

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 495 Education  
**SPONSOR(S):** Education Committee; Diaz, Jr. and Bileca  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 824

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	15 Y, 0 N	Brink	DavisGreene
2) Appropriations Committee	25 Y, 0 N	Potvin	Leznoff
3) Education Committee	18 Y, 0 N, As CS	Healy	Hassell

### SUMMARY ANALYSIS

The bill amends several provisions relating to the operation and funding of public schools. Specifically, the bill:

- Provides the same carry forward authority for undisbursed Schools of Hope Program funds as currently provided for revolving loan funds.
- Revises how school districts must spend Supplemental Academic Instruction (SAI) allocation funds.
- Expands the Principal Autonomy Pilot Program Initiative to a statewide program and authorizes highly effective trained principals to manage multiple district schools.
- Revises requirements for the disbursement of Title I funds by school districts.
- Expands the available exceptions a district school board may adopt to include any other provisions in SREF that limit the ability of a school to operate in a facility on the same basis as a charter school.
- Requires the Florida Department of Education to issue a competitive solicitation to contract with an independent, third-party consulting firm to conduct a review of the current price level index methodology by July 1, 2018, and every 10 years thereafter.

The bill amends several provisions relating to charter schools as follows:

- Provides charter schools with access to surplus property on the same basis as public schools.
- Requires school districts to provide background screening results for charter school employees within 14 days.
- Revises eligibility requirements for high performing charter schools and allows replication of up to two schools.
- Clarifies provisions relating to charter school consolidations.
- Revises requirements for sharing discretionary capital outlay millage revenues with charter schools.
- Prohibits a school district from withholding charter school administrative fees if specified aggregate lease-purchase agreement payments exceed three-fourths of the discretionary millage proceeds.

The bill also requires each school district, by the start of the 2018-2019 school year, to negotiate a memorandum of understanding with the collective bargaining unit for instructional personnel that addresses the selection, placement, and expectations of instructional personnel and provides principals with autonomy over certain personnel and budgetary decisions.

See FISCAL IMPACT ON STATE GOVERNMENT.

The bill provides an effective date of July 1, 2018, except as otherwise provided.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Schools of Hope Program Fund**

###### Present Situation

The Schools of Hope Program fund is created within the Florida Department of Education (DOE).<sup>1</sup> Current law<sup>2</sup> authorizes a school of hope to receive funds from the Schools of Hope Program fund for statutorily identified expenditures. A traditional public school that must implement intervention and support strategies under Florida's system for school improvement<sup>3</sup> is eligible to receive up to \$2,000 per full-time equivalent (FTE) student from the Schools of Hope Program fund based on the strength of the school's plan for implementation and its focus on evidence-based interventions that lead to student success by providing wrap-around services that leverage community assets.<sup>4</sup>

The law also establishes the Schools of Hope Revolving Loan Program within the DOE to help hope operators<sup>5</sup> meet school building construction needs and to pay for expenses related to the startup of a school of hope.<sup>6</sup> The Schools of Hope Program fund is the state's fund source for the revolving loan program.

Current law allows funds for the Schools of Hope Revolving Loan Program that are not disbursed by June 30 of the fiscal year in which the funds are allocated to carry forward for up to 5 years.<sup>7</sup> There is no similar carry forward provision for funds from the Schools of Hope Program for traditional public schools.

###### Effect of Proposed Changes

The proposed committee substitute (PCS) authorizes Schools of Hope Program funds not disbursed by June 30 of the fiscal year in which the funds are allocated to be carried forward in the same manner as Schools of Hope Revolving Loan Program funds.

##### **Supplemental Academic Instruction Categorical**

###### Present Situation

In 1999, the Legislature created the Supplemental Academic Instruction (SAI) Categorical Fund as part of the A+ Education Plan<sup>8</sup> for assisting school districts in providing supplemental instruction to students in kindergarten through grade 12.<sup>9</sup>

The SAI categorical funds are allocated annually to each school district in the amount provided in the General Appropriations Act (GAA). These funds are provided in addition to the funds appropriated on

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<sup>1</sup> Section 43, ch. 2017-116.

<sup>2</sup> Section 1002.333(10)(a), F.S.

<sup>3</sup> See s. 1008.33(1)(a) and (2), F.S.

<sup>4</sup> Section 1002.333(10)(b), F.S.

<sup>5</sup> See s. 1002.333, F.S.

<sup>6</sup> Section 44, ch. 2017-116.

<sup>7</sup> Section 1001.292(8), F.S.

<sup>8</sup> Section 23, ch. 99-398, L.O.F.

<sup>9</sup> Florida House of Representatives, Council for Lifelong Learning, Supplemental Academic Instruction Fact Sheet (Sept. 2001) available at

<http://archive.flsenate.gov/data/publications/2002/house/reports/EdFactSheets/fact%20sheets/supplementalacademicinstruction.pdf>

the basis of FTE student membership in the Florida Education Finance Program (FEFP) and are included in the total funds for each district. For Fiscal Year 2017-2018, each school district that has one or more of the 300 lowest-performing elementary schools based on the statewide reading assessment must use these funds, together with the funds provided in the district's research-based reading instruction allocation, to provide an additional hour of intensive reading instruction. After this requirement has been met, school districts may use these funds for: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student achievement.<sup>10</sup>

### Effect of Proposed Changes

The PCS modifies the FEFP SAI allocation by:

- deleting the requirement that the 300 lowest-performing elementary schools, based on the statewide reading assessment, use their portion of the SAI allocation to implement an extra hour of intensive reading instruction; and
- requiring that each school district with a school earning a grade of "D" or "F" use that school's portion of the SAI allocation to implement the intervention and support strategies required under Florida's system for school improvement. For all other schools, the school district may use the SAI for eligible purposes currently described in law.

## **Principal Autonomy Pilot Project Initiative**

### Present Situation

In 2016, the Principal Autonomy Pilot Project Initiative (PAPPI) was established within the DOE to provide principals of participating schools in participating school districts<sup>11</sup> with increased autonomy and authority over allocation of resources and staffing.<sup>12</sup> Each participating school district must identify three schools that received at least two school grades of "D" or "F" during the previous three school years, describe the areas in which increased autonomy will be granted, and state measurable goals regarding student achievement and operation efficiency. The principal assigned to each school must have earned a highly effective performance evaluation rating in the previous year.<sup>13</sup> Each participating principal, along with a three-member leadership team from each participating school and district personnel working with each school, must also complete a nationally recognized school turnaround program focusing on improving leadership, instructional infrastructure, talent management, and differentiated support and accountability.<sup>14</sup>

In order to receive a salary supplement of \$10,000, the principal must be transferred to a school that earned a grade of "F" or three consecutive grades of "D" and must have implemented a turnaround option at a school as the school's principal in which the school improved by at least one letter grade.<sup>15</sup>

Among other things, the principal of a participating school is granted greater authority to hire qualified instructional personnel or refuse placement or transfer of such personnel and deploy financial

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<sup>10</sup> Section 1011.62(1)(f), F.S.

<sup>11</sup> Participation in PAPPI is currently limited to the Broward, Duval, Jefferson, Madison, Palm Beach, Pinellas, and Seminole school districts. *See* s. 1011.6202(1), F.S.

<sup>12</sup> *See* ch. 2016-223, L.O.F., *codified at* s. 1011.6202, F.S. Plans were submitted to the State Board of Education by the Broward, Palm Beach, and Pinellas school districts. Each plan was approved by the state board at its March 22, 2017 meeting. *See* Florida State Board of Education, *Minutes State Board of Education Meeting* (May 16, 2017), *available at* <http://www.fldoe.org/core/fileparse.php/18491/urlt/minutes.pdf>.

<sup>13</sup> *See* s. 1011.6202(2)(a), F.S.

<sup>14</sup> Section 1011.6202(4), F.S.

<sup>15</sup> *See* s. 1011.6202(7), F.S.

resources to school programs at the principal's discretion to help improve student achievement and meet goals identified in the district's PAPPI proposal.<sup>16</sup>

A participating school is exempt from the provisions of chapters 1000-1013, F.S., and implementing state board rules, except for statutes pertaining to:<sup>17</sup>

- the election and compensation of school board members and the election, appointment, or compensation of district school superintendents;
- the student assessment program and school grading;
- the uniform start date;
- student progression and graduation;
- services to students with disabilities;
- class size, except compliance is calculated at the school, rather than classroom, level;
- civil rights and discrimination;
- student health, safety and welfare;
- educator evaluation, pay schedules, and employment contracts;
- school facilities, with certain exceptions;
- equitable distribution of Title I funds;
- public meetings and records public inspection and criminal and civil penalties;
- public records; and
- code of ethics for public officers and employees.

Each participating school must submit an annual report to the State Board of Education (SBE), and the SBE must annually report on the implementation of the pilot project. At the end of the 3-year pilot, the commissioner must submit a full evaluation of the effectiveness of the program to the Senate President, the Speaker of the House of Representatives, and the Governor.<sup>18</sup>

The initial term of the program is 3 years.<sup>19</sup> Thereafter, schools must receive authorization from the SBE to renew their participation in the program.<sup>20</sup>

### Effect of Proposed Changes

The bill expands PAPPI from a 3-year pilot to a statewide program and allows any school district, beginning with the 2018-2019 school year and contingent upon available funds, to submit a principal autonomy proposal to the SBE by December 1. If the SBE approves the proposal, the district is eligible to participate in the program for 3 years. The bill deletes annual reporting requirements for principals and districts participating in the pilot and deletes the requirement that the commissioner submit an evaluation of the pilot program.

In addition, the bill expands the impact of participating principals who successfully complete the school turnaround training by allowing them to manage one or more schools and providing the school with the same exemptions and administrative autonomy provided to participating PAPPI schools. District school boards may authorize highly effective principals to manage multiple schools within district innovation academies and zones. A zone may include the school at which the principal is assigned, persistently low-performing schools, feeder pattern schools, or a group of schools identified by the school district. The principal may allocate resources and personnel between the schools under his or her administration.

The bill specifies that a school, whether a participating school or a school operated by a participating principal, continues its exemption from laws and rules beyond the initial 3-year period so long as the school receives a school grade no lower than a "B."

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<sup>16</sup> See s. 1012.28(8)(a) and (b), F.S.

<sup>17</sup> See s. 1011.6202(3)(b), F.S.

<sup>18</sup> Section 1011.6202(6), F.S.

<sup>19</sup> Section 1011.6202(5), F.S.

<sup>20</sup> *Id.*

Subject to appropriation each year, the DOE must:

- fund the costs of the program to include the administrative and enrollment costs for the school turnaround training program; and
- provide up to \$10,000 for each participating principal as an annual salary supplement for 3 years.

The bill revises salary supplement eligibility requirements to allow a participating principal to qualify by teaching at a school that earned two consecutive grades of “D” rather than three. The bill also specifies that a participating principal may qualify for a salary supplement by managing multiple schools.

## **Title I Funding**

### Present Situation

Title I, Part A of the Elementary and Secondary Education Act, provides financial assistance to local educational agencies and schools with high numbers or high percentages of children from low-income families to help ensure that all children meet challenging state academic standards. Federal funds are currently allocated through four statutory formulas that are based primarily on census poverty estimates and the cost of education in each state.<sup>21</sup>

In 2017, the Legislature implemented several revisions to the distribution of Title I funds, requiring school districts to provide Title I funds directly to all eligible schools and to limit the amount of Title I funds that a district may withhold as follows:<sup>22</sup>

- One percent for parent involvement
- A necessary and reasonable amount for administration not to exceed eight percent
- A reasonable and necessary amount to provide:<sup>23</sup>
  - homeless programs;
  - delinquent and neglected programs;
  - prekindergarten programs and activities;
  - private school equitable services; and
  - transportation for foster care children to their school of origin or choice program.

After providing Title I funds to schools above the 75 percent poverty threshold, the district must distribute all remaining Title I funds to all eligible schools in accordance with federal law and regulation. The threshold for identifying eligible schools may not exceed the threshold established by a school district for the 2016-2017 school year or the statewide percentage of economically disadvantaged students, as determined annually.<sup>24</sup> Schools may participate in district-wide or district sponsored initiatives by paying a proportionate share of Title I funds to the school district.

Of the 7 percent of Title I funds that must be set aside for school improvement, 95 percent must be awarded to districts through either a formula or competitive approach or some combination thereof. The remaining 5 percent would be used primarily to support differentiated accountability regional activities.<sup>25</sup>

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<sup>21</sup> U.S. Department of Education, *Improving Basic Programs Operated by Local Educational Agencies (Title I, Part A)*, available at <https://www2.ed.gov/programs/titleiparta/index.html?exp=0>.

<sup>22</sup> See s. 45, ch. 2017-116, L.O.F. codified at s. 1011.69(5), F.S. (2017)

<sup>23</sup> Section 1011.69(5)(a), F.S.

<sup>24</sup> Section 1011.69(5), F.S.

<sup>25</sup> See 20 U.S.C. s. 6303(a).

## Effect of Proposed Changes

The bill clarifies that when districts distribute Title I funds to schools above the 75 percent poverty threshold, the 75 percent may include high schools above the 50 percent threshold as permitted by federal law.

The bill specifies that a district may also withhold a necessary and reasonable amount of Title I funds, not to exceed 1 percent, for Title I schools to provide educational services in accordance with the approved Title I plan. Funds provided by eligible schools for district level educational services are not subject to requirements related to the district's distribution of Title I funds.

The bill increases the necessary and reasonable amount a district may withhold for administration, including the indirect cost rate, from 8 to 10 percent. Funds carried forward by the school district are not subject to the requirements related to the district's distribution of Title I funds.

## **Florida Education Finance Program**

### Present Situation

The Florida Constitution requires the Legislature to make "adequate provision . . . for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education . . . ." <sup>26</sup> The Florida Legislature established the Florida Education Finance Program (FEFP) in 1973 to equalize funding for educational programs and services for all students in the K-12 public school system regardless of geographic or local economic factors. <sup>27</sup> The FEFP, which is the "primary mechanism for funding the operating costs of Florida school districts," provides for equalized funding by recognizing:

- varying local property tax bases;
- varying education program costs;
- varying costs of living; and
- varying costs for equivalent educational programs due to sparsity and dispersion of the student population. <sup>28</sup>

The FEFP incorporates state-appropriated funds and funds raised through *ad valorem* taxes in each local school district. State funds appropriated to finance the 2017-18 FEFP totaled \$11,673,261,717, while the total amount of local funds set by the Legislature was from school districts at \$8,968,543,399. <sup>29</sup>

Under the FEFP, financial support for education is based on individual students participating in a particular educational program rather than on the number of teachers or classrooms. <sup>30</sup> Funds are "primarily generated by multiplying the number of full-time equivalent (FTE) students in each of the funded education programs by cost factors to obtain weighted FTE students. Weighted FTE students are then multiplied by a base student allocation and by a district cost differential (DCD) to determine the base funding from state and local FEFP funds for a school district." <sup>31</sup>

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<sup>26</sup> Art. IX, s. 1(a), Fla. Const.

<sup>27</sup> Florida Department of Education, *2017-18 Funding for Florida School Districts*, at 1 (2017), available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>.

<sup>28</sup> *Id* at 1.

<sup>29</sup> Public School Funding, The Florida Education Finance Program (FEFP), 2017-2018 Fiscal Year

<http://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=2892&Session=2017A&DocumentType=General%20Publications&FileName=2017A%20FEFP%20.pdf>.

<sup>30</sup> *Id* at 1.

<sup>31</sup> *Id* at 1.

## District Cost Differentials and the Florida Price Index

The law requires the Commissioner of Education to annually calculate a DCD for each school district to address cost of living differences for employees among the districts. The DCD is calculated by averaging each school district's Florida Price Level Index (FPLI) for the most recent three years. The average is then multiplied by 0.008 and .200 is added to the product to obtain the final district cost differential.<sup>32</sup>

The FPLI represents the cost of hiring comparable personnel based on maintaining a given standard of living across the school districts.<sup>33</sup> It is based on wage and employment data for "hundreds of occupations collected by the Florida Department of Economic Opportunity's Bureau of Labor Market Statistics as part of the U.S. Bureau of Labor Statistics' Occupational Employment Statistics Survey."<sup>34</sup>

Before 2003, the FPLI was calculated using a weighted average of the relative prices of goods and services purchased by consumers similar to the Consumer Price Index developed by the U.S. Bureau of Labor Statistics.<sup>35</sup> However, because the FPLI did not consider other factors that could affect the cost of hiring comparable personnel, the FPLI was revised to improve accuracy.<sup>36</sup>

Since 2003, the FPLI calculation starts with an estimated initial index of relative wages for comparable workers across Florida's 67 counties.<sup>37</sup> Because the quality and extent of data may vary depending on the size of the labor market in a given county, once the initial index has been estimated, a predicted value is calculated based on the correlation between the initial index and characteristics related to wage levels, such as total population, the costs of goods and services, the raw wage index in neighboring counties, and county retirement age.<sup>38</sup> To reduce statistical variation, the predicted index and the initial index are then weighted and averaged together based on the relative reliability of each index. This is referred to as "statistical smoothing."<sup>39</sup> Then, "geographic smoothing" is applied to ensure that the index for non-metropolitan counties does not fall below the commute-time-adjusted wage index of nearby metropolitan counties so that workers are not induced to commute from low-wage districts to higher-wage districts.<sup>40</sup>

The University of Florida's Bureau of Economic and Business Research (BEBR) began reviewing the FPLI methodology and provided recommendations to improve accuracy in 1995.<sup>41</sup> Starting in 2000, it became responsible for calculating the FPLI, as well.<sup>42</sup> Since 2007, BEBR has annually published a report outlining adjustments in the FPLI for each school district and summarizing the calculation methodology.<sup>43</sup> Since 2014, the FPLI has been calculated as part of a collaboration between Florida Polytechnic University and BEBR. Presently, there is no third-party review of the methodology used by Florida Polytechnic University and BEBR to calculate the FPLI.

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<sup>32</sup> See *id* at 16, 37.

<sup>33</sup> Jim Dewey, Director of Economic Analysis, Florida Polytechnic University, *2016 Florida Price Level Index* (Jan. 23, 2017), available at <https://floridapoly.edu/wp-content/uploads/2016fpli.pdf>.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> See *id.*

<sup>37</sup> *Id.* The FPLI is calculated annually through a collaboration between Florida Polytechnic University and the University of Florida's Bureau of Economic and Business Research.

<sup>38</sup> Florida Department of Economic Opportunity, *Florida Price Level Index* (2004) at 4, available at [http://www.floridajobs.org/library/2004\\_FPLI.pdf](http://www.floridajobs.org/library/2004_FPLI.pdf).

<sup>39</sup> *Id* at 4.

<sup>40</sup> See *id* at 4. See also Jim Dewey, Director of Economic Analysis, Florida Polytechnic University, *2016 Florida Price Level Index* (Jan. 23, 2017), available at <https://floridapoly.edu/wp-content/uploads/2016fpli.pdf>.

<sup>41</sup> Florida Department of Economic Opportunity, *Florida Price Level Index* (2004) at 1, available at [http://www.floridajobs.org/library/2004\\_FPLI.pdf](http://www.floridajobs.org/library/2004_FPLI.pdf).

<sup>42</sup> *Id.*

<sup>43</sup> University of Florida, Bureau of Economic and Business Research, *Florida Price Level Index (FPLI)*, <https://www.bebr.ufl.edu/economics/fpli> (last visited Jan. 8, 2018).

## Effect of Proposed Changes

The bill requires the DOE to issue a competitive solicitation to contract with an independent, third-party consulting firm to conduct a review of the current price level index methodology by July 1, 2018, and every 10 years thereafter. The bill also requires the DOE, by January 1, 2019, and every 10 years thereafter, to submit a report providing recommendations to the chair of the Senate Committee on Appropriations, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget.

## **Flexibility from State Requirements for Educational Facilities**

### Present Situation

The uniform statewide building code for the planning and construction of public educational and ancillary plants, i.e., the State Requirements for Educational Facilities (SREF), is adopted by the Florida Building Commission as part of the Florida Building Code.<sup>44</sup> District school boards must adhere to the SREF when planning and constructing educational facilities and ancillary plants. Generally, SREF standards are premised on providing enhanced safety of occupants and increasing the life span of the extensive, publicly funded infrastructure of Florida's public school districts.<sup>45</sup>

Facilities for non-conversion charter schools must meet the requirements of the uniform statewide building code, except for the SREF.<sup>46</sup>

District school boards may adopt a resolution to implement an exception to one or more of the following SREF requirements:<sup>47</sup>

- use of wood studs in interior nonload-bearing walls;
- paved walkways, roadways, driveways, and parking areas;
- covered walkways for relocatable buildings; and
- site lighting.

The resolution must pass by a supermajority vote at a public meeting that begins no earlier than 5 p.m. Before voting on the resolution, a district school board must conduct a cost-benefit analysis prepared according to a professionally accepted methodology that describes how each exception selected by the district school board:<sup>48</sup>

- achieves cost savings;
- improves the efficient use of school district resources; and
- impacts the life-cycle costs and life span for each educational facility to be constructed.

The cost-benefit analysis must also demonstrate that implementation of the exception will not compromise student safety or the quality of student instruction. The district school board must conduct at least one public workshop to discuss and receive public comment on the proposed resolution and cost-benefit analysis, which must begin no earlier than 5 p.m. and may occur at the same meeting at which the resolution will be voted upon.<sup>49</sup>

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<sup>44</sup> Section 1013.37(1), F.S.

<sup>45</sup> See, e.g., s. 1013.12 (casualty, safety, sanitation, and fire safety standards and inspection of property) and 1013.451, F.S. (life-cycle cost comparison).

<sup>46</sup> Section 1002.33(18)(a), F.S.

<sup>47</sup> See s. 1013.385(2), F.S.

<sup>48</sup> Section 1013.385(1), F.S.

<sup>49</sup> *Id.*



## Effect of Proposed Changes

The bill expands the available exceptions a district school board may adopt to include any other provisions in SREF that limit the ability of a school to operate in a facility on the same basis as a charter school. In order to adopt the exception, the regional planning council must determine that there is sufficient shelter capacity within the school district as documented in the Statewide Emergency Shelter Plan.<sup>50</sup>

## **Charter Schools**

### *Deferral of Opening*

#### Present Situation

Once a charter school application is approved, the initial startup commences with the beginning of the public school calendar for the district in which the charter is granted. A charter school may defer the opening of the school's operations for up to 2 years to provide time for adequate facility planning. The charter school must provide written notice of such intent to the sponsor and the parents of enrolled students at least 30 calendar days before the first day of school.

#### Effect of Proposed Changes

The bill allows a charter school to defer opening for up to 3 years, rather than two.

### *Surplus Property*

#### Present Situation

If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it must be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the school district may not sell or dispose of such property without written permission of the school district.<sup>51</sup>

Tangible personal property that has been properly classified as surplus by a district school board must be disposed of in accordance with current surplus property requirements.<sup>52</sup> The district may offer surplus property to other governmental units in the county or district for sale or donation or may offer the property to private nonprofit agencies by sale or donation. If no acceptable bid is received within a reasonable time, then the property must be offered directly to such governmental units for sale or donation.<sup>53</sup>

#### Effect of Proposed Changes

The bill requires that tangible personal property that has been properly classified as surplus, marked for disposal, or otherwise unused by a district school board must be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving such property may not sell or dispose of the property without written permission of the school district.

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<sup>50</sup> See s. 252.385(2)(b), F.S.

<sup>51</sup> Section 1002.33(18)(e), F.S.

<sup>52</sup> Section 1013.28 (2)(a), F.S.

<sup>53</sup> Section 274.05, F.S.

## *Contracts*

### Present Situation

Each charter school must enter into a performance contract with its sponsor, known as a charter. The charter lists specific objectives that the charter school must meet to remain in operation. The terms of the charter must be negotiated by the applicant and sponsor within 30 days after approval of the application. The parties then have 40 days to finalize the charter.<sup>54</sup> The initial term of a charter is 4 or 5 years and must include specific requirements provided in law.<sup>55</sup>

A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school's governing board and the approval of both parties to the agreement. Modification may include, but is not limited to, consolidation of multiple charters into a single charter if the charters are operated under the same governing board and physically located on the same campus, regardless of the renewal cycle.<sup>56</sup>

### Effect of Proposed Changes

The bill revises the initial term of a charter to 5 years, excluding 2 planning years.

The bill also revises the ability of charter schools to modify their charter due to consolidation and provides that a charter school not subject to a school improvement plan that closes as part of a consolidation must be reported by the school district as a consolidation.

## *Services*

### Present Situation

Currently, a school district can provide goods and services to a charter school on a contractual basis. The services must be provided to the charter school at a rate no greater than the actual cost to the district unless mutually agreed upon in a contract negotiated separately from the charter. When mediation has failed to resolve disputes over contracted services or contractual matters not included in the charter, an appeal may be made for a dispute resolution hearing before the Charter School Appeals Commission.<sup>57</sup>

### Effect of Proposed Changes

If a dispute regarding a contract to provide goods and services cannot be resolved through mediation, an appeal may be made to an administrative law judge appointed by the Division of Administrative Hearings, rather than the Charter School Appeals Commission. The administrative law judge has final order authority to rule on the dispute and shall award the prevailing party reasonable attorney fees and costs incurred during the mediation process, administrative proceeding, and any appeals, to be paid by the non-prevailing party.

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<sup>54</sup> Section 1002.33(6)(h), F.S.

<sup>55</sup> Section 1002.33(7), F.S.

<sup>56</sup> Section 1002.33(7)(d), F.S.

<sup>57</sup> Section 1002.33(20)(b), F.S.

## *Background Screening*

### Present Situation

Instructional and noninstructional personnel who are employed or contracted to fill positions in a charter school and members of the charter school governing board must undergo a Level 2 background screening.<sup>58</sup> Level 2 background screening is a state and national fingerprint-based criminal history check conducted to determine whether an individual has a criminal history and, if so, whether such history contains one or more statutorily designated offenses that disqualify an individual from employment.<sup>59</sup> A charter school must disqualify any individual convicted of a disqualifying offense from employment in an instructional or school administrator position that requires direct student contact.<sup>60</sup>

Prior to hiring an individual for an instructional or school administrator position with direct student contact, a charter school must conduct an employment history check and screen the person using DOE-provided educator screening tools. Such efforts, including any inability to contact previous employers, must be documented.<sup>61</sup>

### Effect of Proposed Changes

If a charter school has their employees undergo background screening through the school district in which the charter school is located, the bill requires the district to provide the background screening results of its governing board members and instructional and noninstructional personnel to the charter school within 14 days after submission of the fingerprints. If the district fails to do so, the fees for the screening must be reimbursed.

## *Capital Outlay*

### Present Situation

Charter school capital outlay funding consists of revenue resulting from the discretionary millage authorized in s. 1011.71(2), F.S., and state funds when such funds are appropriated in the GAA.<sup>62</sup>

If the school board levies the discretionary millage, the DOE must calculate the amount of revenue raised by the discretionary millage that the school district must distribute to each eligible charter school.<sup>63</sup> The calculation must reduce the total discretionary millage revenue by the school district's annual debt service obligation incurred as of March 1, 2017, and any amount of participation requirement pursuant to s. 1013.64(2)(a)8., F.S., that is being satisfied by discretionary millage revenues.

Among other things, revenues raised using the discretionary millage may be used by school district to fund payments for educational facilities and sites due under a lease-purchase agreement not exceeding, in the aggregate, an amount equal to three-fourths of the revenues.<sup>64</sup>

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<sup>58</sup> Sections 1002.33(12)(g)1., 1012.32(2)(b), 1012.465, and 1012.56(10), F.S.

<sup>59</sup> Section 435.04, F.S. The disqualifying offenses specific to Level 2 background screening are supplemented by additional disqualifying offenses specific to educator certification and employment of instructional personnel and school-based administrators. Section 1012.315, F.S.

<sup>60</sup> Sections 435.04, 1002.33(12)(g)2., and 1012.315, F.S.

<sup>61</sup> Sections 1001.10(5) and 1002.33(12)(g)4., F.S.

<sup>62</sup> The 2017 Legislature appropriated \$50 million for charter school capital outlay. Specification Appropriation 18, s. 2, ch. 2017-70, L.O.F.

<sup>63</sup> See s. 1013.62(3), F.S.

<sup>64</sup> See s. 1011.71(2)(e), F.S.

## Effect of Proposed Changes

The bill specifies that for the 2018-2019 fiscal year, charter school capital outlay funds shall consist of funds appropriated in the fiscal year 2018-2019 GAA. Beginning in fiscal year 2019-2020, charter school capital outlay must consist of state funds when such funds are appropriated in the GAA and revenue resulting from the discretionary millage if in any given fiscal year the amount of state funds for charter school capital outlay is less than the average charter school capital outlay funds per unweighted full-time equivalent student for the 2018-2019 fiscal year, multiplied by the estimated number of charter school students for the applicable fiscal year, and adjusted by changes in the Consumer Price Index from the previous year.

The bill modifies the calculation for distributing discretionary millage revenue to eligible charter schools by clarifying that the debt service obligation that can be reduced from the distribution is the debt service obligation incurred by March 1, 2017, which has not subsequently been retired.

The bill requires each school district, annually by October 1, to certify to the DOE the amount of debt service and the participation requirement can be reduced from the total discretionary millage revenue. The Auditor General must verify compliance during scheduled operation audits of school districts. The bill further provides that if aggregate lease-purchase agreement payments, including lease-purchase agreements entered into before June 30, 2009, exceed three-fourths of the discretionary millage proceeds, the district may not withhold the administrative fees authorized in law<sup>65</sup> from any charter school operating in the school district.

### *Eligible Students*

#### Present Situation

A charter school may give enrollment preference to specific student populations<sup>66</sup>, and may limit the enrollment process only to target specific student populations, including students living in a development in which a business entity provides the school facility and related property having an appraised value of at least \$10 million to be used as a charter school for the development. Students living in the development shall be entitled to 50 percent of the student stations in the charter school. The students who are eligible for enrollment are subject to a random lottery, the racial/ethnic balance provisions, or any federal provisions.<sup>67</sup>

#### Effect of Proposed Changes

The bill reduces the required appraised value of a business entity-owned school facility to \$5 million and specifies that no more than 50 percent of the student stations may be used for students living in the development if the school is used to mitigate the education impact created by the development of new residential dwelling units.

### *High-Performing Charter Schools*

#### Present Situation

Charter schools and operators of systems of charter schools with a track record of academic excellence and financial stability may earn “high-performing” status.<sup>68</sup> A high-performing charter school is a charter school that during each of the three previous years:

- received at least two school grades of “A” and no school grade below “B;”

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<sup>65</sup> See s. 1002.33(20), F.S.

<sup>66</sup> 1002.33(10)(d), F.S.

<sup>67</sup> Section 1002.33(10)(e)7., F.S.

<sup>68</sup> Section 1002.331(1), F.S.; see s. 218.503(1), F.S. (financial emergency conditions).

- has received an unqualified opinion<sup>69</sup> on each annual financial audit; and
- has not received an annual financial audit that reveals a financial emergency condition.<sup>70</sup>

Initial eligibility for “high-performing” status is verified by the Commissioner of Education, upon request by a charter school. Thereafter, the commissioner must annually verify continued eligibility.<sup>71</sup>

High-performing charter schools may take advantage of various benefits. Among other benefits, the operator of a high-performing charter school may submit an application in any Florida school district to establish and operate a new charter school that substantially replicates one of its high-performing charter schools. The application process for such applications is streamlined to expedite approval.<sup>72</sup> A high-performing charter school may not be replicated more than once in any given year and may not replicate again until the new charter school achieves “high-performing” status.<sup>73</sup> Systems may replicate their high-performing charter schools using the same process applicable to high-performing charter schools.<sup>74</sup> Additionally, a high-performing charter school may have the term of its charter extended to up to 15 years.<sup>75</sup>

A high-performing charter school may increase the school’s enrollment once per year to more than the capacity identified in the charter and expand grade levels within kindergarten through grade 12 to add grade levels not already served as long as the increase in enrollment in either case does not exceed the current facility capacity.<sup>76</sup>

### Effect of Proposed Changes

The bill revises the criteria determining a high-quality charter school by also allowing a school that receives two consecutive grades of “A” to be determined a high-performing charter school. It allows a high-performing charter school to replicate up to two new schools that substantially replicate one of its high-performing schools. For those schools qualifying under the two consecutive grades of “A” provision, the bill revises the financial eligibility requirements to require only 2 years of financial audits that received an unqualified opinion and no state of financial emergency.

The bill clarifies that the increase in student enrollment may occur as long as it does not exceed the capacity of the facility at the time the enrollment increase will take effect, rather than the original capacity of the facility, allowing a charter school that has expanded its original facility or has access to additional facilities to increase enrollment without being limited to the original facility capacity.

The bill also provides that facility capacity for purposes of grade level expansion must include any improvements to an existing facility or any new facility in which a majority of the students of the high-performing charter school will enroll.

### **Memorandum of Understanding**

The bill also requires each school district and the certified collective bargaining unit for instructional personnel to negotiate a memorandum of understanding before the start of the 2019-2020 school year that addresses the selection, placement, and expectations of instructional personnel and provides

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<sup>69</sup>An unqualified audit opinion means that the charter school’s financial statements are materially correct. Telephone interview with Florida Auditor General staff (Mar. 24, 2011).

<sup>70</sup> Section 1002.331(1), F.S.; *see* s. 218.503(1), F.S. (financial emergency conditions).

<sup>71</sup> Sections 1002.331(5) and 1002.332(2)(a), F.S.

<sup>72</sup> Section 1002.331(2), F.S.

<sup>73</sup> Section 1002.331(3)(b), F.S.

<sup>74</sup> Section 1002.332(2), F.S.

<sup>75</sup> Section 1002.331(4), F.S.

<sup>76</sup> Section 1002.331(2)(a) and (b), F.S.

school principals with autonomy over personnel and budgetary decisions provided to principals participating in the Principal Autonomy Pilot Project Initiative.<sup>77</sup>

**B. SECTION DIRECTORY:**

- Section 1.** Amends s. 1002.33, F.S., relating to charter schools.
- Section 2.** Amends s. 1002.331, F.S., relating to high-performing charter schools.
- Section 3.** Amends s. 1002.333, F.S., relating to persistently low-performing schools.
- Section 4.** Amends s. 1011.62, F.S., relating to funds for operation of schools.
- Section 5.** Amends s. 1011.6202, F.S., relating to the Principal Autonomy Pilot Program Initiative
- Section 6.** Amends s. 1011.69, F.S., relating to the Equity in School-Level Funding Act.
- Section 7.** Amends s. 1011.71, F.S., relating to district school tax.
- Section 8.** Creates s. 1011.79, F.S., relating to price level index methodology review.
- Section 9.** Amends s. 1012.2315, F.S., relating to assignment of teachers.
- Section 10.** Amends s. 1012.28, F.S., relating to public school personnel and duties of school principals.
- Section 11.** Amends s. 1012.32, relating to qualifications of personnel.
- Section 12.** Amends s. 1013.28, F.S., relating to disposal of property.
- Section 13.** Amends s. 1013.385, F.S., relating to school district construction flexibility.
- Section 14.** Amends s. 1013.62, F.S., relating to charter schools capital outlay funding.
- Section 15.** Provides an effective date of July 1, 2018, except as otherwise expressly provided.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill expands participation in the Principal Autonomy Program Initiative to all school districts and, subject to an annual appropriation, requires participating school districts to attend a nationally recognized school turnaround program and to pay an annual salary supplement to participating principals. HB 5001 appropriates the sum of \$400,000 in nonrecurring funds and \$90,000 in recurring funds from the General Revenue Fund for the 2018-2019 fiscal year for this purpose.

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<sup>77</sup> See ss. 1012.28(8), 1011.6202, F.S.

The bill requires the DOE to contract with a third-party consulting firm to conduct a review of the FPLI methodology every ten years, starting no later than July 1, 2018. HB 5001 appropriates the sum of \$100,000 in nonrecurring funds from the General Revenue Fund to the Department of Education to competitively procure a contract for the completion of this review for the 2018-2019 fiscal year.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 27, 2018, the Education Committee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The proposed committee substitute differed from the bill as originally filed by:

- authorizing Schools of Hope Program funds not disbursed by June 30 of the fiscal year in which the funds are allocated to be carried forward for five years;
- modifying the Florida Education Finance Program Supplement Academic Instructional (SAI) allocation by deleting the requirement that the 300 lowest-performing elementary schools use their portion of the SAI allocation to implement an extra hour of intensive reading instruction; and requiring that each school district with a school earning a grade of "D" or "F" use that school's portion of the SAI allocation to implement the required school improvement intervention and support strategies;

- expanding the Principal Autonomy Pilot Project Initiative (PAPPI) from a 3-year pilot to a statewide program;
- allowing highly effective trained principals to manage one or more schools and providing the school with the same exemptions and administrative autonomy provided to participating PAPPI schools;
- authorizing district school boards to allow highly effective principals to manage multiple schools within district innovation academies and zones;
- clarifying that when districts distribute Title I funds to schools above the 75 percent poverty threshold, the 75 percent may include high schools above the 50 percent threshold as permitted by federal law;
- specifies that a district may also withhold a necessary and reasonable amount of Title I funds, not to exceed 1 percent, for Title I schools to provide educational services in accordance with the approved Title I plan;
- increasing the necessary and reasonable amount a district may withhold for administration, including the indirect cost rate, from 8 to 10 percent;
- expanding the available exceptions a district school board may adopt to include any other provisions in State Requirements for Educational Facilities that limit the ability of a school to operate in a facility on the same basis as a charter school;
- allowing a charter school to defer opening for up to 3 years, rather than two years;
- requiring that tangible personal property classified as surplus, marked for disposal, or otherwise unused by a district school board be provided for a charter school's use on the same basis as it is made available to other public schools in the district;
- revising the initial term of a charter to 5 years, excluding 2 planning years and revising the ability of charter schools to modify their charter due to consolidation;
- providing that an appeal may be made to an administrative law judge appointed by the Division of Administrative Hearings, rather than the Charter School Appeals Commission if a dispute regarding a contract to provide goods and services cannot be resolved through mediation;
- requiring a school district to provide the background screening results of its governing board members and instructional and noninstructional personnel to a charter school within 14 days after submission of the fingerprints;
- revising the criteria determining a high-quality charter school by also allowing a school that receives two consecutive grades of "A" to be determined a high-performing charter school;
- Revises eligibility requirements for high performing charter schools and allows replication of up to two schools;
- reduces the required appraised value of a business entity-owned school facility to \$5 million and specifies that no more than 50 percent of the student stations may be used for students living in the development if the school is used to mitigate the education impact created by the development of new residential dwelling units;
- revises requirements for sharing discretionary capital outlay millage revenues with charter schools;
- prohibits a school district from withholding charter school administrative fees if specified aggregate lease-purchase agreement payments exceed three-fourths of the discretionary millage proceeds;
- clarifying that the increase in charter school student enrollment may occur as long as it does not exceed the capacity of the facility at the time the enrollment increase will take effect;
- providing that facility capacity for purposes of grade level expansion must include any improvements to an existing facility or any new facility in which a majority of the students of the high-performing charter school will enroll; and
- requiring each school district and the certified collective bargaining unit for instructional personnel to negotiate a memorandum of understanding before the start of the 2019-2020 school year that addresses the selection, placement, and expectations of instructional personnel and provides school principals with autonomy over personnel and budgetary decisions provided to principals participating in the Principal Autonomy Pilot Project Initiative.

This analysis is drafted to reflect the proposed committee substitute as approved by the Education Committee.