

STORAGE NAME: h0787.edk

DATE: March 11, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION K-12
ANALYSIS**

BILL #: HB 787

RELATING TO: Charter School Capital Outlay Funding

SPONSOR(S): Representative Andrews

COMPANION BILL(S): SB 1814

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

- (1) EDUCATION K-12
 - (2) EDUCATION APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill revises s. 228.0561, F.S., to require the SMART Schools Clearinghouse to develop, and the Florida Department of Education (DOE) to adopt, a rule defining the term "overcrowded area". The bill revises the funding allocation formula for charter schools such that a charter school established by a municipality in an overcrowded area will be eligible for up to 80 percent of the maximum cost per student station as specified in statute.

Charter school capital outlay funding is subject to legislative appropriation.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Capital Outlay for Charter Schools

Section 228.0561, F.S., prescribes requirements under which charter schools are eligible for capital outlay funding. This section of statutes was created in 1998 by CS/CS SB 1996 and CS/SB 1182 (ch. 98-206, L.O.F.) as a means of providing for facilities construction, lease, or renovation and for transportation related to 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 must allocate the funds among eligible charter schools. To be eligible for a funding allocation, a charter school must have been in continuous operation in the district in which its charter was approved for at least two school years. It must have received final approval from its sponsor 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, DOE 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. 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 specified in s. 235.435(6)(b), F.S., for an elementary, middle, or high school -- \$11,966, \$13,719, and \$18,155, respectively. One-thirtieth of these amounts would be: \$399 per elementary student, \$457 per middle school student, and \$605 per high school student. If the funds appropriated are not sufficient, the commissioner must prorate the available funds among eligible charter schools. If a school district chooses to share funding for the capital outlay purposes with a charter school, any allocation from the PECO/DS allocation to the charter school must be reduced by the amount shared.

A charter school's governing body, with the school board's permission, may use funds from the PECO 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 must 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.

An amount of \$5 million was appropriated from PECO in fiscal year 1998-1999 to be used for capital outlay purposes of eligible charter schools.

Constitutional Considerations

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 of 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.

B. EFFECT OF PROPOSED CHANGES:

This bill revises s. 228.0561, F.S., to require the SMART Schools Clearinghouse to develop, and the DOE to adopt, a rule defining the term "overcrowded area". The bill revises the funding allocation formula for charter schools such that a charter school established by a municipality in an overcrowded area will be eligible for up to 80 percent of the maximum cost per student station as specified in statute -- \$9,573 per elementary student, \$10,975 per middle school student, and \$14,524 per high school student.

The effective date of the bill is July 1, 1999.

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?

No.

(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:

An agency or program is not 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?
No.
- 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:
The bill does not purport 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:

The bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 228.0561, F.S., is amended.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 revises s. 228.0561, F.S., to require the SMART Schools Clearinghouse to develop, and DOE to adopt, a rule defining the term "overcrowded area". The bill revises the funding allocation formula for charter schools such that a charter school established by a municipality in an overcrowded area will be eligible for up to 80 percent of the maximum cost per student station as specified in statute.

Section 2 specifies an effective date of the bill is 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:

Charter school capital outlay funding is subject to legislative appropriation.

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:

Municipal charter schools are currently eligible for capital outlay funding as long as they are not housed in facilities owned by the school district. Under this bill, municipal charter schools located in overcrowded areas would be eligible for up to 80 percent of the statutorily defined maximum cost per student station. The bill does not specify the details on how moneys are to be allocated, i.e., in one lump sum during one fiscal year only, or on an amortized basis. If moneys are to be disbursed in one lump sum, significantly fewer funds might be available to other charter schools during the year the funds are allocated.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The provisions of s. 228.0561, F.S., are presently unconstitutional. Should HB 787 be enacted into law, its implementation will be contingent on the passage of PCB ED 99-02 or similar legislation that rectifies the unconstitutional language.

The bill title incorrectly implies that municipal charter schools are not eligible for charter school capital outlay funding. A technical amendment is needed to clarify that municipal charter schools *established in overcrowded areas* would be eligible for charter school capital outlay funding *under a different funding scheme* than is currently in place for charter schools in general.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

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