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DATE: June 17, 1999

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION INNOVATION
FINAL ANALYSIS**

BILL #: CS/HB 2147
RELATING TO: Charter Schools
SPONSOR(S): The Committee on Education Innovation and Representative Tullis
COMPANION BILL(S): SB 2434 (S)

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

- (1) EDUCATION INNOVATION YEAS 6 NAYS 0
- (2) EDUCATION APPROPRIATIONS YEAS 10 NAYS 2
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

PASSED BY THE LEGISLATURE -- CHAPTER 99-374, LAWS OF FLORIDA

CS/HB 2147 was ordered enrolled on April 28, 1999, and was approved by the Governor on June 17, 1999.

II. SUMMARY:

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

- Establishes an earlier deadline for a district school board to receive charter school applications.
- Allows any eligible student to transfer to a charter school outside of the district when based on good cause.
- Allows a charter school to be operated by a municipality or other public entity.
- Requires a charter school's charter to include the current incoming baseline standard of student academic achievement.
- Requires charter to demonstrate operator's professional experience and competence in relation to the financial and administrative management of the school.
- Authorizes long term charters of 15 years for municipal or other public entity operating a charter school or for conversion charter schools, and 10 years for not-for-profit-operated charters, and 15 year charter renewals for charter schools operating a minimum of three years and demonstrating exemplary academic programming and fiscal management.
- Authorizes a municipality which has submitted charter applications for the establishment of a charter school feeder pattern to have the applications designated as one charter upon approval of each by the school board.
- Prohibits a charter school from knowingly employing an individual who has jeopardized child welfare and safety and resigned from a school district in lieu of disciplinary action or who has been dismissed for just cause by any school district with respect to child welfare or safety.
- Requires governing board members to be fingerprinted in the same manner as other employees.
- Requires DOE to convene a Charter School Review Panel to review issues, practices, and policies regarding charter schools, and to make recommendations for improving charter school operations and oversight and for ensuring best business practices at and fair business relationships with charter schools.
- Revises provisions regarding the source and use of charter school capital outlay funding.
- Requires school districts to annually report the number and demographics of students attending public schools of choice.
- Authorizes up to six pilot charter school districts with priority given to Hillsborough and Volusia counties.
- Holds school boards harmless from any liability if the charter school defaults on any long term financing.
- Provides for timely receipt of federal funds.

III. 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, but 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 must 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, shall submit any proposal for converting the school to a charter school. Private schools, parochial schools, 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 are 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 is 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 must present an annual progress report to its sponsor, which upon verification is 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 must 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, including 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 must be nonsectarian in its programs, admission policies, employment practices, and operations.
- A charter school must admit students as specified above.
- A charter school is accountable to its sponsor for performance.
- A charter school must not charge tuition or fees, except those fees normally charged by other public schools.
- A charter school must meet all applicable state and local health, safety, and civil rights requirements.
- A charter school must not 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 may 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 must 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 must be disclosed to parents. A charter school must 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.

Charter Schools Capital Outlay Funding

Section 228.0561, F.S., provides for capital outlay funding for charter schools. In each year in which funds are appropriated from the Public Education Capital Outlay and Debt Service Trust Fund (PECO) for charter schools, the Commissioner of Education is required to allocate the funds among eligible charter schools. To be eligible for a funding allocation, a charter school must have received final approval from its sponsor pursuant to s. 228.056, F.S., for operation during that fiscal year, and must serve students in facilities that are not provided by the charter school's sponsor. Prior to the release of capital outlay funds to the charter school, the Department of Education must enter into a written agreement that includes provisions for attaching a lien to property that has been improved through the use of these funds, in the event that the school terminates operations. Any funds recovered by the state must be deposited in the PECO Trust Fund. A charter school is not eligible for a funding allocation if it was created by the conversion of a public school and operates in facilities provided by the charter school's sponsor for a nominal fee or at no charge.

Unless otherwise provided in the General Appropriations Act, the funding allocation for each eligible charter school is determined by multiplying the school's projected student enrollment by one-thirtieth of the cost-per-student station for an elementary, middle, or high school, as appropriate. If the funds appropriated are not sufficient, the commissioner must prorate the available funds among eligible charter schools. In the first quarter of the fiscal year, funds are distributed on the basis of projected enrollment as provided in this section. The commissioner must adjust subsequent distributions as necessary to reflect each charter school's actual student enrollment. The commissioner must also establish the intervals and procedures for determining the projected and actual student enrollment of eligible charter schools. If a school district chooses to share funding for the capital outlay with the applicable charter school or charter schools, any allocation from the PECO Trust Fund allocation to the charter school or charter schools is reduced by the amount shared.

The statutory costs-per-student station for each school level are:

- \$11,966 for an elementary student station
- \$13,719 for a middle school student station
- \$18,155 for a high school student station

One-thirtieth of this amount would be equivalent to:

- \$399 per charter school elementary student/year
- \$457 per charter school middle school student/year
- \$605 per charter school high school student/year

The formula for allocating one-thirtieth of the cost-per-student station for charter school students was based on an estimate that the average life cycle of a permanent facility is 50 years and is constructed with revenue derived from 30 year bonds. Charter schools were then to be allocated annually one-thirtieth of the total cost of the construction of a new permanent facility.

A charter school's governing body with the school board's permission may use funds from the PECO Trust Fund for any capital outlay purpose that is directly related to the functioning of the charter school, including the:

- Purchase of real property.
- Construction, renovation, repair, and maintenance of school facilities.
- Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- Purchase of vehicles to transport students to and from the charter school.

When a charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with public funds revert to the ownership of the district school board. The reversion of such equipment, property, and furnishings must focus on recoverable assets, but not on intangible or irrecoverable costs such as rental or leasing fees, normal maintenance, and limited renovations. If there are additional local issues such as the shared use of facilities or partial ownership of facilities or property, these issues must be agreed to in the charter contract prior to the expenditure of funds.

The annual legislative budget request of the Department of Education must include a request for funding for charter schools from the PECO Fund, based on the projected number of students to be served in charter schools who meet eligibility requirements.

Effective July 1, 1998, any charter school which has been in continuous operation in the district in which its charter was approved for at least two school years immediately preceding the school year in which the school seeks an appropriation from the PECO Trust Fund is eligible to receive funds from that trust fund. No other charter schools are eligible to receive PECO funds.

Unless authorized otherwise by the Legislature, allocation and proration of PECO funds must be made to eligible charter schools by the Commissioner of Education.

In Fiscal Year 1998-1999, \$5 million was appropriated from PECO funds to be used for capital outlay purposes of eligible charter schools. This provision will be repealed July 1, 1999.

Constitutional Issues

Section 9, Art. XII of the State Constitution specifies that moneys in PECO can only be used for the following purposes and in the following order of priority:

- For the payment of the principal of and interest on any bonds due in such fiscal year;
- For the deposit into any reserve funds provided for in the proceedings authorizing the issuance of bonds of any amounts required to be deposited in such reserve funds in such fiscal year;
- For direct payment of the cost or any part of the cost of any capital project for the state system authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds, or for the purpose of maintaining, restoring, or repairing existing public educational facilities.

Such moneys may not be used for the lease of facilities or for the purchase of vehicles to transport students. This stipulation renders the provisions of s. 228.0561, F.S., unconstitutional. This section of statutes has therefore not been implemented, and the \$5 million allocated in support of it has not been disbursed.

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 must 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

CS/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 the district when based on good cause.

Legal Entity

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

Charter

The bill adds to existing charter requirements that a charter school's charter must include the current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. This section of the charter must 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's description of the financial and administrative management of the school must include 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.

Long Term Charters

In order to facilitate access to long-term financial resources for construction, CS/HB 2147 provides for some long-term charters.

If a charter school is:	Charter school is eligible for:
Operated by a municipality or other public entity	15-year charter
Operated by a private not-for-profit 501(c)3 status corporation	10-year charter
A conversion charter school operating for a minimum of three years and demonstrating exemplary academic programming and fiscal management	15-year charter renewal

All of the above long-term charters and renewals are subject to approval by the local school board, are 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.

Employees of Charter Schools

The governing boards of charter schools may employ or contract with skilled selected noncertified personnel per chapter 231, F.S., and as provided in State Board of Education rule for charter school governing boards.

A charter school may not knowingly employ an individual who has resigned from a school district in lieu of disciplinary action with respect to child welfare and/or safety or who has been dismissed for just cause by any school district with respect to child safety and/or welfare.

In addition to the requirement that employees of a charter school be fingerprinted, CS/HB 2147 stipulates that governing board members must be fingerprinted in a similar manner prior to the approval of the charter.

Revenue

Pursuant to provisions of 20 U.S.C. 8061 s. 10306 (congressional findings and purpose of charter schools), each charter school 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.

Review

The DOE must 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 includes two appointees each from the Commissioner of Education, the President of the Senate, and the Speaker of the House of

Representatives. The Governor appoints three members of the panel, and designates the chair. Each member of the panel serves a 1-year term, unless renewed by the office making the appointment. The panel makes 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.

Charter School Capital Outlay Funding

CS/HB 2147 replaces the references to "PECO" with "charter school capital outlay funding," to eliminate the inconsistencies between the law and the constitution and allow charter schools to access the capital funding for all capital outlay uses, including lease of facilities and purchase of vehicles. This bill maintains the annual capital outlay funding for charter schools on a per pupil basis, but funds the charter schools "as appropriated by the Legislature."

Prior to the release of capital outlay funds to a school district on behalf of the charter school, the DOE must ensure that the district school board and the charter school governing board enter into a written agreement that includes provisions for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the district school board.

The bill removes the provision that charter schools must be in operation for at least two years before they can begin receiving capital funds. The requirements for releasing capital outlay funds to charter schools are changed. DOE will no longer enter a contract with the charter school for attachment of a lien to improved property before releasing capital outlay funds. Under the provisions of CS/HB 2147, DOE ensures that the school board and the charter school governing board enter a contract for the reversion of unencumbered funds, all equipment, and property purchased with public education funds. After that happens, the funds are released to the school district on behalf of the charter school.

Charter District Pilot Program

CS/HB 2147 authorizes the State Board of Education to enter into a performance contract with up to six school districts for the purpose of establishing them as charter school districts. The State Board of Education is to give priority to Hillsborough and Volusia Counties upon submission of a completed pre-charter agreement or charter proposal for a charter school district. The purpose of this pilot program is to examine a new relationship between the State Board of Education and school districts that may produce significant improvements in student achievement and school management while at the same time complying with constitutional requirements assigned to each entity.

Charter District

A charter school district is a school district in Florida in which the school board has submitted and the state board has approved a charter proposal that exchanges statutory and rule exemption for agreement to meet performance goals in the proposal. The charter school district is chartered for three years, at which time the performance is evaluated.

Exemption from Statutes and Rules

Charter school districts are exempt from state statutes and state board rules as provided in the charter school law, s. 228.056, F.S. Charter school districts have the same limits as charter schools do under the current charter school law. The school board of a charter school district is not exempt from any statute governing election of board members, public meetings and public records requirements, financial disclosure, conflicts of interest, operation in the sunshine, or other provisions outside the Florida School Code.

Governing Board

The governing board of the charter school district must be the duly elected school board. The school board is responsible for supervising the schools in the charter district and is authorized to charter each of its existing public schools, pursuant to s. 228.056, F.S., apply for deregulation of its public schools, pursuant to s. 228.0565, F.S., or otherwise establish performance-based contractual relationships with its public schools for the purpose of giving them greater autonomy with accountability for performance.

Charter Proposal

Competitive charter proposal applications must be accepted by the State Board of Education no later than October 30, 1999. The charter proposal must include, but is not limited to:

- Authorization approved in an open school board meeting for participating in the pilot program.
- The vision of what the school board proposes to accomplish by becoming a charter school district.
- A management plan for reaching performance goals, including an anticipated list of the statutes and rules from which the school board desires exemption and the purpose of the exemption.
- The performance goals proposed by the school board, the measures to be used to assess progress, the district's current baseline status with respect to the goals, and the time frame for accomplishing the goals.
- A plan for chartering, deregulating, or otherwise freeing schools in the district from state statutes and rules and school board policies and procedures. This portion may include a phased-in approach, but must be included as a performance goal.
- Agreement to file an annual progress report to the state board.
- Any other provisions required by state board rule.

Pre-Charter Agreement

The state board is authorized to approve a pre-charter agreement with a potential charter district. The agreement may grant limited flexibility and direction for developing the full charter proposal.

Time Period for Pilot

The pilot program is authorized for a period of three full school years commencing with the award of a charter. The charter may be renewed upon action of the state board.

Reports

The state board is required to annually report on the implementation of the charter school district pilot program. Upon the completion of the first 3-year term, the state board, through the Commissioner of Education, must submit to the Legislature a full evaluation of the effectiveness of the program.

Rule Making

The State Board of Education has the authority to enact rules to implement this section in accordance with ss. 120.536 and 120.54, F.S.

Liability

Any arrangement entered into to borrow or otherwise secure funds for a charter school authorized in s. 228.056, F.S., from a source other than the state or a school district will indemnify the state and the school district from any and all liability, including but not limited to financial responsibility for the payment of the principal or interest. Any loans, bonds, or other financial agreements are not obligations of the state or the school district but are obligations of the charter school authority and are payable solely from the sources of funds pledged by such agreement. The credit or taxing power of the state or the school district shall not be pledged and no debts shall be payable out of any moneys except those of the legal entity in possession of a valid charter approved by a district school board.

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?

State Board of Education rules will be provided for charter school governing boards to use in employing or contracting with skilled selected noncertified personnel.

The State Board of Education is granted the authority to make rules needed to implement the pilot charter district program.

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

The DOE must convene a Charter School Review Panel to review charter school issues, practices and policies.

- (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?

CS/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?

The family decides whether and where the child attends a charter school or otherwise exercises public school choice.

- (3) Are private alternatives permitted?

N/A

- (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?

Yes. The family decides whether and where the child attends a charter school or otherwise exercises public school choice.

(2) service providers?

Yes. A municipality or other public entity may decide to operate charter schools. A school district may apply for the charter district pilot program. Charter schools are given the possibility of longer charter terms and renewals; but they still must be approved by a school board.

(3) government employees/agencies?

Yes. A municipality or other public entity may operate charter schools. A municipality may operate a charter school feeder pattern under one charter. CS/HB 2147 also allows the creation of a charter school district pilot program. A district school board will be able to enter into a performance contract with the state Board of Education to become a charter school district.

D. STATUTE(S) AFFECTED:

Amends ss. 288.056, 228.0561, s. 228.057, and 235.42, F.S. Creates s. 228.058, 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 operated by municipalities or other public entities; providing information to be included in the charter of a charter school; providing for 10 and 15-year charters under specified circumstances; providing for one charter for municipality charter school comprised of one feeder pattern; 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 resigned in lieu of disciplinary action or have been dismissed for good cause with respect to child welfare and safety; requiring fingerprints of members of the governing boards of charter schools; prescribing time limits for charter schools to receive federal funds; providing for a Charter School Review panel; and membership, purpose, and duties.

Section 2 Amends s. 228.0561, F.S., removing references to the Public Education Capital Outlay and Debt Service Trust Fund; providing for the reversion of unencumbered funds and property to the district school board if the charter school terminates operations; revising requirements relating to charter school use of capital outlay funds; revising eligibility requirements for charter school receipt of capital outlay funds; removing obsolete provisions.

Section 3 Amends s. 235.42, F.S., removing a reference to charter schools.

Section 4 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 5 Creates s. 228.058, F.S., establishing a charter school districts pilot program; providing requirements for charter school districts; providing for exemptions from statutes and rules; providing for a governing board; providing for charter proposals; providing for a precharter proposal; providing a time period for the pilot project; requiring an annual report; providing for rule making.

Section 6 Provides for protection and indemnity of the state and charter from certain liability.

Section 7 Provides an effective date of July 1, 1999, unless otherwise provided.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

The DOE will incur costs of per diem and travel expenses for the nine Charter School Review Panel members. However, the costs can be handled within the department's existing resources.

The bill substitutes the use of General Revenue in lieu of the Public Education Capital Outlay and Debt Service Trust Fund for charter school capital outlay. Before capital outlay funds are to be provided to a school district for the charter school, there must be a written agreement regarding the reversion of unencumbered funds and all equipment and property purchased with public education funds to the school board in the event of charter school termination, rather than attaching a lien to the property purchased.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The bill may enable conversion charter schools or charter schools that are operated by a municipality or other public entity to access long-term financial resources for charter school construction, once a 10 or 15-year charter is approved.

The bill requires charter schools to receive their share of federal funding, including Title I, not later than five months after the school opens or following an expansion of enrollment.

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:

V. 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.

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 2147 unanimously passed the Committee on Education Innovation on April 15, 1999, with four amendments and was made into a committee substitute. The committee substitute differs from the original bill in the following ways:

- Allows the governing board members of the charter school to be fingerprinted in a manner similar to the fingerprinting required of certain school system personnel.
- Technical amendment removes the words "or sponsor" from the bill.
- Revises the capital funding provisions which were passed last year for charter schools. It removes the references to "PECO" and replaces them with "charter school capital outlay funding." This eliminates the constitutional problems and will allow charter schools to access the capital funding for all the uses, including lease of facilities and purchase of vehicles, which are currently unconstitutional uses for PECO funds.
- Maintains the annual capital outlay funding for charter schools on a per pupil basis, but funds the charter schools "as appropriated by the Legislature." This allows the Legislature to appropriate General Revenue versus PECO dollars.
- Removes provision that charter schools must be in operation for at least two years before they can begin receiving capital funds.
- Creates pilot charter school districts.

On April 20, 1999, the Education Appropriations Committee amended CS/HB 2147. The amendments addressed the following:

- Enables charter schools operated by non-profit corporations to be eligible for 10-year charters to help in obtaining construction financing.
- Technical: moves municipal charter school feeder pattern language to another location in the bill.
- Technical: clarifies language which requires receipt of federal funds within five months of opening or expansion of the charter school.
- Holds school boards and the state harmless from any liability if the charter school authority defaults on any long term financing.

VIII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Pamela M. Allen

Staff Director:

Ouida J. Ashworth

AS REVISED BY THE COMMITTEE ON EDUCATION APPROPRIATIONS:

Prepared by:

Mark Armstrong

Staff Director:

John Newman

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Pamela M. Allen

Staff Director:

Ouida J. Ashworth