

By Senator Burt

16-1070-98

1 A bill to be entitled
2 An act relating to education; authorizing the
3 creation of charter technical career centers;
4 prescribing powers and duties of the
5 Commissioner of Education, the Department of
6 Education, participating district school
7 boards, and community college district boards
8 of trustees, with respect to charter technical
9 career centers; prescribing powers and duties
10 of charter technical career centers and their
11 boards of directors; providing for funding;
12 prescribing rights and duties of employees of
13 centers and of district school board employees
14 and community college employees working at
15 charter technical career centers; providing for
16 the resolution of complaints; providing for
17 revocation of a charter; providing for rules;
18 amending s. 121.021, F.S.; redefining the term
19 "covered group" with respect to the Florida
20 Retirement System to include charter technical
21 career centers; amending s. 121.051, F.S.;
22 providing for optional participation in the
23 Florida Retirement System by employees of
24 charter technical career centers; amending s.
25 236.081, F.S.; providing for calculating
26 changes in school district funding resulting
27 from a drop in enrollment based on student
28 transfers to a charter technical career center;
29 providing an effective date.
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1 WHEREAS, The Legislature supports a strong prosperous
2 economy, with a well-trained, highly qualified work force, and

3 WHEREAS, the Legislature continues to foster transition
4 of WAGES participants from dependency on public funds to
5 self-sufficiency; and

6 WHEREAS, local economies are dependent upon maximizing
7 local work force training and education resources; and

8 WHEREAS, the Legislature promotes more choices for
9 parents and students, but has not authorized public chartering
10 entities to encourage public or public and private
11 partnerships for work force education and training, and

12 WHEREAS, technical career centers that operate under a
13 charter rather than under the direct supervision of a school
14 board or a community college may be able to respond more
15 rapidly to economic development and economic expansion
16 opportunities, and

17 WHEREAS, traditional educational and career training
18 environments may be restricted in their flexibility to serve
19 the individual education and career training needs of
20 students, and

21 WHEREAS, charter technical career centers may be able
22 to provide more innovative approaches to workforce
23 preparation, and

24 WHEREAS, business and industry should have primary
25 input on the design and structure of all career programs and
26 services, and

27 WHEREAS, the Legislature desires to maintain and
28 strengthen the mission of individual education and training
29 delivery systems, and, NOW, THEREFORE,

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

1 Section 1. (1) AUTHORIZATION.--The Legislature finds
2 that the establishment of charter technical career centers can
3 assist in promoting advances and innovations in workforce
4 preparation and economic development. A charter technical
5 career center may provide a learning environment that better
6 serves the needs of a specific population group or a group of
7 occupations, thus promoting diversity and choices within the
8 public education and public postsecondary technical education
9 community in this state. Therefore, the creation of such
10 centers is authorized as part of the state's program of public
11 education. A charter technical career center may be formed by
12 creating a new school or converting an existing school
13 district or community college program to charter technical
14 status.

15 (2) PURPOSE.--The purpose of a charter technical
16 career center is to:

17 (a) Develop a competitive workforce to support local
18 business and industry and economic development.

19 (b) Create a training and education model that is
20 reflective of marketplace realities.

21 (c) Offer a continuum of career educational
22 opportunities using a school-to-work, tech-prep, technical,
23 academy, and magnet school model.

24 (d) Provide career pathways for lifelong learning and
25 career mobility.

26 (e) Enhance career and technical training.

27 (3) DEFINITIONS.--As used in this act, the term:

28 (a) "Charter technical career center" or "center"
29 means a public school or a public technical center operated
30 under a charter granted by the local school board or community
31 college district board of trustees or a consortium, including

1 one or more school boards and community college district
2 boards of trustees from the district in which the facility is
3 located, which is nonsectarian in its programs, admission
4 policies, employment practices, and operations and is managed
5 by a board of directors.

6 (b) A "Sponsor" means a district school board, a
7 community college district board of trustees, or a consortium
8 of one or more of each.

9 (4) CHARTER.--A sponsor may designate centers as
10 provided in this section. An application to establish a
11 center may be submitted by a sponsor or another organization
12 that is determined, by rule of the State Board of Education,
13 to be appropriate. However, an independent school is not
14 eligible for status as a center. The charter must be signed
15 by the governing body of the center and the sponsor, and may
16 not be granted without the approval of the local school board
17 or community college district board of trustees which has
18 jurisdiction of the programs that will be offered by the
19 center. An applicant who wishes to establish a center must
20 submit to the local school board or community college district
21 board of trustees, or a consortium of one or more of each, an
22 application that includes:

23 (a) The name of the proposed center.

24 (b) The proposed structure of the center, including a
25 list of proposed members of the board of directors or a
26 description of the qualifications for and method of their
27 appointment or election.

28 (c) The workforce development goals of the center, the
29 curriculum to be offered, and the outcomes and the methods of
30 assessing the extent to which the outcomes are met.

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1 (d) The admissions policy and criteria for evaluating
2 the admission of students.

3 (e) A description of the staff responsibilities and
4 the proposed qualifications of the teaching staff.

5 (f) A description of the procedures to be implemented
6 to ensure significant involvement of representatives of
7 business and industry in the operation of the center.

8 (g) A method for determining whether a student has
9 satisfied the requirements for graduation specified in section
10 232.246, Florida Statutes, and for completion of postsecondary
11 certificates and degrees.

12 (h) A method for granting secondary and postsecondary
13 diplomas, certificates, and degrees.

14 (i) A description of and address for the physical
15 facility in which the center will be located.

16 (j) A method of resolving conflicts between the
17 governing body of the center and the sponsor and between
18 consortium or partnership members, if applicable.

19 (k) A method for reporting student data as required by
20 law and rule.

21 (l) Other information required by the local school
22 board or community college district board of trustees.

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24 Students at a center must meet the same testing and academic
25 performance standards as those established by law and rule for
26 students at public schools and public technical centers. The
27 students must also meet any additional assessment indicators
28 that are included within the charter approved by the district
29 school board or community college district board of trustees.

30 (5) APPLICATION.--An application to establish a center
31 must be submitted by February 1 of the year preceding the

1 school year in which the center will begin operation. The
2 sponsor must review the application and make a final decision
3 on whether to approve the application and grant the charter by
4 March 1, and may condition the granting of a charter on the
5 center's taking certain actions or maintaining certain
6 conditions. Such actions and conditions must be provided to
7 the applicant in writing. The local school board or community
8 college district board of trustees is not required to issue a
9 charter to any person.

10 (6) SPONSOR.--A district school board or community
11 college district board of trustees or a consortium of one or
12 more of each may sponsor a center in the county over which the
13 board has jurisdiction.

14 (a) A sponsor must review all applications for centers
15 received through at least February 1 of each calendar year for
16 centers to be opened at the beginning of the sponsor's next
17 school year. A sponsor may receive applications later than
18 this date if it so chooses. To facilitate an accurate budget
19 projection process, a sponsor shall be held harmless for FTE
20 students that are not included in the FTE projects due to
21 approval of applications after the FTE projection deadline. A
22 sponsor must, by a majority vote, approve or deny an
23 application no later than 60 days after the application is
24 received. If an application is denied, the sponsor must,
25 within 10 days, notify the applicant in writing of the
26 specific reasons for denial, which must be based upon good
27 cause. Upon approval of a charter application, the initial
28 startup must be consistent with the beginning of the public
29 school or community college calendar for the district in which
30 the charter is granted, unless the sponsor allows a waiver of
31 this provision for good cause.

1 (b) An applicant may appeal any denial of its
2 application to the State Board of Education with in 30 days
3 after the sponsor's denial and shall notify the sponsor of its
4 appeal. Any response of the sponsor must be submitted to the
5 state board within 30 days after notification of the appeal.
6 The state board must, by majority vote, accept or reject the
7 decision of the sponsor no later than 60 days after an appeal
8 is filed, pursuant to state board rule. The state board may
9 reject an appeal for failure to comply with procedural rules
10 governing the appeals process, and the rejection must describe
11 the submission errors. The appellant may have up to 15 days
12 after notice of rejection to resubmit an appeal. An
13 application for appeal submitted after a rejection is timely
14 if the original appeal was filed within 30 days after the
15 sponsor's denial. The state board shall remand the application
16 to the sponsor with a written recommendation that the sponsor
17 approve or deny the application, consistent with the state
18 board's decision. The decision of the state board is not
19 subject to the provisions of chapter 120, Florida Statutes.

20 (c) The sponsor must act upon the recommendation of
21 the State Board of Education within 30 days after it is
22 received, unless the sponsor determines by competent
23 substantial evidence that approving the state board's
24 recommendation would be contrary to law or the best interests
25 of the pupils or the community. The sponsor must notify the
26 applicant in writing concerning the specific reasons for its
27 failure to follow the state board's recommendation. The
28 sponsor's action on the state board's recommendation is a
29 final action, subject to judicial review.

30 (d) The Department of Education may provide technical
31 assistance to an applicant upon written request.

1 (e) The terms and conditions for the operation of a
2 center must be agreed to by the sponsor and the applicant in a
3 written contract. The sponsor may not impose unreasonable
4 requirements that violate the intent of giving centers greater
5 flexibility to meet educational goals. The applicant and
6 sponsor must reach an agreement on the provisions of the
7 contract or the application is deemed denied.

8 (f) The sponsor shall monitor and review the center's
9 progress towards charter goals and shall monitor the center's
10 revenues and expenditures.

11 (7) LEGAL ENTITY.--A center must organize as a
12 nonprofit organization and adopt a name and corporate seal. A
13 center is a body corporate and politic, with all powers to
14 implement its charter program. The center may:

15 (a) Be a private or a public employer.

16 (b) Sue and be sued, but only to the same extent and
17 upon the same conditions that a public entity can be sued.

18 (c) Acquire real property by purchase, lease, lease
19 with an option to purchase, or gift, to use as a center
20 facility.

21 (d) Receive and disburse funds.

22 (e) Enter into contracts or leases for services,
23 equipment, or supplies.

24 (f) Incur temporary debts in anticipation of the
25 receipt of funds.

26 (g) Solicit and accept gifts or grants for career
27 center purposes.

28 (h) Take any other action that is not inconsistent
29 with this section and rules adopted under this section.

30 (8) ELIGIBLE STUDENTS.--A center must be open to all
31 students as space is available and may not discriminate in

1 admissions policies or practices on the basis of an
2 individual's physical disability or proficiency in English or
3 on any other basis that would be unlawful if practiced by a
4 public school or a community college. A center may establish
5 reasonable criteria by which to evaluate prospective students,
6 which criteria must be outlined in the charter.

7 (9) FACILITIES.--A center may be located in any
8 suitable location, including part of an existing public school
9 or community college building, space provided on a public
10 worksite, or a public building. A center's facilities must
11 comply with the State Uniform Building Code for Public
12 Educational Facilities Construction adopted pursuant to
13 section 235.26, Florida Statutes, or with applicable state
14 minimum building codes pursuant to chapter 553, Florida
15 Statutes, and state minimum fire protection codes pursuant to
16 section 633.025, Florida Statutes, adopted by the authority in
17 whose jurisdiction the facility is located. If K-12 public
18 school funds are used for construction, the facility must
19 remain on the local school district's Florida Inventory of
20 School Houses (FISH) school building inventory of the local
21 school board and must revert to the local school board if the
22 partnership or consortium dissolves and the program is
23 discontinued. If community college public school funds are
24 used for construction, the facility must remain on the local
25 community college's facilities inventory and must revert to
26 the local community college district board if the partnership
27 or consortium dissolves and the program is discontinued. The
28 additional student capacity created by the addition of the
29 center to the local school district's FISH may not be
30 calculated in the permanent student capacity for the purpose
31 of determining need or eligibility for state capitol outlay

1 funds while the facility is used as a center. If the
2 construction of the center is funded jointly by K-12 public
3 school funds and community college funds, the sponsoring
4 entities must agree, before granting the charter, on the
5 appropriate owner and terms of transfer of the facility if the
6 charter is dissolved.

7 (10) EXEMPTION FROM STATUTES.--

8 (a) A center must operate pursuant to its charter and
9 is exempt from all statutes of the Florida School Code except
10 provisions pertaining to civil rights and to student health,
11 safety, and welfare, or as otherwise required by law.

12 (b) A center must comply with the Florida School Code
13 with respect to providing services to students with
14 disabilities.

15 (c) A center must comply with the antidiscrimination
16 provisions of section 228.2110, Florida Statutes.

17 (11) FUNDING.--

18 (a) The school board or community college district
19 board of trustees in which a center is located and other
20 participating public education partners shall pay directly to
21 the center an amount agreed upon in the charter agreement.

22 (b) A center may receive other state and federal aid,
23 grants, and revenue through the local school board or
24 community college district board of trustees.

25 (c) A center may receive gifts and grants from private
26 sources.

27 (d) A center may not levy taxes or issue bonds, but it
28 may charge a student tuition fee consistent with authority
29 granted in its charter and permitted by law.

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1 (e) A center is subject to an annual financial audit
2 in a manner similar to that of a school district or community
3 college.

4 (f) A center must provide instruction for at least the
5 number of days required by law for other public schools or
6 community colleges, as appropriate, and may provide
7 instruction for additional days.

8 (g) The sponsor, at the center's request, may apply to
9 the Commissioner of Education for a waiver of any requirements
10 that inhibit maximizing the use of public education funds.

11 (12) EMPLOYEES OF A CENTER.--

12 (a) A center may select its own employees.

13 (b) A center may contract for services with an
14 individual, partnership, or a cooperative. Such persons
15 contracted with are not public employees.

16 (c) If a center contracts with a public educational
17 agency for services, the terms of employment must follow
18 existing state law and rule and local policies and procedures.

19 (d) The employees of a center may bargain
20 collectively, as a separate unit or as part of the existing
21 district collective bargaining unit, as determined by the
22 structure of the center.

23 (e) As a public employer, a center may participate in:

24 1. The Florida Retirement System upon application and
25 approval as a "covered group" under section 121.021(34),
26 Florida Statutes. If a center participates in the Florida
27 Retirement System, its employees are compulsory members of the
28 Florida Retirement System.

29 2. The state community college system optional
30 retirement plan pursuant to section 240.3195(2), Florida
31 Statutes, if the charter is granted by a community college

1 that participates in the optional retirement program and meets
2 the eligibility criteria of section 121.051(2)(c), Florida
3 Statutes.

4 (f) Teachers who are considered qualified by the
5 career center are exempt from state certification
6 requirements.

7 (g) A public school or community college teacher or
8 administrator may request a 2-year leave of absence from his
9 or her employer to work in a center, and the board must grant
10 the request. At the end of the 2-year period, the person may
11 return to the former position or may request that the leave be
12 extended for an additional 2 years which approval may not be
13 unreasonably withheld. At the end of the 4th year, the
14 teacher or administrator may return to his former position or
15 resign that position.

16 (h) A teacher who is on a leave of absence under this
17 section may retain seniority accrued in that school district
18 or college and may continue to be covered by the benefit
19 programs of that district or college if the center and the
20 district school board or community college board of trustees
21 agree to this arrangement and its financing.

22 (13) BOARD OF DIRECTORS AUTHORITY.--The board of
23 directors of a center may decide matters relating to the
24 operation of the school, including budgeting, curriculum, and
25 operating procedures, subject to the center's charter.

26 (14) ACCOUNTABILITY.--Each center must submit a report
27 to the participating school board or district community
28 college board of trustees by August 1 of each year. The
29 report must be in such form as the sponsor prescribes and must
30 include:

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1 (a) A discussion of progress made toward the
2 achievement of the goals outlined in the center's charter; and

3 (b) A financial statement setting forth by appropriate
4 categories the revenue and expenditures for the previous
5 school year.

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7 Any person may bring before the board of directors of a center
8 a complaint alleging a violation of this section. If, after
9 presenting the complaint, the person feels that the board has
10 not adequately addressed the grievance, he or she may present
11 that complaint to the sponsoring board, which must investigate
12 the complaint.

13 (15) TERMS OF THE CHARTER.--The term of an initial
14 charter may not exceed 5 years. Thereafter, the sponsor may
15 renew a charter for a period up to 5 years. The sponsor may
16 refuse to renew a charter or may revoke a charter if the
17 center has not fulfilled a condition imposed under the charter
18 or if the center has violated any provision of the charter.
19 The sponsor may place the center on probationary status to
20 allow the implementation of a remedial plan, after which, if
21 the plan is unsuccessful, the charter may be summarily
22 revoked. The sponsor shall develop procedures and guidelines
23 for the revocation and renewal of a center's charter. The
24 sponsor must give written notice of its intent not to renew
25 the charter at least 12 months before the charter expires. If
26 the sponsor revokes a charter before the scheduled expiration
27 date, the partnership board must provide written notice to the
28 governing board of the center at least 60 days before the date
29 of termination, stating the grounds for the proposed
30 revocation. The governing board of the center may request in
31 writing an informal hearing before the sponsor within 14 days

1 after receiving the notice of revocation. A revocation takes
2 effect at the conclusion of a school year, unless the sponsor
3 determines that earlier revocation is necessary to protect the
4 health, safety, and welfare of students. The sponsor shall
5 monitor and review the center in its progress towards the
6 goals established in the charter and shall monitor the
7 revenues and expenditures of the center.

8 (16) TRANSPORTATION.--The center may provide
9 transportation, pursuant to chapter 234, Florida Statutes,
10 through a contract with the district school board or the
11 community college district board of trustees, a private
12 provider, or parents of students. The center must ensure that
13 transportation is not a barrier to equal access for all
14 students in grades K-12 residing within a reasonable distance
15 of the facility.

16 (17) IMMUNITY.--For the purposes of tort liability,
17 the governing body and employees of a center are governed by
18 section 768.28, Florida Statutes.

19 (18) RULES.--The State Board of Education shall adopt
20 rules to administer this act.

21 (19) EVALUATION; REPORT.--The Commissioner of
22 Education shall provide for an annual comparative evaluation
23 of charter technical career centers and public technical
24 centers. The evaluation may be conducted in cooperation with
25 the sponsor, through private contracts, or by department
26 staff. At a minimum, the comparative evaluation must address
27 the demographic and socioeconomic characteristics of the
28 students served, the types and costs of services provided, and
29 the outcomes achieved. By December 30 of each year, the
30 Commissioner of Education shall submit to the Governor, the
31 President of the Senate, the Speaker of the House of

1 Representatives, and the Senate and House committees that have
2 responsibility for secondary and postsecondary career
3 education a report of the comparative evaluation completed for
4 the previous school year.

5 Section 2. Subsection (34) of section 121.021, Florida
6 Statutes, is amended to read:

7 121.021 Definitions.--The following words and phrases
8 as used in this chapter have the respective meanings set forth
9 unless a different meaning is plainly required by the context:

10 (34) "Covered group" means the officers and employees
11 of an employer who become members under this chapter. "Covered
12 group" applies also when the employer is a charter technical
13 career center, charter school, special district, or city for
14 which coverage under this chapter is applied for by the
15 employer and approved for social security coverage by the
16 United States Secretary of Health and Human Services and
17 approved by the administrator for membership under this
18 chapter. Members of a firefighters' pension trust fund or a
19 municipal police officers' retirement trust fund, established
20 in accordance with chapter 175 or chapter 185, respectively,
21 shall be considered eligible for membership under this chapter
22 only after holding a referendum and by affirmative majority
23 vote electing coverage under this chapter.

24 Section 3. Paragraph (c) of subsection (2) of section
25 121.051, Florida Statutes, is amended to read:

26 121.051 Participation in the system.--

27 (2) OPTIONAL PARTICIPATION.--

28 (c) Employees of members of the State Community
29 College System or charter technical career centers sponsored
30 by members of the State Community College System, as
31 designated in s. 240.3031, who are members of the Regular

1 Class of the Florida Retirement System and who comply with the
2 criteria set forth in this paragraph and in s. 240.3195 may
3 elect, in lieu of participating in the Florida Retirement
4 System, to withdraw from the Florida Retirement System
5 altogether and participate in a lifetime monthly annuity
6 program, to be known as the State Community College System
7 Optional Retirement Program, which may be provided by the
8 employing agency under s. 240.3195. Pursuant thereto:

9 1. The cost to the employer for such annuity shall
10 equal the normal cost portion of the employer retirement
11 contribution which would be required if the employee were a
12 member of the Regular Class, plus the portion of the
13 contribution rate required by s. 112.363(8) that would
14 otherwise be assigned to the Retiree Health Insurance Subsidy
15 Trust Fund, and less an amount approved by the employer to
16 provide for the administration of the optional retirement
17 program. The employer providing such annuity shall contribute
18 an additional amount to the Florida Retirement System Trust
19 Fund equal to the unfunded actuarial accrued liability portion
20 of the Regular Class contribution rate.

21 2. The decision to participate in such an optional
22 retirement program shall be irrevocable for as long as the
23 employee holds a position eligible for participation. Any
24 service creditable under the Florida Retirement System shall
25 be retained after the member withdraws from the Florida
26 Retirement System; however, additional service credit in the
27 Florida Retirement System shall not be earned while a member
28 of the optional retirement program.

29 3. Participation in an optional annuity program shall
30 be limited to those employees who satisfy the following
31 eligibility criteria:

1 a. The employee must be otherwise eligible for
2 membership in the Regular Class of the Florida Retirement
3 System, as provided in s. 121.021(11) and (12).

4 b. The employee must be employed in a full-time
5 position classified in the Accounting Manual for Florida's
6 Public Community Colleges as:

7 (I) Instructional; or

8 (II) Executive Management, Instructional Management,
9 or Institutional Management, if a community college determines
10 that recruiting to fill a vacancy in the position is to be
11 conducted in the national or regional market, and:

12 (A) The duties and responsibilities of the position
13 include either the formulation, interpretation, or
14 implementation of policies; or

15 (B) The duties and responsibilities of the position
16 include the performance of functions that are unique or
17 specialized within higher education and that frequently
18 involve the support of the mission of the community college.

19 c. The employee must be employed in a position not
20 included in the Senior Management Service Class of the Florida
21 Retirement System, as described in s. 121.055.

22 4. Participants in the program are subject to the same
23 reemployment limitations, renewed membership provisions, and
24 forfeiture provisions as are applicable to regular members of
25 the Florida Retirement System under ss. 121.091(9), 121.122,
26 and 121.091(5), respectively.

27 5. Eligible community college employees shall be
28 compulsory members of the Florida Retirement System until,
29 pursuant to the procedures set forth in s. 240.3195, the first
30 day of the next full calendar month following the filing of
31 both a written election to withdraw and a completed

1 application for an individual contract or certificate with the
2 program administrator and receipt of such election by the
3 division.

4 Section 4. Subsection (7) of section 236.081, Florida
5 Statutes, is amended to read:

6 236.081 Funds for operation of schools.--If the annual
7 allocation from the Florida Education Finance Program to each
8 district for operation of schools is not determined in the
9 annual appropriations act or the substantive bill implementing
10 the annual appropriations act, it shall be determined as
11 follows:

12 (7) DECLINE IN FULL-TIME EQUIVALENT STUDENTS.--In
13 those districts where there is a decline between prior year
14 and current year unweighted FTE students, 50 percent of the
15 decline in the unweighted FTE students shall be multiplied by
16 the prior year calculated FEFP per unweighted FTE student and
17 shall be added to the allocation for that district. For this
18 purpose, the calculated FEFP shall be computed by multiplying
19 the weighted FTE students by the base student allocation and
20 then by the district cost differential. If a district
21 transfers a program to another institution not under the
22 authority of the district's school board, including a charter
23 technical career center, the decline is to be multiplied by a
24 factor of 0.15.

25 Section 5. This act shall take effect upon becoming a
26 law.

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SENATE SUMMARY

Authorizes the creation of charter technical career centers by district school boards or community college district boards of trustees. Provides powers and duties of such centers and provides for funding, staffing, charter issuance, renewal, and revocation, and for the resolution of complaints. Requires evaluations and reports. Provides for calculating changes in funding. Provides for participation in retirement systems by employees. (See bill for details.)