SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1066

SPONSOR: Education Committee and Senator Sullivan

SUBJECT: Charter Schools/Capital Outlay Funding

DATE: April 19, 1999 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hill	O'Farrell	ED	Favorable/CS
2.			FP	
3.				
4.				
5.				

I. Summary:

This bill deletes current authority to use Public Education Capital Outlay and Debt Service (PECO) funds for charter school capital outlay purposes. This change is necessary because PECO bond proceeds cannot be legally used as authorized by s. 228.0561, F.S., due to state constitutional limits on the use of PECO and federal limits on the use of bond proceeds. To conform with this change, the bill also: (1) deletes district school boards authority to share PECO funds with charter schools; (2) deletes the mandatory reduction in a charter school's PECO allocation when such sharing occurs; (3) requires deposits in the General Revenue Fund rather than the PECO Trust Fund when state funds are recovered after a charter school is terminated or not renewed; (4) deletes an obsolete reference to the FY 1998-1999 PECO appropriation for charter school capital outlay; and (5) removes charter schools from the list of entities that may receive PECO funds. Future appropriations for charter school capital outlay will be allocated by the same formula that applied to PECO appropriations. If a district school board shares capital outlay funds with a charter school (e.g., School Infrastructure Thrift SIT awards), the school's charter school capital outlay funds must be reduced by a like amount.

The bill revises the eligibility criteria for charter school capital outlay funding. Charter schools will have to demonstrate fiscal stability, but will no longer have to operate for at least two years to be eligible for charter school capital outlay funding. The bill deletes the requirement for a lien on any property improved with charter school capital outlay funds. To ensure the recovery of public assets, charter schools and their sponsors must agree in writing that unencumbered funds, equipment, and property purchased by the charter school with public education funds will revert to the district school board if the school's charter is terminated or not renewed.

This bill substantially amends the following sections of the Florida Statutes: 228.0561 and 235.42.

II. Present Situation:

Section 228.0561, F.S., specifies the eligibility criteria, allocation formula, and potential uses of appropriations from the PECO Trust Fund for charter school capital outlay purposes.

To participate in PECO funding for charter schools, a charter school must serve students in non-district facilities and must have continuously operated for at least two years in the district that approved its charter. Conversion charter schools are not eligible for these funds. Before releasing capital outlay funds to a charter school, the Department of Education must enter into a written agreement that provides for the attachment of a lien to property improved with charter school capital outlay funds. When a charter school is non-renewed or terminated, any unencumbered funds and all equipment and property purchased with public funds revert to the district school board. If funds are recovered from a lien against properties improved with charter school capital outlay funds, the recovered funds are deposited in the PECO Trust Fund.

District school boards may share PECO funds with charter schools. If sharing occurs, the school's charter school capital outlay allocation must be reduced by the same amount.

For FY 1998-99, the Legislature appropriated $5 million from PECO for charter school capital outlay purposes. That appropriation was not distributed and s. 228.0561, F.S., cannot be implemented as written. Section 228.0561, F.S., allows charter school capital outlay funds to be used for any capital outlay purpose directly related to a charter school's functioning. This allows charter schools to use bonded PECO funds in ways that bonded funds cannot be legally used (e.g., leasing permanent and relocatable facilities, maintaining and repairing facilities, and purchasing vehicles to transport students). The broad discretionary capital outlay uses authorized by s. 228.0561, F.S., meet charter schools needs but conflict with limits set by Article XII, section 9 of the State Constitution on the use of PECO bond proceeds. Those bond proceeds may be used only to finance or refinance capital projects authorized by the Legislature.

III. Effect of Proposed Changes:

The bill amends s. 228.0561, F.S., to remove provisions that allowed PECO funds to be allocated to and used by charter schools for any capital outlay purpose related to their functioning. This change is needed because PECO bond proceeds cannot be legally used as authorized by s. 228.0561, F.S., due to state constitutional limits on the use of PECO and federal limits on the use of bond proceeds. To conform with these changes, the bill also: (1) deletes district school boards authority to share PECO funds with charter schools; (2) deletes the mandatory reduction in a charter school's PECO allocation when such sharing occurs; (3) requires deposits in the General Revenue Fund rather than the PECO Trust Fund if the state recovers funds after a charter school stops operating; and (4) deletes an obsolete reference to the FY 1998-1999 PECO appropriation for charter school capital outlay. The bill also amends s. 235.42, F.S., to remove charter schools from the list of entities that may receive PECO funds.

Future appropriations for charter school capital outlay will be allocated by the same formula currently authorized for allocating PECO to charter schools. Under the current formula, all charter schools, except conversion charter schools operating in district facilities, are eligible for one-thirtieth of the maximum cost per student station for each student enrolled in the charter school. If funds aren't sufficient to fully fund this formula, the Commissioner will prorate available funds among eligible charter schools. If a district school board shares capital outlay funds with a charter school (e.g., School Infrastructure Thrift SIT awards), the school's charter school capital outlay funds must be reduced by a like amount.

The bill revises the eligibility criteria for this funding. Charter schools will have to demonstrate their fiscal stability, but will no longer have to operate for at least two years before receiving charter school capital outlay funds. To receive an allocation, a charter school must:

(1) Be approved to operate during the fiscal year for which the funds were appropriated;
(2) Serve students in facilities that are not provided by its sponsor;
(3) Be fiscally stable. Fiscal stability may be demonstrated by a statement from the charter school's sponsor, the school's most recent financial audit, or verification from a certified public accountant; and
(4) Have a written agreement with its sponsor providing that upon termination or nonrenewal of the school's charter, any unencumbered funds and all equipment and property purchased by the charter school with public education funds will revert to the district school board. This provision replaces the current requirement for a lien on properties improved with charter school capital outlay funds.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.