

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1574

SPONSOR: Education Committee

SUBJECT: Charter Schools

DATE: March 27, 2000

REVISED: 03/29/00 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>McKee</u>	<u>Hadi</u>	<u>FP</u>	<u>Fav/1 amendment</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The committee substitute revises the laws relating to charter schools to implement the recommendations of the Senate Select Subcommittee on Charter Schools. The bill changes the formula for charter school capital outlay funding from a rate of 1/30 of a student station per year to 1/15 of a student station per year, to accommodate 15-year financing of charter school facilities. The bill reduces--from three years to two--the period of time a charter school must demonstrate exemplary academic programming and fiscal management before applying for a fifteen-year charter. Charter schools are included in the list of entities that may receive a pro rata exemption from ad valorem taxes under s. 196.29, F.S.

The bill authorizes the Commissioner of Education to award pilot project grants for charter school construction to charter schools that have operated successfully for 2 years prior to applying for the grant and that serve specified populations of students. The commissioner must award the grants through a competitive bid process and the DOE must provide plan review and other technical assistance during the construction of the facilities.

A developmental research school that becomes a charter school will not have to be affiliated with the university that is in closest geographic proximity to the charter school. A developmental research charter school will be able to charge student activity fees and will admit students eligible to attend the developmental research school or students who live in the school district. A developmental research charter school can receive capital outlay funds as a charter school and as a developmental research school.

In the event of a change in governance for technical career centers, a charter technical career center will continue to be sponsored by the school district that granted its charter.

The Legislature will review charter schools during the 2005 Session.

The bill takes effect upon becoming a law.

This bill amends sections 228.053, 228.056, 228.0561, 228.505, 236.0817, and 196.29, Florida Statutes.

II. Present Situation:

Florida's charter school law, s. 228.056, F.S., requires the Legislature to review charter school operations during the 2000 regular legislative session. The Legislative review has included an interim project report by the staff of the Senate Education Committee (Interim Project Report No. 2000-77), a program review by the Office of Program Policy Analysis and Government Accountability (OPPAGA), and a review of facilities issues by the Senate Select Subcommittee on Charter Schools. In addition, the legislatively mandated Charter School Review Panel examined issues relating to charter school operations and issued a report in January 2000 containing 17 recommendations.

The Senate Select Subcommittee made the following recommendations for charter school facilities:

1. Dedicate funds to a trust fund to be distributed in pilot project grants through a competitive process. The subcommittee recommended an appropriation of \$10 million, to provide grants ranging from \$500,000 to \$1 million.
2. Create a trust fund for charter school capital outlay funds.
3. Possible criteria for distribution of grants include 2 or 3 years of successful operation before applying; serving low-income populations; serving students assigned to failing schools; serving students with disabilities; serving students whose attendance is poor; and serving students in the justice system.
4. Establish a procedure whereby the Department of Education would oversee the awarding of competitive grants for charter school facilities construction and add staff positions to DOE, if necessary.
5. Authorize 15-year charters for schools that have shown success in 2 years of operation.
6. Change the reversionary clause to provide for "the complete lawful satisfaction of all liens or encumbrances."
7. Fund charter school construction at 1/15 of a student station, rather than 1/30, to accommodate 15-year financing.
8. To eliminate confusion, use the term "application" consistently throughout the statute and replace the term "proposal" with the term "application".
9. To eliminate confusion, use the term "charter" consistently throughout the statute and replace the term "contract" with the term "charter".

10. Amend the law to provide that if a school district fails to approve or deny a charter within 60 calendar days, the charter is deemed approved.
11. To clarify that “60 days” means 60 days on the calendar rather than 60 working days, amend the law to specify “calendar days.”
12. Eliminate confusion by specifying that the grounds for non-renewal are those in paragraph (a) of subsection (10) of s. 228.056, F.S., and delete the reference to “program criteria” in the section on renewal.
13. Clarify exemptions from statutes by specifying that charter schools must comply with the anti-discrimination provisions of s. 228.2001, F.S. and must comply with the Florida School code with respect to providing services to students with disabilities.
14. Amend s. 196.29, F.S., to include charter schools in the list of entities that may receive a pro rata exemption from ad valorem taxes.
15. Amend s. 228.056 (16), F.S., to allow all charter schools the same ad valorem tax relief as currently applies to charter schools in the work place.

Section 228.053, F.S., establishes developmental research schools which must be affiliated with a state university. The law authorizes developmental research schools at Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida. Other universities may sponsor developmental research schools if the Board of Regents, the State Board of Education, and the Legislature approve the establishment of the schools.

Section 228.505, F.S., creates charter technical career centers. Either a school board or a community college can sponsor a charter technical career center.

Section 236.0817, F.S., makes developmental research schools eligible for categorical funding as provided in s. 228.053 (9) (a), F.S., which requires the state to allocate state funds equal to the nonvoted ad valorem millage that would otherwise be required for developmental research schools. The schools are also eligible for a proportional share of the sparsity supplement under s. 236.081, F.S.

III. Effect of Proposed Changes:

The committee substitute revises the laws relating to charter schools to implement the recommendations of the Senate Select Subcommittee on Charter Schools. The bill also corrects an error that occurred in a previous Legislative Session when parents were inadvertently omitted from the list of those who can propose converting a public school to a charter school. This bill amends s.228.056 (3), F.S., to permit parents at a public school to submit an application for converting the school to a charter school.

The bill eliminates confusion regarding the terms proposal and application by using the term application throughout the statute. A similar kind of confusion regarding the terms charter and contract is eliminated by consistently using the term charter throughout the statute.

Time periods are clarified. A new subsection (9) is added to s. 228.056, F.S., to make it clear that time periods are calculated by calendar days, unless another method of calculating days is specified in the law. The bill adds a provision to the law that declares that if a school board fails to approve or deny an application within 60 days, the application will be deemed approved.

The bill eliminates confusion about the criteria for charter renewal by specifying that the grounds for nonrenewal are those in paragraph (a) of subsection (10). The bill deletes a confusing reference to “criteria in paragraph (a)” in subsection (9)(b) on renewal.

The bill reduces--from three years to two--the period of time a charter school must demonstrate exemplary academic programming and fiscal management before applying for a fifteen-year charter.

A charter school’s exemptions from statutes is clarified by specifying that charter schools must comply with the anti-discrimination provisions of s. 228.2001, F.S. and must comply with the Florida School code with respect to providing services to students with disabilities. The bill also makes it clear that charter schools will not be exempt from those statutes that apply specifically to charter schools.

The bill gives charter schools the authority to propose changes to a charter during the duration of a charter. Thus, either the charter school or the sponsor can initiate changes, and both parties must agree to the changes.

The bill amends s. 228.056 (10)(e), F.S., to change the statement requiring reversion of property to a school board in the event that a charter school is dissolved or terminated. The new language clarifies that the reversion of the property to the school board is “subject to complete satisfaction of any lawful liens or encumbrances.” A similar amendment is made in s. 228.0561, F.S.

The bill amend s. 196.29, F.S., to include charter schools in the list of entities that may receive a pro rata exemption from ad valorem taxes. An amendment to s. 228.056, F.S., specifies that any portion of a facility used for a charter school will be exempt from ad valorem taxes for the duration of its use as a charter school.

The bill amends s. 228.0561, F.S., to provide charter school capital outlay funding at an annual rate of 1/15 of a student station, rather than 1/30. This change in the funding will accommodate 15-year financing of charter school facilities.

The bill authorizes the Commissioner of Education to award pilot project grants for charter school construction to charter schools that have operated successfully for 2 years prior to applying for the grant and that serve students who:

- Are in a family having a family income at or below 150 percent of the poverty level
- Are assigned to a public school that received a grade of F in the preceding year
- Have a diagnosed disability and an individual education plan to address the disability
- Have a record of poor school attendance, or
- Have an adjudication in the juvenile justice system or the criminal justice system.

The commissioner must award the grants through a competitive bid process and the DOE must provide plan review and other technical assistance during the construction of the facilities.

As is the case with all other public schools, after January 1, 2001, charter schools must use facilities that comply with the Florida building code under chapter 553 and the Florida Fire Prevention Code under chapter 633. Funds for capital outlay will be distributed after the second and third enrollment surveys, thus providing funds for schools in their first year of operation.

The bill amends s. 236.0817, F.S., to permit a developmental research school that is granted a charter to be eligible for categorical funding under s. 228.053, F.S. An amendment to s. 228.053, F.S., exempts charter developmental research schools from the requirement that they be in closest geographic proximity to the university that issues the charter. The bill amends s. 228.056, F.S., to require developmental research charter schools to be open to any student eligible to attend the developmental research school or any student residing in the district in which the charter school is located. Developmental research charter schools are authorized to charge student activity and service fees. When a developmental research school converts to charter status, the school will not have to provide alternative placements for the teachers who choose not to teach at the charter school unless the employment practices of the university granting the charter authorize alternative arrangements. The bill permits a developmental research charter school to receive capital outlay funding as a developmental research school and as a charter school.

Section 228.505, F.S., is amended to protect the charter of a charter technical career center in the event of a change in governance of technical career centers. In the event that there is a change in governance of public technical centers, a charter technical career center sponsored by a school district will continue to be governed by the school district.

The Legislature must review charter schools during the 2005 Legislative Session.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

In granting charter schools an exemption from ad valorem taxes, this bill has the potential to fall under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989 to raise revenues in the aggregate. If the annual local revenue loss is estimated to be less than \$1.4 million, the bill will be exempt from the requirements of subsection (b) due to the insignificant negative fiscal impact as permitted under subsection (d) of section 18 of Article VII. It is unclear whether the exemption from ad valorem taxation granted to charter schools in this bill would reach the threshold of \$1.4 million.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Charter schools receive operating funds through the Florida Education Finance Program (FEFP) and are eligible for facilities funding as provided under s. 228.0561, F.S. Providing charter school capital outlay funding at an annual rate of 1/15 of the cost of a student station, rather than 1/30, would double the amount of funds needed for this purpose. Based on the current charter school FTE, DOE estimates that \$7 million would be needed to meet the 1/30 requirement; this bill would increase that need to \$14 million for fiscal year 2000-2001. The Senate Appropriations Act for fiscal year 2000-01 contains \$10 million from lottery funds for charter schools facilities and equipment. Current law provides that if funds appropriated are not sufficient to meet the need, then DOE is to prorate the available funds among eligible charter schools.

The DOE further reports that growth in charter schools is unpredictable. If the population of students in charter schools grew by 10 percent each year the cost for the next three years would be as follows:

FY 2001-2001	\$15,400,000
FY 2002-2003	\$16,940,000
FY 2003-2004	\$18,634,000

The pilot project grants for charter school construction would be provided if funds were appropriated for that purpose. The DOE would incur the cost of providing plan approval and technical assistance during the construction of charter school facilities funded by the pilot program grants.

Section 228.0561, F.S., specifies that when a charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with public funds shall revert to the ownership of the district school board. This bill directs that the reversion of all property secured with public funds is subject to the complete satisfaction of all lawful liens or encumbrances. Financial institutions would receive satisfaction of liens or encumbrances before districts would receive the property.

The bill enables developmental research charter schools to receive Public Education Capital Outlay (PECO) funds as a developmental research school and to receive charter school capital outlay funds as a charter school.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Fiscal Policy:

Provides that a charter technical career center or any program within such a center that was governed by a school board and transferred to a community college prior to the effective date of this act would remain with the community college.