

STORAGE NAME: h2147.ei

DATE: April 12, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION INNOVATION
ANALYSIS**

BILL #: HB 2147

RELATING TO: Charter Schools

SPONSOR(S): Representative Tullis

COMPANION BILL(S): SB 2434 (S)

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

- (1) EDUCATION INNOVATION
 - (2) EDUCATION APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 2147 revises the charter school law in the following ways:

- Establishes earlier deadline for a district school board to receive charter school applications to help facilitate the approval and planning process.
- Allows any eligible student to transfer with justification to a charter school outside of their district.
- Provides that a charter school operate as or be operated by a nonprofit organization.
- Allows a charter school to be operated or sponsored by a municipality or other public entity.
- Requires a charter school's charter to include the current incoming baseline standard of student academic achievement, and the outcomes to be achieved, and the method of measurement that will be used, a description of the financial and administrative management of the school, including a reasonable demonstration of the public sector and private sector professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services.
- Authorizes charter schools operated by a municipality or other public entity to be eligible for up to a 15-year charter, subject to approval by the local school board with long-term charters remaining subject to annual review termination during the term of the charter, but only for specific good cause.
- Allows conversion charter schools operating a minimum of three years and demonstrating exemplary academic programming and fiscal management to be eligible for a 15-year charter renewal to facilitate long term financing for charter school construction.
- Prohibits a charter school from knowingly employing an individual who has resigned from a school district in lieu of disciplinary action or who has been dismissed for just cause by any school district.
- Requires DOE to convene a Charter School Review Panel to review issues, practices, and policies regarding charter schools with composition including individuals with experience in finance, administration, law, education, and school governance, and individuals familiar with charter school construction and operation.
- Requires the panel to make recommendations to the Legislature, the Department of Education, charter schools, and school districts for improving charter school operations and oversight and for ensuring best business practices at and fair business relationships with charter schools.

HB 2147 has no fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Charter Schools

Charter schools are part of the state's program of public education, pursuant to s. 228.056, F.S. All charter schools in Florida are fully recognized as public schools. A charter school may be formed by creating a new school or converting an existing public school to charter status. The purpose of charter schools is to:

- Improve student learning.
- Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as academically low achieving.
- Encourage the use of different and innovative learning methods.
- Increase choice of learning opportunities for students.
- Establish a new form of accountability for schools.
- Require the measurement of learning outcomes and create innovative measurement tools.
- Make the school the unit for improvement.
- Create new professional opportunities for teachers, including the opportunity to own the learning program at the school site.

Sponsor

A district school board may sponsor a charter school in the county over which the board has jurisdiction. A district school board must receive and review all applications for a charter school. A district school board will receive charter school applications through at least February 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year. A district school board may receive applications later than this date if it chooses. In order to facilitate an accurate budget projection process, a district school board is held harmless for FTE students which are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. 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 an application is denied, the district school board must, within 10 calendar days, articulate in writing the specific reasons based upon good cause supporting its denial of the charter application. Upon approval of a charter application, the initial startup must be consistent with the beginning of the public school calendar for the district in which the charter is granted unless the district school board allows a waiver of this provision for good cause.

Eligible Students

A charter school is open to any student covered in an interdistrict agreement or residing in the school district in which the charter school is located. When a public school converts to charter status, enrollment preference is given to students who would have otherwise attended that public school. A charter school may give enrollment preference to a sibling of a student enrolled in the charter school or to the child of an employee of the charter school.

The charter school is to enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all applicants have an equal chance of being admitted through a random selection process.

A charter school may limit the enrollment process only to target the following student populations:

- Students within specific age groups or grade levels.
- Students considered at risk of dropping out of school or academic failure. Such students include exceptional education students.
- Students enrolling in a charter school-in-the-workplace.
- Students residing within a reasonable distance of the charter school. Such students are subject to a random lottery and to the racial/ethnic balance provisions or any federal provisions which require a school to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.

A student may withdraw from a charter school at any time and enroll in another public school as determined by school board policy. Students with handicapping conditions and students served in

English for Speakers of Other Languages programs have an equal opportunity of being selected for enrollment in a charter school.

Proposals

A proposal for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state. The district school board or the principal, teachers, and/or the school advisory council at an existing public school, including a public school-within-a-school that is designated as a school by the district school board, will submit any proposal for converting the school to a charter school. A private school, parochial school, or home education programs are not eligible for charter school status. A district school board may sponsor a charter school in the county over which the board has jurisdiction.

Number of Schools

The number of newly created charter schools or existing public schools which may convert to charter schools is limited to no more than 28 in each school district that has 100,000 or more students, no more than 20 in each school district that has 50,000 to 99,999 students, and no more than 12 in each school district with fewer than 50,000 students.

Legal Entity

A charter school must organize as, or be operated by, a nonprofit organization. A charter school may be either a private or a public employer. As a public employer, a charter school may participate in the Florida Retirement System. If a charter school participates in the Florida Retirement System, the charter school employees will be compulsory members of the Florida Retirement System. As either a private or a public employer, a charter school may contract for services with an individual or group of individuals who are organized as a partnership or a cooperative. Individuals or groups of individuals who contract their services to the charter school are not public employees.

Charter

The major issues involving the operation of a charter school must be considered in advance and written into the charter. The charter must be signed by the governing body of the charter school and the sponsor, following a public hearing to ensure community input.

The charter is required to address, and criteria for approval of the charter is based on:

- 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 to be used, and any distinctive instructional techniques to be employed.
- The current baseline standard of achievement and the outcomes to be achieved and the method of measurement that will be used.
- The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. Students in charter schools are required to participate in the statewide assessment program.
- In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation.
- A method for resolving conflicts between the governing body of the charter school and the sponsor.
- The admissions procedures and dismissal procedures, including the school's code of student conduct.
- The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.
- The financial and administrative management of the school.
- The manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.
- The term of the charter which must provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter will be for three, four, or five years.
- The facilities to be used and their location.

- The qualifications to be required of the teachers.
- The governance structure of the school, including the status of the charter school as a public or private employer.
- A timetable for implementing the charter which addresses the implementation of each element of the charter and the date by which the charter will be awarded in order to meet this timetable.
- In the case of an existing public school being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or school board policy in the absence of a collective bargaining agreement.

A charter may be renewed every five school years, provided that a program review demonstrates that the criteria have been successfully accomplished. A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor and the approval of both parties to the agreement.

The governing body of the charter school is to present an annual progress report to its sponsor, which upon verification will be forwarded to the Commissioner of Education at the same time as other annual school accountability reports. The report must contain at least the following information:

- The charter school's progress toward achieving the goals outlined in its charter.
- The information required in the annual school report.
- Financial records of the charter school, including revenues and expenditures.
- Salary and benefit levels of charter school employees.

A sponsor is required to ensure that the charter is innovative and consistent with the state education goals.

Upon receipt of the annual report, DOE must provide the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the norm-referenced assessment tests, versus comparable public school students in the district as determined by norm-referenced assessment tests currently administered in the school district, and, as appropriate, the Florida Writes Assessment Test, the High School Competency Test, and other assessments administered.

Requirements

- A charter school is to be nonsectarian in its programs, admission policies, employment practices, and operations.
- A charter school is to admit students as specified above.
- A charter school is accountable to its sponsor for performance.
- A charter school not to charge tuition or fees, except those fees normally charged by other public schools.
- A charter school is to meet all applicable state and local health, safety, and civil rights requirements.
- A charter school is not to violate any anti-discrimination provisions.
- A charter school is subject to an annual financial audit in a manner similar to that of a school district.
- An organization cannot hold more than 15 charters statewide.

Employees of Charter Schools

Charter schools select their own employees. A charter school may contract with its sponsor for the services of personnel employed by the sponsor. Charter school employees have the option of bargaining collectively as a separate unit or as part of the existing district collective bargaining unit. The employees of a conversion charter school are public employees unless the employees choose not to be public employees.

The teachers at a charter school may choose to be part of a professional group that subcontracts with the charter school to operate the instructional program under the auspices of a partnership or

cooperative that they collectively own. Under this arrangement, the teachers would not be public employees.

Employees of a school district may take leave to accept employment in a charter school upon the approval of the district school board. While employed by the charter school and on leave that is approved by the school board, the employee may retain seniority accrued in that school district and may continue to be covered by the benefit programs of that school district, if the charter school and the district school board agree to this arrangement and its financing. School districts will not require resignations of teachers desiring to teach in a charter school. A school board is not prohibited from alternative leave arrangements consistent with chapter 231.

Teachers employed by or under contract to a charter school are to be certified as required by chapter 231. A charter school may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as education paraprofessionals in the same manner as defined in chapter 231. A charter school may not employ an individual to provide instructional services or to serve as an education paraprofessional if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. The qualifications of teachers are to be disclosed to parents. A charter school is to employ or contract with employees who have been fingerprinted.

Revenue

Students enrolled in a charter school, regardless of the sponsorship, are funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district.

If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district must be provided federal funds for the same level of service provided students in the schools operated by the district school board.

Review

The Legislature is required to review the operation of charter schools during the 2000 Regular Session of the Legislature.

Public School Parental Choice

Controlled open enrollment is a public education delivery system that allows school districts to make student school assignments using parents' indicated preferential school choice as a significant factor. Pursuant to s. 228.057, F.S., beginning with the 1997-1998 school year, each district school board is authorized to offer controlled open enrollment within the public schools. The controlled open enrollment program is offered in addition to the existing choice programs such as magnet schools, alternative schools, special programs, advanced placement, and dual enrollment. Controlled open enrollment programs cannot conflict with federal segregation requirements.

Each school district is required to develop a system of priorities for its controlled open enrollment plan that includes consideration of the following:

- An application process required to participate in the controlled open enrollment program.
- A process that allows parents to declare school preferences.
- A process that encourages placement of siblings within the same school.
- A lottery procedure used by the school district to determine student assignment.
- An appeal process for hardship cases.
- The procedures to maintain socioeconomic, demographic, and racial balance.
- The availability of transportation.
- A process that promotes strong parental involvement, including the designation of a parent liaison.
- A strategy that establishes a clearinghouse of information designed to assist parents in making informed choices.

The Commissioner of Education is required to develop an annual report on the status of school choice and deliver the report to the Governor, the President of the Senate, and the Speaker of the

House of Representatives at least 90 days prior to the convening of the regular session of the Legislature.

A school district with schools operating on both multiple session schedules and single session schedules must give parents of students in multiple session schools preferred access to the controlled open enrollment program of the school district.

B. EFFECT OF PROPOSED CHANGES:

Sponsor

HB 2147 changes the deadline for a district school board to receive charter school applications from February 1 to November 15. The earlier date will help facilitate the approval and planning process.

Eligible Students

The bill allows any eligible student to transfer to a charter school outside of their district. Justification for the transfer must be provided.

Legal Entity

HB 2147 provides that a charter school may be operated or sponsored by a municipality or other public entity.

Charter

In addition to the requirements listed above, a charter school's charter must include the current incoming baseline standard of student academic achievement, and the outcomes to be achieved, and the method of measurement that will be used. This section of the charter is required to include a detailed description for each of the following:

- How the baseline student academic achievement levels and prior rates of academic progress will be established;
- How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school; and
- To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

The charter must also include a description of the financial and administrative management of the school, including a reasonable demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services. Both public sector and private sector professional experience is equally valid in such a consideration.

In order to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a municipality or other public entity are eligible for up to a 15-year charter, subject to approval by the local school board. Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only for specific good cause.

Whenever a municipality has submitted charter applications for the establishment of a charter school feeder pattern (elementary, middle, and senior high schools), and upon approval of each individual charter application by the district school board, such applications will then be designated as one charter for all purposes.

In order to facilitate long-term financing for charter school construction, conversion charter schools operating a minimum of three years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. This long-term charter is subject to annual review and may be terminated during the term of the charter.

Employees of Charter Schools

A charter school may not knowingly employ an individual who has resigned from a school district in lieu of disciplinary action or who has been dismissed for just cause by any school district.

Revenue

Pursuant to provisions of 20 U.S.C. 8061 s. 10306 (congressional findings and purpose of charter schools), all charter schools will receive all federal funding for which the school is otherwise eligible, including Title I funding, not later than five months after the charter school first opens and within five months after any subsequent expansion of enrollment, notwithstanding the fact that the identity and characteristics of the students enrolling in charter schools are not fully and completely determined until that school actually opens.

Review

The DOE is to convene a Charter School Review Panel in order to review issues, practices, and policies regarding charter schools. The composition of the review panel must include individuals with experience in finance, administration, law, education, and school governance, and individuals familiar with charter school construction and operation. The panel is to include two appointees each from the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives. The Governor will appoint three members of the panel, and will designate the chair. Each member of the panel will serve a 1-year term, unless renewed by the office making the appointment. The panel will make recommendations to the Legislature, to the Department of Education, to charter schools, and to school districts for improving charter school operations and oversight and for ensuring best business practices at and fair business relationships with charter schools.

Public School Parental Choice

Each school district is required to annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools and public charter schools.

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?

N/A

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

No.

(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?

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?

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?

No.

4. Individual Freedom:

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

HB 2147 includes charter schools in the district parental school choice plan and allows children to attend charter schools not in their district with good cause.

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?

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?

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?

No.

(2) service providers?

No.

(3) government employees/agencies?

No.

D. STATUTE(S) AFFECTED:

Amends s. 288.056, F.S. and s. 228.057, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 Amends s. 228.056, F.S., revising the date through which a district school board must receive charter school applications; providing for interdistrict transfer to a charter school under certain circumstances; authorizing charter schools to be sponsored by municipalities or other public entities; providing information to be included in the charter of a charter school; providing for 15-year charters under specified circumstances; authorizing charter school governing boards to employ or contract with skilled selected noncertified personnel as provided in ch. 231, F.S., and as provided by rule of the State Board of Education; prohibiting a charter school from hiring certain persons who have been dismissed for good cause; prescribing time limits for charter schools to receive federal funds; providing for a Charter School Review panel; providing for membership, purpose, and duties.

Section 2 Amends s. 228.057, F.S., requiring school districts to report the number of students attending the various types of public schools according to the rules of the State Board of Education.

Section 3 Providing an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

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