

STORAGE NAME: h1751s2.ft
DATE: March 19, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 1751

RELATING TO: Creation of locally governed subdistricts within a county school district

SPONSOR(S): Committee on Finance & Taxation, Education Innovation, and Representative Andrews

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION INNOVATION YEAS 5 NAYS 2
- (2) FINANCE AND TAXATION YEAS 9 NAYS 5
- (3) EDUCATION APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

CS/HB 1751 authorizes the creation of charter conversion municipal subdistricts within the county school district. The requirements and procedures for creating a charter conversion municipal subdistrict will be similar to that for charter schools in s. 228.056, F.S. However, the requirement in s. 228.056(8)(h), F.S., that no organization hold more than one elementary, one middle, and one high school charter contract in a school district and no more than 15 charters statewide will not apply to the creation of charter conversion municipal subdistricts.

Unincorporated areas adjacent to incorporated municipalities may be included in the jurisdictional area of the charter conversion municipal subdistrict. To include an adjacent unincorporated area, the governing bodies of the municipality or municipalities and the county must agree on the boundaries of the area. The proposal for a school or group of schools to be operated by a municipally appointed charter school board must be approved by a majority of votes in a referendum of eligible voters within the boundaries established in the proposed charter conversion municipal subdistrict.

After approval by the voters, the proposal will then be presented to the district school board, which will expeditiously authorize the requested charter. The criteria and requirements outlined in s. 228.056, F.S. for charter schools apply to the charter municipal subdistrict. A municipally appointed charter school board will operate the subdistrict.

Although the fiscal impact is undetermined at this time, some costs could be associated with the initial start-up and several other provisions. Such costs include the election expenses related to the required referendums and the costs associated with employing administrative staff to handle the operation of the subdistrict. However, these costs will only be incurred by a municipality that chooses to apply for a charter; no municipality is required to apply for a charter.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The governance structure for Florida's educational system is established by Article IX of the Florida Constitution. Section 4 provides that district school boards are to operate, control, and supervise all free public schools within the school district. Each county constitutes a school district. Two or more contiguous counties may be combined into one school district with approval by the voters in each county. Currently, no two counties have exercised this option; Florida has one school district for each of its 67 counties.

Additionally, the state constitution provides that each of the school districts is governed by a school board composed of five or more elected members and a superintendent, who may either be elected or hired by the school board. Although school board members must reside in the residence district from which they are elected, s. 230.10, F.S., requires that school board members must be elected by the electors of the entire school district.

Article VIII of the Florida Constitution provides that counties may be created, abolished or changed by law. The Legislature could divide existing counties into new counties which would create new school districts in each of the geographic areas. However, it would not be possible to create school districts within existing counties unless the Constitution were changed to authorize multiple districts within a county. There are no constitutional provisions which explicitly prohibit districts from creating administrative subdistricts.

Operational Funding

Funding for school district operations is calculated through the Florida Education Finance Program (FEFP), pursuant to s. 236.081, F.S. The FEFP is designed to provide equitable funding for all students throughout the state by combining state dollars and revenue from local property taxes in a formula that allocates funds to school districts according to student population and cost of educational programs. Cost factors for educational programs are established every year in the General Appropriations Act.

Charter Schools

In 1996, in s. 228.056, F.S., the Florida Legislature authorized the creation of charter schools as part of the state's program of public education. A charter school is a public school operated by a group of interested citizens under a charter or contract with the district school board. One of the purposes of charter schools was to establish a new form of accountability for schools. A charter school can be formed by creating a new school or converting an existing public school to charter status. Of the several charter schools in existence, none are conversions.

The idea of charter schools is to have the freedom to operate the school free from many of the regulations and restrictions that hamper many public schools. They must, of course, meet the basic standards for academic rigor and have a commitment to the basic core subjects, and they must follow the law and state standards on such things as health, safety, and civil rights. The teachers must hold valid teaching certificates. A

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charter school must be nonsectarian, be accountable to its sponsor for performance, and be subject to auditing requirements. It can only charge fees which would normally be charged by other public schools and must meet health, safety, and civil rights requirements. It must not discriminate. An organization may only hold one elementary, one middle, and one high school charter contract in a school district and may only hold up to 15 charters statewide (s. 228.056(8)(h), F.S.)

Section 228.056(3) provides that any individual, teachers, parents, group of individuals, or legal entity may apply for a charter for a newly created school. A proposal to convert an existing school to a charter school must be submitted by the principal, teachers, parents, and/or the school advisory council of the existing public school. If a school is designated by the school board as a school within a school, then said school is eligible to convert to a charter school. Any proposal for converting an existing public school to a charter school must have the support of at least 50 percent of teachers employed at the school and 50 percent of the parents whose children attend the school. Section 228.056(5) sets a maximum number of schools in each district which can be converted to charter schools. However, this maximum can be increased by the State Board of Education upon the request of the local school board. **[See Comments Section]** Private schools, parochial schools, and home education programs are not eligible for charter status.

The sponsorship and appeal provisions of Florida's charter school law were structured to comply with the governance structure established by Article IX, Section 4 of the State Constitution, which provides that district school boards are to operate, control, and supervise all free public schools within the school district.

District school boards are required to accept applications at least through February 1 for a charter school which wishes to open for the following school year. The district may receive applications later than this date if it so chooses. However, the districts start budgetary and operational planning for a school year in the fall of the prior year. Generally, by December, the district submits the estimated number of FTEs expected to be enrolled in the public schools in the next school year.

Acceptance of the application by the district board does not constitute granting the charter. Pursuant to s. 228.056(4)(a), F.S., a district school board must by a majority vote approve or deny an application no later than 60 days after the application is received. If the application is denied by the district school board, the board is required to provide specific written reasons based on good cause for denying a charter application within 10 calendar days after denial. If the application is approved by the district school board, the district board and the charter school applicants negotiate a contract or charter. Section 228.056(4)(f), F.S., specifies that the charter school applicants and the sponsor have 6 months to negotiate and sign a contract. After that time, if the contract is still pending, the application is deemed denied.

A charter is signed by the governing body of the charter school and the sponsor after all major issues have been considered and included in the charter and a public hearing has been held. Criteria which must be addressed and upon which approval is based include: the school's mission, the students to be served, and the ages and grades to be included; the focus of the curriculum, the instructional methods used, and any distinctive instructional techniques to be employed; the current baseline standard of achievement and the outcome to be achieved and the method of measurement that will be used;

student assessment methods; graduation requirements of secondary charter schools; conflict resolution methods; admissions and dismissal procedures; and ways a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same district will be achieved.

The initial term of the charter is not to exceed 3 years. The charter may be modified during the term of the contract upon recommendations and approval of the sponsor and the school's governing body. A charter may be renewed for up to 3 years or modified at any time if both parties agree. The sponsor may choose at the end of the charter term not to renew for failure to meet student performance requirements, failure to meet fiscal management standards, violation of law, or other good cause. There is an appeals process for denial of an initial application, non-renewal or termination.

Municipalities

Section 2 of Article VIII of the Florida Constitution provides that municipalities may be established or abolished and their charters amended pursuant to general or special law. Municipalities are constitutionally granted all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services. Municipalities may exercise any power for municipal purposes except as otherwise provided by law. The only specific constitutional requirement concerning municipal government is that its legislative body must be elected. (*The Florida Local Government Formation Manual*, 5th Edition, Florida House of Representatives, Committee on Community Affairs, October 1996.)

Florida law governing the formation and dissolution of municipal governments is found in Chapter 165, Florida Statutes, the "Formation of Municipalities Act." The stated purpose of the Act is to provide standards, direction, and procedures for the incorporation, merger, and dissolution of municipalities, and to achieve the following goals: orderly patterns of growth and land use; adequate public services; financial integrity in government; equity in fiscal capacity; and fair cost distribution for municipal services. (s. 165.021, F.S.)

Capital Projects

Section 12 of Article VII of the Florida Constitution permits school districts to issue bonds to finance or refinance capital projects if approved by vote of the electors.

Size of School Districts

Thirteen school districts reported a total of more than 45,000 students in July 1997. Those districts are Brevard, Broward, Dade, Duval, Escambia, Hillsborough, Lee, Orange, Palm Beach, Pinellas, Polk, Seminole, and Volusia. Florida has four of the nation's ten largest school districts: Dade, Broward, Hillsborough and Palm Beach. Whereas Florida has 67 school districts, two other large states, Texas and California, each have more than 1,000 school districts.

Constitutional Revision Commission

One proposal, Proposal 40, which came before the panel recommending changes to Florida's Constitution is to break up Florida's largest countywide school districts by

allowing multiple districts in Florida's largest counties. Under the proposal, counties with more than 45,000 students could be subdivided into districts with at least 15,000 students in each smaller district. Using the enrollment reported by school districts in July 1997, under the provisions of the proposed amendment, 97 additional school districts could be created.

Advocates of the proposal think that smaller school districts will enable district administrators and school board members to be more trusted by and responsive to the residents and the individual schools in the service area. As a result, district management would be more accountable for spending and policy decisions. They contend that parents of students in large school districts feel disconnected from school district headquarters and the operational and management decisions made by the district board and superintendent.

Opponents assert that the idea could lead to racial and economic disparities; some districts could be comprised of wealthy residents while separating other districts with poor minority residents. They think that creating financially equal districts with similar tax bases would be difficult. Consequently, in the same county, there would be affluent school districts with first-rate facilities and poor districts with substandard schools and no money to improve them. Additionally, duplication of personnel could lead to higher administrative costs, and there is no evidence that a smaller district will lead to more parent involvement or interaction with the schools or school board members. Opponents contend that a lower percentage of parents would become involved with district operations than are involved with their children's individual teachers and schools. Schools report that approximately 75 percent of parents attend parent conferences.

If Proposal 40 is approved by the Constitution Revision Commission, the recommendation will be placed before Florida's voters for the final decision. The following thirteen counties would be affected if the proposal is approved: Hillsborough, Pinellas, Brevard, Broward, Dade, Duval, Escambia, Lee, Orange, Palm Beach, Polk, Seminole, and Volusia. Hillsborough could have a possible 10 separate districts and Pinellas could have a possible 7 districts.

A second proposal, Proposal 139, is for single-member school districts within the county. The proposal prohibits school board members from being elected in countywide elections.

Broward County

Broward County voters in November 1997 approved a plan to expand the school board membership to nine members rather than seven members. The two additional members will be chosen in the 1998 and 2000 elections. Seven of the nine members will be elected by voters residing in "separate" districts of 200,000 people. These seven members must also reside in those single-member "separate" districts. Two will be elected by voters countywide and may live anywhere in Broward County. The purpose of the new system is to decentralize district operations, thereby allowing more accountability and responsiveness to local and neighborhood needs.

The guidelines used to initially help determine placement of the boundary lines for the seven new "separate" districts were to try to keep from dividing cities and school feeder patterns with district boundary lines. The largest district, No. 1, contains 213,724 people

while the smallest district, No. 4, contains 185,562 people. Both of the population figures are based on 1990 census figures.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 1751 authorizes the creation of charter conversion municipal subdistricts within the county school district. The requirements and procedures for creating a charter conversion municipal subdistrict will be similar to that for charter schools in s. 228.056, F.S. However, the requirement in s. 228.056(8)(h), F.S., that no organization hold more than one elementary, one middle, and one high school charter contract in a school district and no more than 15 charters statewide will not apply to the creation of charter conversion municipal subdistricts. Unincorporated areas adjacent to incorporated municipalities may be included in the jurisdictional area of the charter conversion municipal subdistrict. To include an adjacent unincorporated area, the governing bodies of the municipality or municipalities and the county must agree on the boundaries of the area.

Section 228.056(3), F.S., requires that the initial proposal for conversion of a school be supported by at least 50% of the parents of the students enrolled in the school and by 50% or more of the teachers teaching in the school. Under CS/HB 1751 the proposal for a school or group of schools to be operated by a municipally appointed charter school board must be approved by a majority of votes in a referendum of eligible voters within the boundaries established in the proposed charter conversion municipal subdistrict. After approval, the proposal will be presented to the district school board, which will expeditiously authorize the requested charter. **[See Comments Section]**

Operation

A municipally appointed charter school board will operate the subdistrict. The bill does not state whether these officials will serve with or without pay. This will be determined by the charter agreement or contract between the subdistrict and district. Just as with the pay issue, the entire operation of the subdistrict schools will be determined by the charter.

Pursuant to s. 228.056(3), F.S., subdistricts will not include private schools, parochial schools, or home education programs.

Just as with charter schools, the contractual agreement between the district school board and the subdistrict will be considered in advance and written into the charter.

Applications for a municipal subdistrict may be filed by a municipality or municipalities and will be received by the district school board. The committee substitute states that upon receipt of a request for a charter municipal subdistrict, the district board will expeditiously authorize the requested charter. Under the charter school law, the applicant and sponsor have 6 months to mutually agree to the provisions of the contract, pursuant to s. 228.056(4)(f), F.S. **[See Comments Section]**

No municipality is required to apply for a charter. If a municipality chooses to apply, there could be some costs associated with the initial start-up and referendum; these are not mandated but are a result of the decision to apply.

The appeals process for charter schools is described in s. 228.056(4), F.S.. After the application is filed, the district school board has 60 days to approve or deny the application by a majority vote. If the application is approved, the initial startup for the subdistrict must be consistent with the beginning of the district's public school calendar.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No rulemaking authority is directly given in CS/HB 1751.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

If a charter municipal subdistrict proposal is presented, the district will expeditiously authorize the requested charter with the subdistrict. **[See Comments Section]**

A referendum of eligible voters in the charter municipal subdistrict will need to be held after the municipality has decided the details of the charter proposal and where the proposed boundaries will be.

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

If established, a charter subdistrict will operate its conversion charter schools.

(2) what is the cost of such responsibility at the new level/agency?

See Fiscal Section.

(3) how is the new agency accountable to the people governed?

A charter subdistrict would be closer to the people governed and therefore could be more accountable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Municipalities choosing to apply for and operate charter subdistricts would pay for the associated costs, including the referendum.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

CS/HB 1751 creates another option for a community to provide schools which fit the community's needs. This could give more community flexibility and parental choice.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

The eligible voters in the boundaries of the proposed subdistrict must vote on whether to approve a municipal subdistrict. Parents will have the same options of placing their children in the subdistrict school(s) as they currently have of placing their children in district schools.

- (2) Who makes the decisions?

See above. A subdistrict will be operated by a municipally appointed charter school board.

- (3) Are private alternatives permitted?

Just as parents currently have private schools available at their own expense, they will retain this same option.

- (4) Are families required to participate in a program?

No

- (5) Are families penalized for not participating in a program?

No

- b. Does the bill directly affect the legal rights and obligations between family members?

No

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1 Authorizes, under the charter school law, the creation of charter conversion municipal subdistricts within county school district. Provides that a municipality or municipalities may present to the district school board a school or group of schools to be operated by a municipally appointed charter school board. Provides that limits in the charter school law on number of charters that one organization may hold do not apply to the creation of a charter conversion municipal subdistrict. Requires that eligible voters approve, through a majority of those voting, the creation of a charter conversion municipal subdistrict. Requires that at least 50 percent of the teachers at a school and 50 percent of the parents whose children attend the school approve the proposal.

Authorizes the inclusion of unincorporated areas adjacent to the incorporated municipalities if the governing bodies of the municipalities and the county agree on the boundaries.

Requires the expeditious authorization of a requested charter by the district school board. **[See Comments Section]**

Section 2 Provides for an effective date of July 1 of the year enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Undetermined at this time; some costs could be associated with initial start-up of subdistricts. However, since the applicant or municipality is not required to apply for a charter, the costs should not be the responsibility of the state but of the local applicant or municipality as a result of the decision to apply for a charter.

2. Recurring Effects:

Undetermined at this time; possible costs are associated with several portions of CS/HB 1751, including the following: referendums which will have to be held for voter approval; and administrative staff for operations in the subdistrict. However, these costs are voluntary since no municipality is required to apply for a charter.

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

Undetermined at this time; see comments above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Undetermined; some of the costs mentioned above could be applicable to the local school district or a municipality which becomes a subdistrict. However, these costs are voluntary since no municipality is required to apply for a charter.

2. Recurring Effects:

Undetermined; however, if a municipality applies to become a subdistrict and is approved, the municipality could agree to some costs. The school district could also incur some of the costs mentioned above in III.A.1. and 2.

3. Long Run Effects Other Than Normal Growth:

Undetermined.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

While there would be some costs associated with establishing a charter subdistrict, the majority of these expenses would be voluntarily incurred by the locality seeking to operate the subdistrict.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

The limitation provided in section 228.056(5) on the number of schools which can be converted into charter schools would apply to the number of schools which could be converted under this bill. This limitation may prove problematic in larger school districts, if a large number of the municipalities in such districts choose to operate charter schools. Although increases in the number of permitted conversion charter schools can be granted by the State Board of Education, this additional step may hinder the development of municipally operated charter schools. Consequently, the possibilities of amending or repealing 228.056(5) or of stating that this bill's provisions operate notwithstanding 228.056(5), have been suggested.

CS/HB 1751 provides that the school boards shall "expeditiously authorize" the charter. The sponsor states his intent in using the term "expeditiously" as follows: The bill is made specifically pursuant to s. 228.056, F.S. Subsection (4) has specific time-frames. "Expeditiously" means within the time-frames of subsection (4) but on the earlier, not the later, end of those time frames. In addition, the sponsor has indicated that the phrase "expeditiously authorize" was not intended to prevent the school board from making a meaningful review of the proposal or to compel the school board to authorize a charter which does not fully comply with s. 228.056, F.S.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 4, 1998, the Committee on Education Innovation substantially amended HB 1751, and passed the bill as a committee substitute. Rather than using the charter school law as a model to create an administrative subdistrict, the committee substitute allows a

municipality or municipalities to present to the district school board a school or group of schools to form a charter conversion municipal subdistrict operated by a municipally appointed charter school board. Before the proposal is presented to the district board, it must be approved by the voters, including those in any unincorporated area which may be included in the subdistrict jurisdiction. Upon receipt of the request, the school board must expeditiously authorize the requested charter.

On March 5, 1998, the Committee on Taxation and Finance amended CS/HB 1751, limiting its provisions to municipalities or groups of municipalities with 25,000 or more residents.

On March 18, 1998, the Committee on Finance and Taxation passed this bill as a committee substitute. The provisions of CS/CS/HB 1751 are limited to municipalities or groups of municipalities with 25,000 or more residents. Additional changes made by CS/CS/HB 1751 clarify that the charter conversion municipal subdistrict must be in compliance with all of the provisions of s. 228.056, F.S., and that the school board shall reject any charter application that is not in full compliance with 228.056, F.S. Finally, CS/CS/HB 1751 specifies that the charter school board will govern, not operate, the subdistrict school(s).

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

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