

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education Pre-K - 12

BILL: CS/SB 1552

INTRODUCER: Committee on Education Pre-K – 12 and Senator Benacquisto

SUBJECT: Student Choice

DATE: March 20, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	Fav/CS
2.			AED	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1552 requires the disclosure of financial information to parents regarding costs associated with the education of their children, expands K-12 public school choice enrollment options, and modifies charter school requirements and options.

Specifically, the bill:

- Requires school district to provide parents with a fiscal transparency notification regarding the estimated amount of funding associated with the education of his or her child.
- Expands the scope of public school choice options available to parents:
 - Authorizes school and classroom choice options beyond school district boundaries, provided the receiving district or school has not reached capacity and the parent provides transportation.
 - Allows a student to transfer to another classroom teacher, in specified circumstances.
 - Creates options for students to receive customized instruction while receiving health care services in children’s hospitals.
- Specifies charter school requirements and options:
 - Modifies charter school requirements related to application processes, contract renewal and termination, operations, performance and fiscal accountability, student reporting, and governing board conflict of interest disclosure and reporting.
 - Authorizes the replication of high performing charter school in the attendance zone of a school in need of intervention, to meet capacity needs, or to meet district identified innovative choice options.

- Authorizes an entity that successfully operates a system of charter schools to apply to the State Board of Education for status as a high-performing charter school system.
- Creates the Charter School District Pilot Program authorizing the State Board of Education to enter into a performance contract with district school boards to provide principals of participating school with increased autonomy and authority.
- Creates the Florida Institute for Charter School Innovation at the Florida State University to provide technical assistance to charter school applicants and improve charter school accountability, quality, and innovation.

The bill takes effect July 1, 2015.

II. Present Situation:

There is a range of information and school choice options available to parents, from academic progress information, multiple school choice options, and notifications about and limits to certain types of teachers that may be assigned a student.¹ Charter schools are public schools of choice available to serve the unique needs of students.²

Educational Transparency

Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed about ways that the parents can help their child to succeed in school.³

For purposes of exceptional student education (ESE), district school boards must provide parents, at the initial individual education plan (IEP) team meeting, the amount of state appropriations that the school district receives for each of the five ESE support levels for a full-time student.⁴

Public School Educational Choice Options

Parents of public school students may seek school choice options such as controlled open enrollment, lab schools, virtual instruction programs, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, auditory-oral education programs, advanced placement, dual enrollment, International Baccalaureate, Advanced International Certificate of Education, credit by examination or demonstration of competency, the School for Deaf and the Blind, the Florida Virtual School, and the public school options for the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.⁵

¹ Section 1002.20(6), F.S.

² Section 1002.33, F.S.

³ Section 1002.20, F.S.

⁴ Section 1003.57(1)(j), F.S.

⁵ Section 1002.20(6), F.S.

Controlled Open Enrollment

Controlled open enrollment is a public education delivery system that gives school districts the option of making student school assignments using a parent's indicated preferential public school choice as a significant factor.⁶

Each district school board offering the controlled open enrollment must to adopt by rule a controlled open enrollment plan (plan) and post the plan on the district's website.⁷ The plan must:⁸

- Adhere to federal desegregation requirements.
- Include an application process required to participate in controlled open enrollment that allows parents to declare school preferences, including placement of siblings within the same school.
- Provide a lottery procedure to determine student assignment and establish an appeals process for hardship cases.
- Afford parents of students in multiple session schools preferred access to controlled open enrollment.
- Maintain socioeconomic, demographic, and racial balance.
- Address the availability of transportation.

Notification and Ability to Change Teachers

Each district school board must adopt and implement a plan to assist teachers who teach out-of-field and prioritize professional development activities for such teachers.⁹ If a teacher is assigned a class that is outside the field in which the teacher is certified or has demonstrated sufficient subject matter expertise, parents of all students in that class must be notified, in writing, of such assignment.¹⁰

Public school students are prohibited from being taught by a classroom teacher who received a performance evaluation rating of "needs improvement" or "unsatisfactory" if the student was taught by a classroom teacher that received a performance rating of "needs improvement" or "unsatisfactory" in the previous school year.¹¹

Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor, which is typically a school district.¹² Charter schools are exempt from many laws and regulations applicable to traditional public schools to encourage the use of innovative learning

⁶ Section 1002.31(1), F.S.; Implementation of the plan by a district school board is optional. Section 1002.31(2), F.S.

⁷ Section 1002.31(3), F.S.

⁸ Section 1002.31(3), F.S.

⁹ Section 1012.42(1), F.S. The district school board must require the teacher to participate in a certification or staff development program that is designed to provide the teacher with the necessary competencies to perform assigned duties. *Id.*

¹⁰ Section 1012.42(2), F.S.

¹¹ Section 1012.2315(6), F.S. For elementary school students, this probation applies to any subject, while the prohibition for middle school and high school students are limited to teachers who receive the performance evaluations in the same subject area. *Id.* A parent may provide written consent to exempt extracurricular courses from this prohibition. *Id.*

¹² Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

methods.¹³ One of the guiding principles of charter schools is to “meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state’s public school system.”¹⁴ The terms and conditions for the operation of the school are set forth in a performance contract or “charter.”¹⁵

Florida law tasks sponsors with authorizing new charter schools and providing continuing oversight of each charter school in the school district.¹⁶ The law establishes several processes designed to enable the sponsor to perform these roles, including:

- Authority to review and approve or deny charter school applications.¹⁷
- Authority to enforce the terms and conditions of the charter agreement.¹⁸
- Annual reporting of student achievement and financial information by each charter school to the sponsor.¹⁹
- Sponsor monitoring of annual financial audits²⁰ and monthly financial statements submitted by charter schools in the school district.²¹
- Interventions for remedying unsatisfactory academic performance and financial instability.²²
- Authority to close charter schools for academic or financial failure; poor management; violations of law; or child health, safety, and welfare violations.²³

The law establishes an application process for establishing a new charter school.²⁴ An applicant must submit a charter school application to the sponsor.²⁵ The sponsor must review and approve or deny the application.²⁶ The law requires sponsors and applicants to use a standard charter school application and application evaluation instrument.²⁷ The standard application is designed to enable the sponsor to evaluate the applicant’s educational plan, organizational plan, financial viability, and business plan.²⁸

Charter school sponsors evaluate a variety of factors when considering an application to open a charter school.²⁹ The standard application requires the applicant to:³⁰

- List each proposed member of the charter school’s governing board and his or her background and qualifications.

¹³ Section 1002.33(2)(b)3, and (16), F.S.

¹⁴ Section 1002.33(2)(a)1, F.S.

¹⁵ Section 1002.33(6)(h), F.S.

¹⁶ Section 1002.33(6), F.S.

¹⁷ Section 1002.33(6), F.S.

¹⁸ Section 1002.33(6)(h) and (7), F.S.

¹⁹ Section 1002.33(9)(k), F.S.

²⁰ Sections 218.39(1)(e) and (f), 1002.33(9)(j)1. and 2., F.S.

²¹ Section 1002.33(9)(g), F.S.

²² Section 1002.33(9)(n), F.S.

²³ Section 1002.33(8), F.S.

²⁴ Section 1002.33(6)(a), F.S.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Section 1002.33(6)(a), (7), (8), (9), F.S.

³⁰ *Id.*

- Indicate if the governing board will contract with a management company, summarize the company's history operating charter schools, and list other charter schools managed by the company and student achievement and financial performance data of such schools.

Among other oversight processes, charter schools must submit monthly financial statements for review by the sponsor.³¹ If a financial statement reveals a deteriorating financial condition, the sponsor and charter school governing board must develop a corrective action plan.³² The sponsor may choose to terminate or not renew the charter school's charter if financial deficiencies noted in the corrective action plan are not corrected within one year or if the school exhibits one or more financial emergency conditions for two consecutive years.³³

High-Performing Charter Schools

A charter school is a high-performing charter school if it:³⁴

- Received at least two school grades of "A" and no school grade below "B," during each of the previous 3 school years.
- Received an unqualified opinion on each annual financial audit in the most recent 3 fiscal years for which such audits are available.
- Did not receive a financial audit that revealed one or more of the financial emergency conditions in the most recent 3 fiscal years for which such audits are available. However, this requirement is deemed met for a charter school-in-the-workplace if there is a finding in an audit that the school has the monetary resources available to cover any reported deficiency or that the deficiency does not result in a deteriorating financial condition.

A high-performing charter school is authorized to:³⁵

- Increase its student enrollment once per school year to more than the capacity identified in the charter, but student enrollment may not exceed the current facility capacity.
- Expand grade levels within kindergarten through grade 12 to add grade levels not already served if any annual enrollment increase resulting from grade level expansion is within the limit established its contract.
- Submit a quarterly, rather than a monthly, financial statement to the sponsor.
- Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the charter schools' governing board regardless of the renewal cycle.
- Receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a shorter term at the option of the high-performing charter school.

A virtual charter school is not eligible for designation as a high-performing charter school, nor may a high-performing charter school be replicated as a virtual charter school.³⁶

³¹ Sections 1002.33(9)(g)3, and 1002.345(1)(b)-(f), F.S.; rule 6A-10081, F.A.C. A high-performing charter school may submit quarterly rather than monthly financial statements. Section 1002.331(2)(c), F.S.

³² *Id.*

³³ Section 1002.345(5), F.S.

³⁴ Section 1002.331(1), F.S.

³⁵ Section 1002.331(2), F.S.

³⁶ Sections 1002.331(1)(c) and (6), F.S.

High Performing Charter School Systems

A high-performing charter school system means an entity³⁷ that:³⁸

- Operated at least three high-performing charter schools in the state during each of the previous 3 school years.
- Operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools pursuant to s 1002.331 and no charter school earned a school grade of “D” or “F” in any of the previous 3 school years, regardless of whether the entity currently operates the charter school.³⁹
- Did not receive a financial audit that revealed one or more emergency conditions set forth in s. 218.503(1) for any charter school assumed or established by the entity in the most recent 3 fiscal years for which such audits are available.⁴⁰

A high performing charter school system may replicate its high-performing charter schools pursuant to s. 1002.331(3), F.S.⁴¹

III. Effect of Proposed Changes:

CS/SB 1552 requires the disclosure of financial information to parents regarding costs associated with the education of their children, expands K-12 public school choice enrollment options, and modifies charter school requirements and options.

Educational Transparency

The bill requires a school district to provide a fiscal transparency notification to parents of the estimated amount of funding allocated to a student similar to their child, based upon grade level and level of support. This notification may be included in the student handbook or similar publication.

Public School Educational Choice Options

The bill establishes a public school parental choice policy that authorizes a parent to choose to enroll his or her child in and transport his or her child to any public school that has not reached capacity, including charter schools, in the school district or state. The application process will assign the students on a first-come, first-served basis based on the date and time complete applications are received by the school district.

The bill defines capacity to mean as determined by the school district. When determining the capacity of each school in the district, the school district must incorporate the specifications,

³⁷ Entity means a municipality or other public entity that is authorized by law to operate a charter school; a private, nonprofit corporation with tax-exempt status under s. 501(c)(3) of the Internal Revenue Code; or a private, for-profit education management corporation. Section 1002.332(1)(a), F.S.

³⁸ Section 1002.332(1)(b), F.S.

³⁹ Limited exceptions exist, such as if the entity assumed operating a charter school with a school grade of “F.” Section 1002.332(1)(b).

⁴⁰ Section 218.503(1), F.S., relates to a determination of a financial emergency for charter schools, among other entities.

⁴¹ Section 1002.332(2)(b), F.S.

plans, elements, and commitments contained in the school district educational facilities plan and the long-term work programs.

The bill requires each district school board to establish a transfer process for a parent to request his or child be transferred to another classroom teacher, if the receiving teacher has unfilled classroom capacity. An explanation of the transfer process must be made available in the student handbook or a similar publication.

The bill allows a parent that receives notification that his or her student is taught by an out of field classroom teacher, may request that the child be transferred to another classroom teacher. The school district must grant the request, if an in-field teacher has available space.

Students Receiving Hospitalized Program Services

The bill enables customized instruction for students receiving hospitalized program services in children's hospitals. The bill allows for students receiving hospitalized program services to meet the following criteria, including but not limited to:

- Public school student in Pre-K – 12 grade who is deemed eligible for hospitalized program services who is considered a student with a disability.
- Follow the IEP requirements, but upon request of the student's parent, the IEP may be modified to accommodate the student's use of hospitalized program services in a children's hospital.
- Modified IEP to reduce the course load to core courses.⁴²
- Student may be excused or exempted from physical education classes or instruction based on the IEP or orders from the student's medical doctor.
- Student's IEP may allow the student to receive instruction beyond the normal school hours, school day, or school year of the school district.
- Student admitted to a children's hospital for hospitalized program services must continue to receive education instruction.
- Be provided with a certified teacher or partner with the Florida Virtual School.
- Provide adequate educational space for the student.

Charter Schools

The bill modifies charter school requirements related to application processes, contract renewal and termination, operations, performance and fiscal accountability, student reporting, and governing board conflict of interest disclosure and reporting, high performing charter school replication. The bill creates a Charter School District Pilot Program, and the Florida Institute for Charter School Innovation at the Florida State University.

Charter School Applications and Contracts

The bill modifies charter school accountability provisions to require:

- Each charter school to disclose in the application the name of each applicant, governing board member, and proposed management company, if any; the name and sponsor of any

⁴² Section 1002.20(19)(a), F.S.

charter school currently or previously operated by such parties; and the academic and financial history of such charter schools.

- A sponsor to consider the past history in deciding to approve or deny the application.
- A charter school governing board to be independent of any management company.
- A charter school to submit monthly financial statements for the first year of operation and include a full accounting of the costs of operation and sources of income that will enable the sponsor to begin monitoring the school's financial health earlier in time.
- A charter school to prepare and submit a plan with the specific actions the school will take if the school's financial statement indicates that the school is not financially viable.
- Background screening⁴³ for a person, or an officer of an entity who submits a charter school application. A person may not receive approval of a charter application until the person's screening is completed and the results have been submitted to the sponsor.
- A charter school to have a certificate of occupancy or a temporary certificate of occupancy for such a facility no later than 30 calendar days before the first day of school.
- A sponsor to automatically renew a high-performing charter contract for the same terms and length of the current term if the charter school governing board and sponsor have not executed the renewal before the term of the charter agreement is scheduled to expire.
- The charter school's reading curriculum in the charter contract to eligible to receive the reading allocation.

Charter Termination or Nonrenewal

The bill clarifies the causes for nonrenewal or termination can also include when a charter school is closed voluntarily by the operator. Specifically, the bill requires the governing board of a charter school that closes voluntarily to notify the sponsor and DOE in writing within 7 calendar days of its decision to cease operations. The notice must state the reasons for the closure and acknowledge that the governing board agrees to follow the procedures for dissolution and the reversion of public funds specified in law.

Charter School Operations

The bill allows charter schools to have double-sessions if providing the equivalent of 810 hours and if contained in the charter contract that is approved by the district school board. The bill updates the capital outlay eligibility prohibition of the charter school's annual audit identifying a statutorily defined financial emergency, rather than utilizing an undefined term of financial stability.

Charter School Performance Accountability

The bill delays a charter school's termination if the school earns two consecutive grades of "F" until all school grade appeals are final, unless an exception applies. The sponsor must notify in writing the charter school's governing board, the charter school principal, and the department when a charter is terminated. The bill specifies that procedures regarding reversion of public funds and property purchased with public funds apply to "double F" terminations, as well as, voluntary closures.

⁴³ A background check similar to an instructional or noninstructional personnel hired or contracted to fill positions. Section 1012.32, F.S.

Student Reporting

The bill aligns charter school and district reporting requirements regarding student suspensions and withdrawals, including the involuntary withdrawal of a student.

Charter School Governing Board Independence

The bill establishes that an individual may not serve as a member of a governing board of a charter school or charter school cooperative organization if he or she or an immediate family member receives a pension or any compensation from the charter school, or if the individual's partner is an owner or principal with an entity or independent contractor with whom the charter school does business with or contracts, for professional services, goods, or facilities. Members of the governing board of a charter school may not be appointed, removed, or replaced by an entity or component unit of an entity, which the charter school has entered into any contract.

High Performing Charter Schools

The bill removes the restriction on replication of high performing charter schools in the attendance zone of a school in need of intervention or to meet district identified innovative choice options.

High Performing Charter School Systems

The bill allows an entity that successfully operates a system of charter schools outside the state to apply to the State Board of Education (SBE) for status as a high-performing charter school system. The bill required the SBE to adopt rules prescribing a process for determining whether an entity meets applicable requirements. The SBE, to the extent practicable, must develop a rubric for the approval of such entities which aligns with the priorities of the federal Charter Schools Program Grants for Replication and Expansion of High-Quality Charter Schools. For the first three years of operation, each charter school established by such an entity shall receive a reduction in administrative fees as authorized under s. 1002.33(20)(a)3., F.S.⁴⁴

Charter School District Pilot Program

The bill creates a program within the Department of Education to provide the principal of a participating school with increased autonomy and authority to operate his or her school in a way that produces significant improvements in student achievement and school management while complying with constitutional requirements. The State Board of Education may, upon approval of a charter proposal, enter into a performance contract with up to six district school boards to establish such districts as charter school districts.

⁴⁴ A school district is allowed to withhold a total administrative fee of up to 2 percent for enrollment up to and include 250 students per school for high-performing charter schools. Section 1002.20(a)3., F.S.

Professional Development

The principal at each school must complete the professional development offered through the William Cecil Golden Professional Development Program for School Leaders.⁴⁵ This training must be completed before a school may participate in the Charter School District Pilot Program.

Terms of Charter and Reporting

The state board authorizes a charter school district's charter for a period of 3 years commencing with the award of the charter and may be renewed upon action of the state board. The charter school district must submit an annual report to the state board and the state board will annually report on the implementation of the Charter School District Pilot Program. After completion of the program's first 3-year term, the Commissioner of Education will submit to the President of the Senate, and the Speaker of the House of Representatives, by December 1, a full evaluation of the effectiveness of the program.

Florida Institute for Charter School Innovation

The bill establishes the Florida Institute for Charter School Innovation at Florida State University in order to:

- Advance charter school accountability, quality, and innovation;
- Provide support and technical assistance to charter school applicants;
- Connect aspiring teachers to opportunities to experience teaching in schools of choice; and
- To conduct research and develop and promote best practices for charter school authorization, financing, management, operations, and instructional practices.

The institute is responsible for providing technical assistance and support to charter school applicants with innovative charter school concepts. In effect, an applicant would be supported by the institute by acquiring the financial and operational knowledge and skills needed to operate a charter school.

The bill requires the President of Florida State University to appoint a director for the institute to be responsible for the management, development, and executing of the Institute's mission. The institute must submit a written report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Among other things, the report must include research findings, expenditures of state funds, and recommendations for improving the institute's ability to fulfill its mission and changes to statewide charter school policy. The bill requires the institute to provide an annual financial audit conducted by an independent certified public accountant to the Auditor General, the Board of Governors of the State University System, and the State Board of Education.

The bill takes effect July 1, 2015.

⁴⁵ Section 1013.21, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1002.31, 1002.33, 1002.331, 1002.332, 1002.451, 1006.15, 1011.61, 1011.69, 1012.28, 1012.42, 1012.986, and 1013.62.

The bill creates the following sections of the Florida Statutes: 1003.3101, 1003.5711, 1004.6491, and 1011.6202.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education Pre-K-12 on March 18, 2015:

The committee substitute retains the following provisions of SB 1552:

- Authorizes parents to choose to enroll and transport child to any school in the district or state that has not reached capacity.
- Authorizes parents to request different classroom teachers.
- Requires districts to notify parents of the cost of a child's education.

The committee substitute adds the following language related to public school choice options to SB 1552.

- Enables customized instruction for students receiving hospitalized program services in children's hospitals.

The committee substitute adds the following language related to charter schools to SB 1552:

- Specifies charter school requirements related to the following areas:
 - Changes the definition of "capacity" for purposes of the public school parental choice policy from a school in which the capital outlay FTE enrollment exceeds 95 percent of the space and occupant design capacity to allow the school district to determine capacity based on the district's educational facilities plan and long-term work programs.
 - Requires applications to contain names and historical performance of charter schools, and documentation of adequate financial resources, which may constitute grounds for denial.
 - Allows renewing charter schools to have a 15-year term, by removing the limitation in current law that limits such terms to purposes of facilitating access to long-term financial resources.
 - Requires background checks, documentation of adequate financial resources, and moves up deadline to obtain a certificate of occupancy from 15 to 30 days.
 - Requires monthly financial statements during first year.
 - Prohibits districts from delaying payments of local funds to charter schools.
 - Requires sponsor to review monthly or quarterly financial statements to identify deteriorating financial conditions.
 - Requires a charter school governing board to be independent of a management company by prohibiting board members from being appointed, replaced, or fired by any entity that contracts with the charter school.
 - Requires charter schools and traditional public schools to be subject to the same reporting requirements when students withdraw from the school.
 - Allows the approval of a charter school's reading curriculum to deem the charter school eligible for the reading allocation.
 - Updates capital outlay requirements to replace undefined language (financial stability) with statutorily defined language (financial emergency).

- Allows alternative charter schools to have double-sessions if providing the equivalent of 810 hours and approved by the district school board in the charter agreement.
- Prohibits a sponsor from requiring a charter school to implement any curriculum adopted by the district school board.
- Clarifies that notice and dissolution requirement in current law apply if charter school voluntarily closes, and adds additional notice requirements.
- Requires a high-performing charter school whose contract expires during renewal negotiations to automatically renew the contract according to the same terms, conditions, and length as the expiring charter.
- Delays automatic termination of a double-F charter school until after all school grade appeals are final.
- Expands replication of high performing charter schools in certain instances, and allows out-of-state entities to apply for status as a high-performing charter school system.
 - Removes the restriction on replication of high performing charter schools in the attendance zone of a school in need of intervention or to meet district identified innovative choice options.
 - Authorizes an entity that successfully operates a system of charter schools to apply to the State Board of Education for status as a high-performing charter school system.
- Authorizes the State Board of Education create the Charter School District Pilot Program and enter into performance contracts with 6 district school boards to provide principals of participating schools with increased autonomy and authority.
- Establishes a charter institute at Florida State University to conduct research to inform policy and practice, provide technical assistance to charter applicants, and partner with state-approved teacher preparation programs.

B. Amendments:

None.