

STORAGE NAME: h4135.ccc

DATE: March 23, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY COLLEGES AND CAREER PREP
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4135

RELATING TO: Education (Charter Technical Career Centers)

SPONSOR(S): Representative Lynn and others

COMPANION BILL(S): SB 2074 by Senator Burt

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

- (1) COMMUNITY COLLEGES AND CAREER PREP
- (2) GOVERNMENTAL OPERATIONS
- (3) EDUCATION APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

This bill creates the authority for a school district or community college to sponsor a charter technical career center (CTCC), largely consistent with the authority to operate a charter school granted in s. 228.056, F.S. The provisions for a CTCC include:

- authority for the sponsor review, and approve or deny an application
- an appeals process for applicants whose application has been denied
- student eligibility requirements to be open to all students on a space available basis
- a requirement that the legal entity must be a nonprofit organization
- authority to be either a public or a private employer
- requirements for facilities and funding
- exemption from certain statutes
- accountability requirements through annual reporting

The bill directs to the Commissioner of Education to provide an annual comparative evaluation of charter technical career centers and public technical centers.

The bill also contains conforming provisions relating to optional participation of a CTCC in the Florida retirement system or community college retirement system, as well as a provision for a school district to receive a declining enrollment calculation for transfers related to the creation of a CTCC.

The fiscal impact of the bill is indeterminate at this time. The bill is permissive in nature, therefore the fiscal impact would be largely determined by the extent that school districts and community colleges choose to participate.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Current law (s. 228.056, F.S.) provides for elementary and secondary charter schools but does not address postsecondary charters. Section 228.056, F.S., was enacted in 1996 to authorize the operation of nonsectarian charter schools within the public school system, either through the creation of a new school or converting an existing public school to charter status. Community colleges cannot currently participate with school districts on a charter basis.

Exemption from Statutes

Charter schools are exempt from all statutes of the Florida School Code, except those pertaining to civil rights and student's health, safety, and welfare. Charter schools are subject to the anti-discrimination provisions of s. 228.2001, F.S., public records, public meetings, and public inspections requirements, and are subject to an annual financial audit in a manner similar to that of a school district.

Charter

Section 228.056, F.S., provides for an application process where district school boards are required to receive charter school applications and approve or deny a charter school application, determined by a majority vote of the school board. Section 228.056, F.S., also provides an appeals process for charter school applicants to appeal a denial to the State Board of Education. The state board is required to, by majority vote, accept or reject the district school board's decision.

Legal Entity

Charter schools are required to organize as nonprofit organizations.

Facilities

Section 235.435(6)(b), F.S., states that unless granted a waiver under s. 235.4351, F.S., a district school board may use funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for new construction of educational plant space only if the costs per student station meets certain thresholds. District school board facilities or properties which are available because they are surplus, marked for disposal, or are otherwise unused, may be provided for a charter school's use on the same basis as they are made available to other public schools in the district.

Employees

A charter school may be either a public or private employer. Employer status and governance must be addressed in the charter. As a public employer, the charter school may participate in the Florida Retirement System (FRS). Employees have the option to collectively bargain. District employees may take leave to become charter school employees, with approval of employing school board, or the school district may provide for alternative leave arrangements consistent with chapter 231. During leave of absence, seniority with the district may be maintained. Benefit programs may continue for employees on leave of absence from the school district, if the charter school and the district agree to this arrangement and its financing.

Teachers employed by or under contract to a charter school must be certified as required by chapter 231, Florida Statutes. A charter school may, however, employ or contract with skilled selected non-certified personnel to provide instructional services or to assist instructional staff members as teachers aides in the same manner as defined in chapter 231.

Funding

Statute specifies that funds for students in charter schools are generated in the same manner as students enrolled in other public schools

B. EFFECT OF PROPOSED CHANGES:

District school boards, community colleges, or a consortium of each, would be authorized to sponsor charter technical career centers (CTCC) for secondary or postsecondary vocational education. This would be similar to the charter school authority granted to school districts in s. 228.056, F.S. The ability to charter would allow the school district or community college to provide greater flexibility in meeting local demands for vocational education.

Charter

District school boards, community colleges, or a consortium of each would be authorized to sponsor a CTCC in the county over which the board has jurisdiction. A community college may be authorized to sponsor a CTCC in more than one county since community college boards of trustees, in some cases, have jurisdiction over multiple counties. Independent schools would not be eligible to become a CTCC.

The sponsor would designate a CTCC for an initial term not to exceed 5 years. Charters would be able to be renewed for 5 more years. The initial term for a charter school may not exceed 3 years, and can be renewed in increments of 1, 2, or 3 years. Sponsors would be able to place a CTCC on probation, refuse to renew a charter, or revoke a charter if a CTCC has not fulfilled a condition imposed under the charter or has violated a provision of the charter. This is similar to the provisions for charter schools. The sponsor would develop procedures and guidelines for these actions. The sponsor would be required to give written notice of the intent not to renew a charter at least 12 months before it would expire. The 12 month notice requirement could be seen as lengthy. Charter school language in s. 228.056, F.S., requires 90 days notification of intent not to renew.

Sponsor

The sponsor would have to review applications for CTCC, and approve or deny the applications. The sponsor would be able to condition the granting of a charter on the center's taking certain action or maintaining certain conditions. The applicant would bring an appeal of a denial to the State Board of Education, which would vote to accept or reject the decision of the sponsor. The sponsor would then be required to act upon the State Board recommendation, unless it determines by competent substantial evidence that approving the recommendation would be contrary to law or the best interest of the student. This appeals process is similar to the process for charter schools under s. 228.056 (4), F.S.

Legal Entity

A CTCC would be required to organize as a nonprofit organization with powers to implement its charter. Charter schools are also required to be nonprofit organizations.

Eligible Students

A CTCC would be required to be open to all students on a space available basis. Criteria to evaluate prospective students would have to be outlined in the charter. This provision is similar to the eligibility requirements for students in charter schools, although charter schools may restrict their enrollment to targeted student populations such as students at risk for dropping out of school.

Employees

Employees would be able to collectively bargain. A CTCC could be either a public or private employer. As a public employer, CTCC employees would be able to participate in the Florida Retirement System. A teacher would be able to request a 2-year leave of absence to work in a CTCC, and the bill would require the leave be granted. Teachers could then request a second 2-year leave of absence which could not be unreasonably withheld. Teachers on leave of absence would retain seniority accrued and would continue to be covered by the benefit programs of the school district or community college if agreed to in the charter. At the end of the second 2 year leave, teachers would have to return to their former position or resign that position. This means that a school district or community college would have to hold a teacher's position for up to 4 years while the teacher was on leave. School districts and community colleges could see this

requirement as problematic because they may have to fill a position on temporary basis for up to 4 years.

Teachers who are considered qualified by the CTCC would be exempt from state certification requirements. This provision would be inconsistent with current charter school provisions.

Facilities

A CTCC could be located in any suitable location, including part of an existing public school, community college building, or worksite. The facility must meet the State Uniform Building Code for Public Educational Facilities Construction. K-12 public school funds, and/or community college public school funds would be able to be used for construction of a CTCC facility. The ability to use K-12 and community college public school funds for construction could be seen by some as detrimental. Some may be concerned that there is not enough public school funds for facilities currently, or that this bill would grant authority to spend public school operating funds on construction of a CTCC, thereby reducing funds available for traditional K-12 or community college operations. Others may support using public school funds for a CTCC because it serves the public purpose of education in a more flexible manner.

Exemption from Statutes

Much like a charter school, a CTCC would be exempt from certain provisions of the Florida School Code. The charter school provision in s. 228.056 (11), F.S., states that a charter school is NOT exempt from public records and public meetings requirements. This bill does not contain the same reference to these requirements, nor does it expressly exempt them from sunshine law requirements.

Funding

The school board or community college, and other participating public education partners would pay directly to the CTCC an amount agreed upon in the charter. A CTCC would also be able to receive state and federal aid, as well as private donations. A CTCC would not be authorized to levy taxes or issue bonds, but would be able to charge a student tuition fee consistent with the charter and as provided in law. Community colleges and school districts are authorized to charge fees for postsecondary education, but fees are not authorized for the K-12 system.

Accountability

A CTCC would be required to report to the sponsoring school district or community college annually. The Commissioner of Education would provide an annual comparative evaluation of charter technical career centers and public technical centers to the Governor and Legislature.

Declining Enrollment Provision

The provision for the calculation of the Florida Education Finance Program which holds school districts harmless for 50% of their declining enrollment would be changed to hold harmless any decline due to a transfer of a program from a school district to a CTCC for 15% rather than 50%. The effect of this change would reduce the potential benefit to a school district for declining enrollment. However, if a district is not realizing a decline in total enrollment, this provision would have no effect.

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?

The State Board of Education (SBE) would be authorized to make rules to administer this act.

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

School boards and community college boards of trustees would have to review and approve applications for charters, and notify applicants denied approval.

The SBE would have to hear appeals of denied applicants and accept or reject the appeal.

The sponsor would be required to act on the SBE recommendation and would be able to choose not to accept it, in which case, the sponsor would have to notify the applicant in writing.

The DOE may have to provide technical assistance to applicants.

The sponsor would have to develop guidelines for the revocation and renewal of charters, and would have to notify charter institutions of intent not to renew.

The Commissioner of Education would have to prepare an annual comparative evaluation of charter technical schools and public technical schools.

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

N/A

- 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?

N/A

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

N/A

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

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

Students would have the additional option of attending charter technical schools for vocational education.

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

N/A

5. Family Empowerment:

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

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

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:

Amends ss. 121.021, 121.051, and 236.081, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Creates charter technical career centers.

Section 2. Amends s. 121.021, F.S., relating to definitions for the Florida Retirement System.

Section 3. Amends s. 121.051, F.S., relating to optional participation in the Florida Retirement System.

Section 4. Amends s. 236.081, F.S., relating to funds for the operation of schools (FEFP calculations).

Section 5. Provides that the act take effect upon becoming law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Minimal negative impact due to costs associated with the promulgation of rules.

2. Recurring Effects:

Negligible depending on any appeals to the State Board of Education.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate. Please refer to fiscal comments.

2. Recurring Effects:

Indeterminate. Please refer to fiscal comments.

3. Long Run Effects Other Than Normal Growth:

Indeterminate. Please refer to fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate

2. Direct Private Sector Benefits:

Benefits may be realized by students that would have seamless articulation of career education opportunities.

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

A CTCC would prepare students to become employees needed by local industry.

D. FISCAL COMMENTS:

Data on fiscal impact has been requested from the Division of Community Colleges but has not yet been received. The bill is permissive in nature, therefore the fiscal impact would be largely determined by the extent that school districts and community colleges choose to participate.

The bill does not address how state funds would be generated by school districts or community colleges, or both, for students in a CTCC.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

In accordance with s. 120.536, F.S., staff recommends a technical amendment on page 14, lines 19 and 20 of the bill provide the specific authority necessary to adopt rules for the implementation of the CTCC program.

Staff recommends a technical amendment on page 10, line 16, to change an incorrect statutory reference. "228.2110" should be "228.2001".

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON COMMUNITY COLLEGES AND CAREER PREP:

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