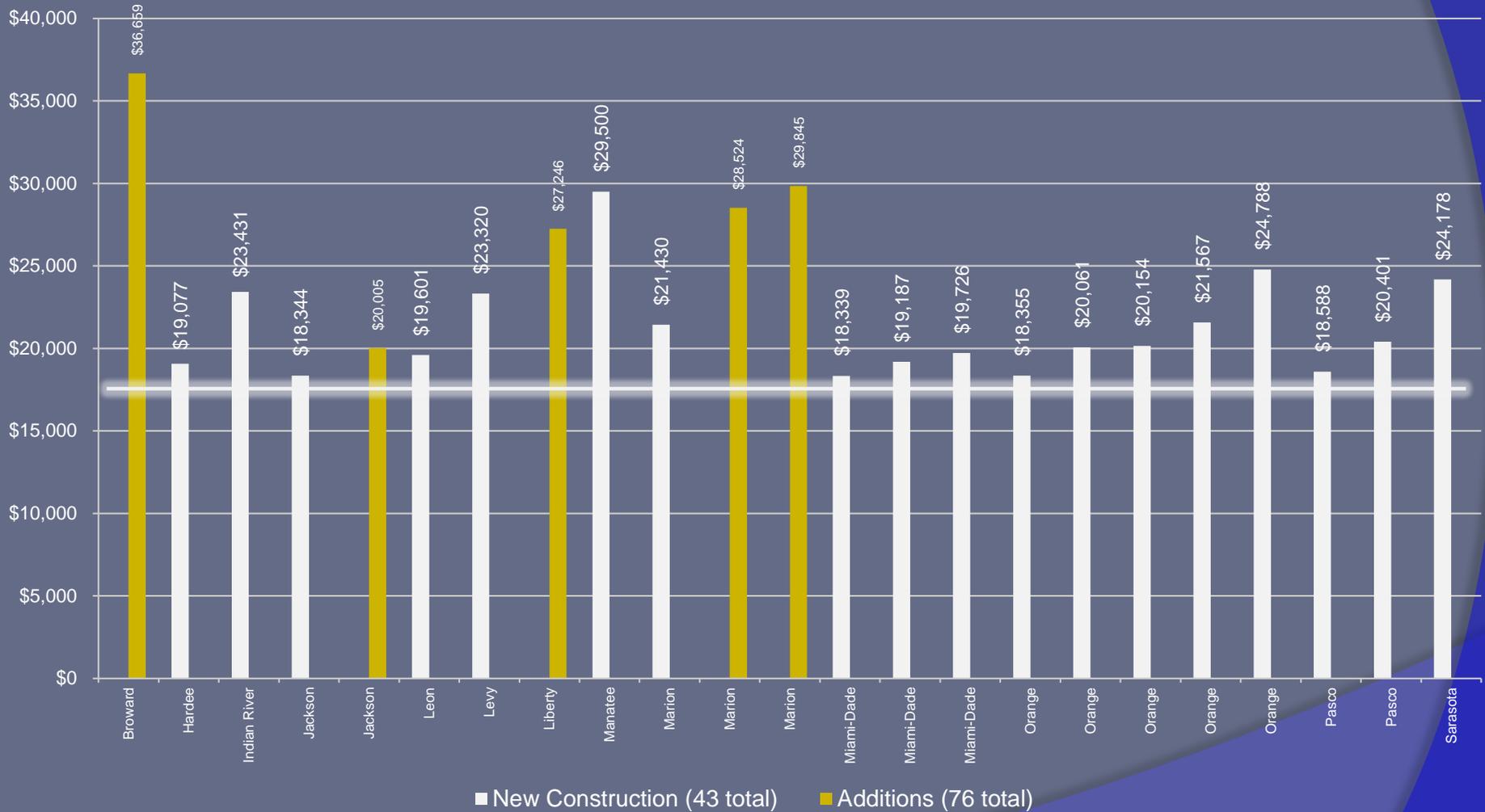
2006 Construction Costs Middle Schools



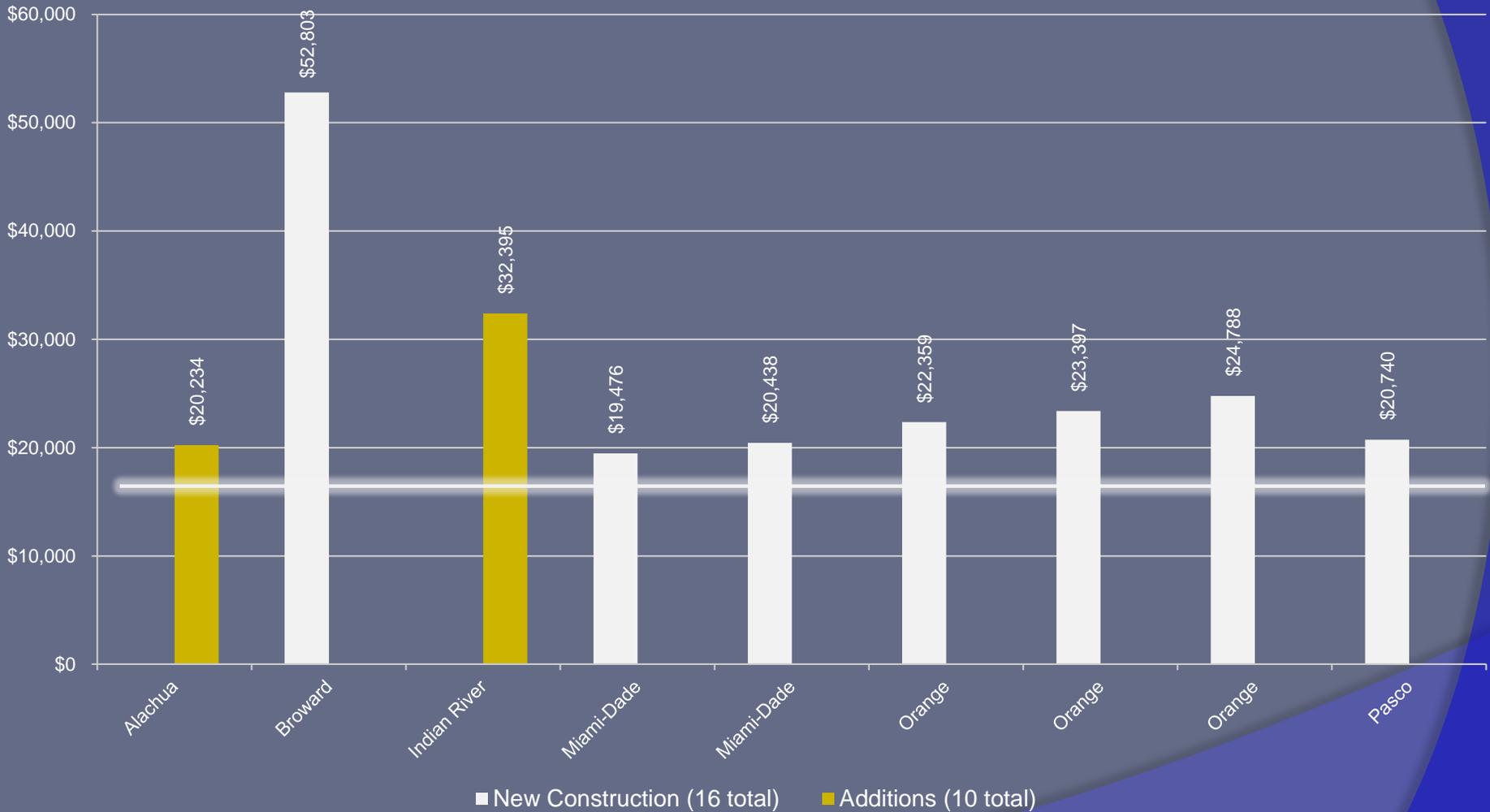
2006 Construction Costs High Schools



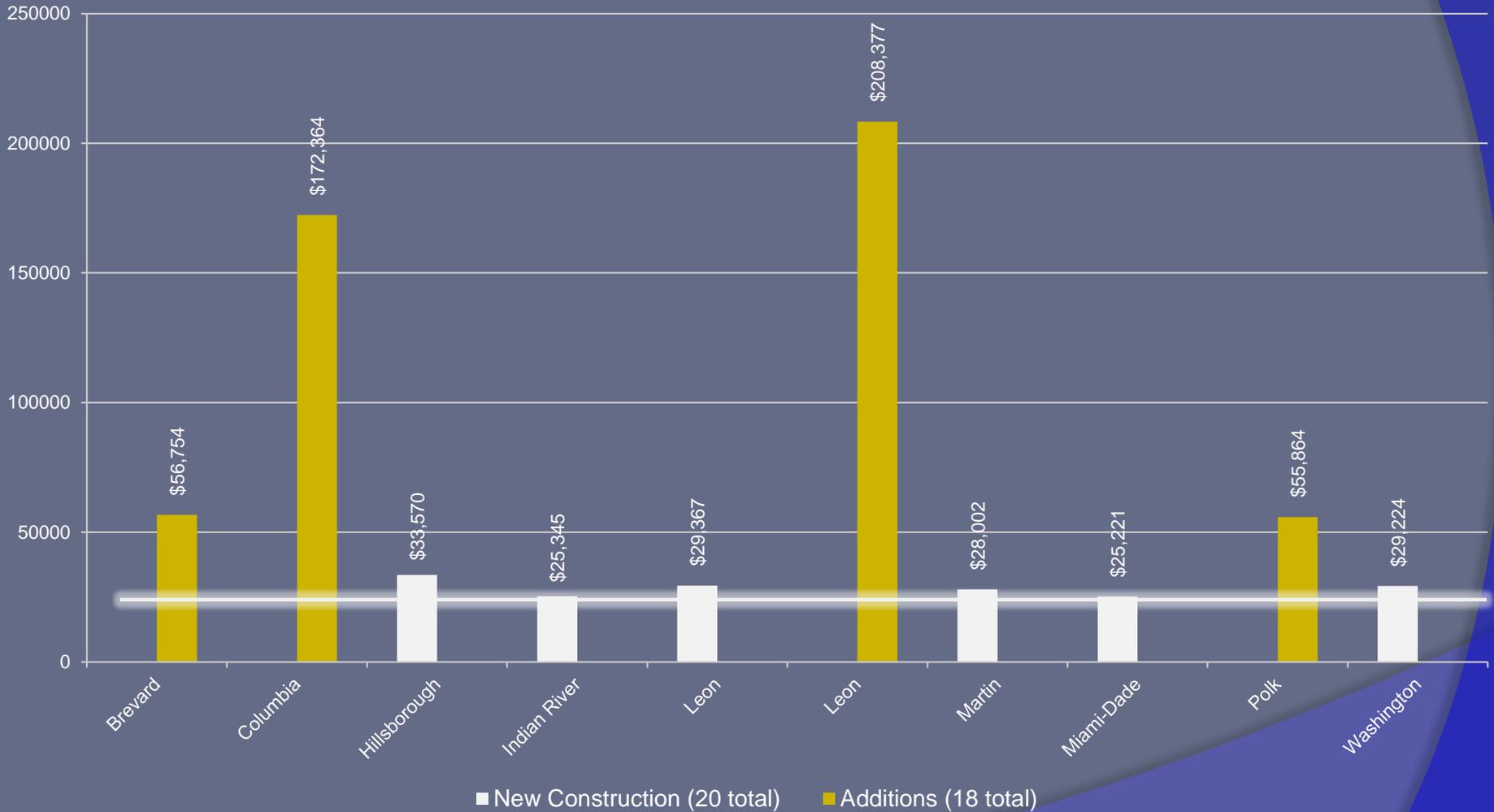
2006 Projects Above Elementary School Student Station Cost of \$17,952



2006 Projects Above Middle School Student Station Cost of \$19,386



2006 Projects Above High School Student Station Cost of \$25,181



2006 Total Construction Costs for Schools Exceeding the Statutory Limit = \$699 million

Amount in Excess of Statutory Limit = \$105 million

