

STORAGE NAME: h0969a.ca

DATE: April 14, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 969

RELATING TO: Education/Charter Schools

SPONSOR(S): Representative Andrews

COMPANION BILL(S): SB 1640 (i)

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

- (1) EDUCATION INNOVATION YEAS 6 NAYS 2
 - (2) COMMUNITY AFFAIRS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill authorizes the creation of charter conversion municipal subdistricts within the county school district. The requirements and procedures for creating a charter conversion municipal subdistrict will be similar to that for charter schools. However, the requirement, that no organization hold more than 15 charters statewide does not apply to the creation of charter conversion municipal subdistricts.

Unincorporated areas adjacent to incorporated municipalities may be included in the jurisdictional area of the charter conversion municipal subdistrict. To include an adjacent unincorporated area, the governing bodies of the municipality or municipalities and the county must agree on the boundaries of the area.

The proposal will be presented to the district school board, which will expeditiously authorize the requested charter if it complies with s. 228.056, F.S. The criteria and requirements for charter schools will apply to the charter municipal subdistrict. A municipally appointed charter school board will operate the subdistrict. The purpose of the created subdistricts is to allow residents in a municipality or municipalities, and possibly the adjacent unincorporated areas, which are smaller than the entire county, to have more flexibility and input into the operations and programs of the local school. The subdistrict concept is based on giving residents more of a community school or neighborhood school which will meet the specific needs of those residents and that specific community.

Although the fiscal impact is undetermined at this time, some costs could be associated with the initial start-up. However, these costs are only applicable if the municipality chooses to apply for a charter; no municipality is required to apply for a charter.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Background: The governance structure for Florida's educational system is established by Article IX of the Florida Constitution. Section 4(b) provides that district school boards are to operate, control, and supervise all free public schools within the school district. Each county constitutes a school district. Two or more contiguous counties may be combined into one school district with approval by the voters in each county. Currently, no two counties have exercised this option; Florida has one school district for each of its 67 counties.

Additionally, the state constitution provides that each of the school districts is governed by a school board composed of five or more elected members and a superintendent, who may either be elected or hired by the school board. Although school board members must reside in the residence district from which they are elected, s. 230.10, F.S., requires that school board members must be elected by the electors of the entire school district.

Article VIII of the Florida Constitution provides that counties may be created, abolished or changed by law. The Legislature could divide existing counties into new counties which would create new school districts in each of the geographic areas. However, it would not be possible to create school districts within existing counties unless the constitution were changed to authorize multiple districts within a county. There are no constitutional provisions which would prohibit districts from creating administrative subdistricts.

Operational Funding: Funding for school district operations is calculated through the Florida Education Finance Program (FEFP), pursuant to s. 236.081, F.S. The FEFP is designed to provide equitable funding for all students throughout the state by combining state dollars and revenue from local property taxes in a formula that allocates funds to school districts according to student population and cost of educational programs. Cost factors for educational programs are established every year in the General Appropriations Act.

Charter Schools: In 1996, in s. 228.056, F.S., the Florida Legislature authorized the creation of charter schools as part of the state's program of public education. A charter school is a public school operated by a group of interested citizens under a charter or contract with the district school board. One of the purposes of charter schools was to establish a new form of accountability for schools. A charter school can be formed by creating a new school or converting an existing public school to charter status. Of the several charter schools in existence, two are conversions.

The idea of charter schools is to have the freedom to operate the school free from many of the regulations and restrictions that hamper many public schools. They must, of course, meet the basic standards for academic rigor and a commitment to the basic core subjects and they must follow the law and state standards on such things as health, safety, and civil rights. The teachers must hold valid teaching certificates. A charter school must be nonsectarian, be accountable to its sponsor for performance, and is subject to auditing requirements. It can only charge fees which would normally be charged by other public schools and must meet health, safety, and civil rights requirements. It must not discriminate. An organization may only hold up to 15 charters statewide (s. 228.056(8)(h), F.S.) In addition, 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. (s. 228.056(5), F.S.)

Section 228.056(3), F.S., provides that an individual, teachers, parents, a group of individuals, a municipality, or a legal entity may apply for a charter for a newly created school. A proposal to convert an existing school to a charter school may be submitted by the district school board, principal, teachers, parents, and/or the school advisory council of the existing public school. If a school board wishes to designate a school as a school within a school, then the school is eligible to convert to a charter school. Any proposal for converting an existing public school to a charter school must have the support of at least 50 percent of teachers employed at the school and 50 percent of the parents whose children attend the school. Private schools, parochial schools, and home education programs are not eligible for charter status.

The sponsorship and appeal provisions of Florida's charter school law were structured to comply with the governance structure established by Article IX, Section 4 of the State Constitution, which provides that district school boards are to operate, control, and supervise all free public schools within the school district.

District school boards are required to accept applications at least through February 1 for a charter school which wishes to open for the following school year. The district may receive applications later than this date if it so chooses. However, the districts start budgetary and operational planning for a school year in the fall of the prior year. Generally, by December, the district submits the estimated number of FTEs expected to be enrolled in the public schools in the next school year.

The district board accepting the application does not constitute granting the charter. Pursuant to s. 228.056(4)(a), F.S., 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 the application is denied by the district school board, the board is required to provide specific written reasons based on good cause for denying a charter application within 10 calendar days after denial. If the application is approved by the district school board, the district board and the charter school applicants negotiate a contract or charter. Section 228.056(4)(f), F.S., specifies that the charter school applicants and the sponsor have six months to negotiate and sign a contract. After that time, if the contract is still pending, the application is deemed denied.

A charter is signed by the governing body of the charter school and the sponsor after all major issues have been considered and included in the charter and a public hearing has been held. Criteria which must be addressed and upon which approval is based are: schools' mission, students to be served, and ages and grades; focus of curriculum, instructional methods, and distinctive instructional techniques, achievement standards, outcomes, and measurement methods, student assessment methods, graduation requirements, conflict resolution methods, admissions and dismissal procedures, ways a racial/ethnic balance is reflective of the community it serves or within the racial/ethnic range of other public schools in the same district.

The initial term of the charter may be for three, four or five years. The charter may be modified during the term of the contract upon recommendations and approval of the sponsor and the school's governing body. A charter may be renewed for up to five years or modified at any time if both parties agree. The sponsor may choose at the end of the charter term not to renew for failure to meet student performance requirements, failure to meet fiscal management standards, violation of law, or other good cause. There is an appeal process for denial of an initial application, non-renewal or termination.

Municipalities: Section 2 of Article VIII of the Florida Constitution provides that municipalities may be established or abolished and their charters amended pursuant to general or special law. Municipalities are constitutionally granted all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services. Municipalities may exercise any power for municipal purposes except as otherwise provided by law. The only specific constitutional requirement concerning municipal government is that its legislative body must be elected. (The Florida Local Government Formation Manual 5th Edition, Florida House of Representatives, Committee on Community Affairs, October 1996.)

Florida law governing the formation and dissolution of municipal governments is found in Chapter 165, Florida Statutes, the "Formation of Municipalities Act." The stated purpose of the Act is to provide standards, direction, and procedures for the incorporation, merger, and dissolution of municipalities, and to achieve the following goals: orderly patterns of growth and land use; adequate public services; financial integrity in government; equity in fiscal capacity; and fair cost distribution for municipal services. (s. 165.021, F.S.)

Capital Projects: Section 12 of Article VII of the Florida Constitution permits school districts to issue bonds to finance or refinance capital projects if approved by vote of the electors.

Size of School Districts: Thirteen school districts reported a total of more than 45,000 students in July 1997. Those districts are Brevard, Broward, Dade, Duval, Escambia, Hillsborough, Lee, Orange, Palm Beach, Pinellas, Polk, Seminole, and Volusia. Florida has four of the nation's ten largest school districts: Dade, Broward, Hillsborough and Palm Beach. Whereas Florida has 67 school districts, two other large states, Texas and California, each have more than 1,000 school districts.

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes the creation of charter conversion municipal subdistricts within the county school district. The requirements and procedures for creating a charter conversion municipal subdistrict will be similar to that for charter schools provided in s. 228.056, F.S. However, the prohibition in s. 228.056(8)(h), F.S., prohibiting one entity hold the charters for no more than 15 charters statewide does not apply to the creation of charter conversion municipal subdistricts. Unincorporated areas adjacent to incorporated municipalities may be included in the jurisdictional area of the charter conversion municipal subdistrict. To include an adjacent unincorporated area, the governing bodies of the municipality or municipalities and the county must agree on the boundaries of the area.

The proposal is presented to the district school board, which must expeditiously authorize the requested charter if it complies with s. 228.056, F.S. The criteria and requirements outlined in s. 228.056, F.S., for charter schools applies to the charter municipal subdistrict. The purpose of the created subdistricts is to allow residents in a municipality or municipalities, and possibly the adjacent unincorporated areas, which are smaller than the entire county, to have more flexibility and input into the operations and programs of the local school. The subdistrict concept is based on giving residents more of a community school or neighborhood school which will meet the specific needs of those residents and that specific community.

Operation

A municipally appointed charter school board operates the subdistrict. Whether or not the officials will serve with or without pay is determined by the charter agreement or contract between the subdistrict and district. The entire operation of the subdistrict schools will be determined by the charter.

Pursuant to s. 228.056(3), F.S., subdistricts will not include private schools, parochial schools, or home education programs. The contractual agreement between the district school board and the subdistrict must be considered in advance and written into the charter.

Applications for a charter municipal subdistrict may be filed by a municipality or municipalities. Upon receipt of a request for a charter municipal subdistrict, the district board must expeditiously authorize the requested charter, if it meets the criteria and requirements of s. 228.056(8)(h), F.S. Under the charter school law, the applicant and sponsor has six months to mutually agree to the provisions of the contract, pursuant to s. 228.056(4)(f), F.S.

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?

Yes. The municipality or municipalities operating a municipal charter school board and charter schools would inherently have some authority to make certain rules and adjudicate some disputes.

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

Yes. The municipality or municipalities desiring to operate or operating a municipal charter school board and charter schools would result in new organizational responsibilities, obligations, and/or work.

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

Yes. Qualified charter schools are eligible funds from the Public Education Capital Outlay and Debt Service Trust Fund for charter schools.

- 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?

The bill allows municipalities to form charter school subdistricts consisting of incorporated and unincorporated areas adjacent to the municipality.

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

None

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

The municipality would be responsible to the people governed through the terms of their charter with the district school board. A charter subdistrict could be closer to the people governed and therefore could be more accountable.

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?

Municipalities choosing to apply for and operate charter school subdistricts would pay for the associated costs.

4. Individual Freedom:

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

The bill allows municipalities to form charter school subdistricts consisting of incorporated and unincorporated areas adjacent to the municipality and creates another option for a community to provide schools which fit the community's needs. This could result in more community flexibility and parental choice.

- 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?

Parents will have the same option of placing their children in the subdistrict school(s) as they currently have of placing their children in the district schools.

- (2) Who makes the decisions?

Parents will have the same option of placing their children in the subdistrict school(s) as they currently have of placing their children in the district schools. A subdistrict will be operated by a municipally appointed charter school board.

- (3) Are private alternatives permitted?

No.

- (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?

Parents could choose to enroll their child in a charter school.

- (2) service providers?

The bill allows municipalities to form charter school subdistricts consisting of incorporated and unincorporated areas adjacent to the municipality.

(3) government employees/agencies?

The bill allows municipalities to form charter school subdistricts consisting of incorporated and unincorporated areas adjacent to the municipality.

D. STATUTE(S) AFFECTED:

Creates s. 228.0563, F.S.

E. SECTION-BY-SECTION ANALYSIS:

HB 969, as introduced:

Section 1: Creates s. 228.0563, F.S., authorizing charter conversion municipal subdistricts, as follows:

- Allows, upon compliance with certain general laws regulating charter schools, a municipality or municipalities to present to the district school board a school or group of schools to be operated by a municipally appointed charter school board.
- Allows unincorporated areas adjacent to incorporated municipalities to be included in the area of municipal jurisdiction for the purposes of the charter school or charter school district, if the governing bodies of the municipality or municipalities and the county agree on the boundaries of the additional areas.
- Requires the district school board, upon receipt of a request for a charter municipal subdistrict, to, if qualified, expeditiously authorize the requested charter.

Section 2: Provides 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:

Indeterminate. Some costs could be associated with initial start-up of subdistricts. However, since the applicant or municipality is not required to apply for a charter, the costs should not be the responsibility of the state but of the local applicant or municipality as a result of the decision to apply for a charter.

2. Recurring Effects:

Indeterminate. It would depend on the number of subdistricts approved.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Any costs are voluntary since no municipality is required to apply for a charter.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

STORAGE NAME: h0969a.ca

DATE: April 14, 1999

PAGE 8

1. Non-recurring Effects:

Undetermined at this time; however, any costs are voluntary since no municipality is required to apply for a charter.

2. Recurring Effects:

Undetermined at this time; however, any costs are voluntary since no municipality is required to apply for a charter.

3. Long Run Effects Other Than Normal Growth:

Undetermined.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

N/A

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 state tax shared with counties and municipalities.

V. COMMENTS:

None.

STORAGE NAME: h0969a.ca

DATE: April 14, 1999

PAGE 9

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Education Innovation: On March 18, 1999, the Committee on Education passed the bill with one amendment by a vote of six to two. The amendment removes the provision for a school board to "expeditiously" approve a municipalities' request for a charter.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Pamela M. Allen

Staff Director:

Ouida J. Ashworth

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Tonya Sue Chavis, Esq.

Staff Director:

Joan Highsmith-Smith