

**STORAGE NAME:** h2087a.ed

**DATE:** April 18, 2000

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
Education Appropriations  
ANALYSIS**

**BILL #:** HB 2087 (PCB EI 00-05)

**RELATING TO:** Charter Schools

**SPONSOR(S):** Committee on Education Innovation and Representative Melvin

**TIED BILL(S):**

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

- (1) FINANCE AND TAXATION YEAS 8 NAYS 4
  - (2) Education Appropriations YEAS 10 NAYS 3
  - (3)
  - (4)
  - (5)
- 

**SUMMARY:**

The primary provisions of HB 2087 are as follows:

- Provides an educational facility contribution tax credit for businesses that contribute facility space.
- Designates all time periods identified in days as "calendar" days.
- Adds parents as an entity who may submit an application for a conversion school.
- Prohibits "unlawful reprisals" against district school board employees as a result of involvement in an application to establish a charter school.
- Revises the time lines and dates for the application and renewal process.
- Requires that the prevailing party is awarded reasonable attorney fees and costs incurred in a charter school dispute.
- Exempts conversion charter schools from being counted toward the cap on the number of charter schools in a district.
- Allows district school boards or charter school applicants to request from the State Board an increase of the limit on the number of charter schools in the district.
- Authorizes a charter school to target student populations of students who meet reasonable academic, artistic, or other reasonable standards that are nondiscriminatory.
- Requires charter schools to keep financial information comparable with that reported for other public schools.
- Involves Department of Education consultation when addressing in the charter how the rates of progress will be compared to those of comparable student populations.
- Requires charter to address the capacity of the charter school taking growth and certain factors currently in law into consideration.
- Clarifies criteria for renewal of a charter.
- Provides that if a charter school is dissolved, terminated or nonrenewed, all property and equipment purchased with a combination of public and private funds must be divided in a manner which gives both the school district and the private funding entity an equity value equal to the proportionate share invested by each entity.
- Defines "information services" as including, but not limited to, electronic mail, Internet access, daily mail courier, or other information services as defined in the charter.
- Establishes a statewide conversion charter school pilot program.
- Changes charter schools capital outlay allocation from 1/30th to 1/15th the cost-per-student station.

The corporate income tax credit for facility contributions would negatively affect the General Revenue Fund by a maximum of \$10 million annually. **[See amendment section for changes to the bill]**

I. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Pursuant to s. 228.056, F.S., private groups, municipalities and entire school districts are permitted to run schools under a "charter" or contract as part of the state's program of public education. The charter school is privately operated but publicly funded.

**Proposals or Applications (Terms are used synonymously)**

New charter schools may be created or existing public schools may be converted to charter status. 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. A proposal for a *conversion* charter school must be made by 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. In the list of people who may propose a *new* charter school, parents are included; however, they are not included in the list of people who may propose a *conversion* charter school. There are only two conversion charter schools in Florida; testimony at an annual charter school meeting indicated that a partial reason may be that some districts are discouraging principals and teachers from proposing conversions.

**Sponsor and Application Process**

A district school board may sponsor a charter school in the county over which the board has jurisdiction. After the application is received by the district, districts then have 60 days to approve or deny the application. Then the law allows six months for contract negotiations. If the full time was taken, the charter would be approved in August or September, leaving a short time for the applicant to prepare to open a new school in the fall. The original 1996 law provided that districts would accept applications through at least February 1 of each calendar year. The date was changed in 1999 to November 15 to allow more time at the end of the process for the applicant to prepare to open.

However, several holiday periods fall in the 60 days following November 15 leaving fewer working days to negotiate the contract. The applications received by November 15 are for schools to be opened at the beginning of the school district's next school year. Upon approval of a charter application, the initial startup must be consistent with the beginning of

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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.

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. If an application is denied, the next step for the applicant is to appeal to the State Board of Education. Thirty days are allowed for appeals of denials, but the statute does not specify whether these are calendar or working days.

During contract negotiations, there is a two step process for resolving disputes: (1) the Department of Education must provide mediation services (except for denials); and (2) the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings (DOAH). The cost of the administrative hearing is paid by the losing party; however, attorney's fees are not included in that provision, only the cost of the hearing.

### **Number of Schools**

The number of newly created charter schools or existing public schools that may convert to charter schools is limited to no more than 28 in each school district with 100,000 or more students, 20 in each district that has 50,000 to 99,999 students, and 12 in each district with fewer than 50,000 students. At this time, only one district in Florida is approaching the cap. However, four districts could come close to the cap if the applications they are currently considering are all approved. Most districts have less than one percent of their student population in charter schools. The population of a charter school in Florida ranges from 100 students to 750 students. There are only two conversion charter schools in the state.

### **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. Any eligible student is allowed interdistrict transfer to attend a charter school when based on good cause. 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. According to the Department of Education, about one-half of students attending charter schools are minority students. Some districts set caps on the number of students a charter school is allowed to admit.

Enrollment may target certain populations which include:

- 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.

### **Charter or Contract (Terms are used synonymously)**

The charter must specify the school's goals and educational strategy; the performance contract provides accountability. The charter outlines the school curriculum and academic standards. 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 the criteria for approval of the charter which is based on the following:

- 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. This part of the charter will include a detailed description of how the baseline student academic achievement levels and prior rates of academic progress will be established, how the 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 the rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.
- 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, including a reasonable demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services. Both public and private sector professional experience are equally valid.
- 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. In 1999, the Legislature provided for 10 and 15 year charters to facilitate long term financing for construction. If the school is operated by a municipality or other public entity, it is eligible for a 15-year charter; if it is operated by a private not-for-profit 501(c)3 status corporation, it is eligible for a 10-year charter; if it is a conversion charter school operating for a minimum of three years and demonstrating exemplary academic programming and fiscal management, it is eligible for a 15-year charter renewal. All of these long-term charters are subject to approval by the district school board and an annual review. They may be terminated during the term of the charter, but only for specific good cause.
- 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.

Pursuant to s. 228.056(9)(b), F.S., the charter is used as the basis for renewal or termination of the charter. Additional grounds for nonrenewal in s. 228.056(10)(a), F.S., are: failure to meet requirements for student performance stated in charter; failure to meet generally accepted standards of fiscal management; violation of law; and other good cause shown.

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.

When a charter is not renewed or is terminated, the school is dissolved, and any unencumbered funds revert to the district school board. All district school board property and improvements, furnishings, and equipment purchased with public funds automatically revert to full ownership by the district school board.

Section 228.056(11), F.S., provides that "a charter school shall operate in accordance with its charter and shall be exempt from all statutes of the Florida School Code, except those pertaining to civil rights and student health, safety, and welfare, or as otherwise required by this section.....The sponsor, upon request of a charter school, may apply to the Commissioner of Education for a waiver of provisions of chapters 230 through 239 *which are applicable to charter schools under this section...*" Except that the provisions of chapters 236 and 237 shall not be eligible for waiver if the waiver would affect funding allocations or create inequity in public school funding. A waiver must be obtained for any exemption from a statutory provision that specifically applies to charter schools. The only provisions that need waivers are those in the charter school law. The charter school law requirements or criteria do require a waiver.

### **Employees of Charter Schools**

Charter schools select their own employees. Teachers employed by or under contract to a charter school must be certified as required by Chapter 231, F.S. The governing boards of charter schools may employ or contract with skilled selected noncertified personnel pursuant to Chapter 231, F.S., and as provided in State Board of Education rule for charter school governing boards. 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. 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. The qualifications of teachers must be disclosed to parents. A charter school must employ or contract with employees who have been fingerprinted and the governing board members must be fingerprinted in a similar manner prior to the approval of the charter.

### **Revenue**

Students enrolled in a charter school are funded by a per-student allotment just as students enrolled in other public schools in the school district. Each charter school is required to report its student enrollment to the district school board. A school board is held harmless for full-time equivalent (FTE) students who are not included in the FTE projections when a charter school is approved after the FTE projection deadline, pursuant to s. 228.056(4)(a), F.S. The district can charge an administrative fee up to five percent. At no additional fee, the district (or sponsor) is to provide certain administrative and educational services, which include contract management services, FTE and data reporting, exceptional student education administration, test administration, processing of teacher certification, and information services.

### **Review**

The 1996 law creating charter schools required a review of charter schools during the 2000 regular session of the Legislature. Two entities have conducted studies to aid in that review. One program review is by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the other is by the Charter School Review Panel, which was

created by the 1999 Legislature for the purpose of making recommendations for improving charter school operations and oversight and ensuring fair and best business practices and relationships. The panel met and held public hearings several times since the 1999 Legislative Session and released an interim report in January, 2000.

### **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 for charter school capital outlay funding, 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 reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the district school board in the event that the school terminates operations. Any funds recovered by the state must be deposited in the General Revenue 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.

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

- \$11,600 for an elementary student station
- \$13,300 for a middle school student station
- \$17,600 for a high school student station

One-thirtieth of this amount is equivalent to:

- \$387 per charter school elementary student/year
- \$444 per charter school middle school student/year
- \$587 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 may use charter school capital outlay funds 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; and
- 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.

### **History of Charter Schools in Florida**

The charter school law, s. 228.056, F.S., was enacted in 1996 with revisions each subsequent year. Some of the 1999 revisions were: extending the term of a charter, requiring that employees, including governing board members are fingerprinted and have not been dismissed or resigned in lieu of dismissal from a traditional public school for reasons involving the health, safety, and welfare of children, and offsetting the high costs of educational facilities construction and allowing for use of capital outlay funds when appropriated by the Legislature.

Five charter schools were in operation in 1996; 33 in 1997; approximately 72 in 1998; and approximately 110 in 1999. Moreover, 3,000 students were served initially and approximately 15,000 students were served last year. The two fastest growing areas are charter schools-in-the-workplace and charter schools operated by cities.

### **C. EFFECT OF PROPOSED CHANGES:**

#### **Business Tax Credit**

HB 2087 allows an educational facility contribution tax credit for businesses that contribute facility space for use by a charter school or a core facility for use as a public educational K-12 facility. The business must have no financial interest in the charter school. "Core facilities" means the media center, cafeteria, toilet facilities, and circulation space of an educational plant. "Educational facilities" means the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards. The tax credit for a business is limited to \$200,000 annually for all approved contributions made in any one year. **[See amendment section for changes to the bill]**

The total amount of the tax credits which may be granted annually must not exceed \$10 million. The tax credits require the approval of the Department of Education, at the request of the district school board. The unused portion of the credit in any one year may be carried over for five years and used in a subsequent year after applying other credits and credit carryovers. Credits are applied in an order specified in s. 220.20(10), F.S. A



taxpayer who files a consolidated return as a member of an affiliated group may be allowed the credit on a consolidated return basis.

### **Term Standardization**

To eliminate confusion, the bill standardizes and clarifies several terms throughout the charter school law in s. 228.056, F.S. "Application" is used consistently rather than "proposal" to refer to the document initially submitted to the district. "Charter" is used consistently rather than "contract" to refer to the document negotiated between the district and the charter school. "Calendar" is added before each designated time period given in days to standardize time periods. All time periods are calculated by calendar days.

### **Application Process**

The bill adds parents as an entity who may submit an application for a conversion school. As in current law, the application to convert must still demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting.

### **Unlawful Reprisals**

The bill prohibits "unlawful reprisals" against district school board employees as a result of direct or indirect involvement in an application to establish a charter school. "Unlawful reprisal" is defined as an action taken by a district school board or a school system employee against an employee who is directly or indirectly involved in a lawful application to establish a charter school, which occurs as a direct result of that involvement, and which results in one or more of the following:

- disciplinary or corrective action;
- adverse transfer or reassignment, whether temporary or permanent;
- suspension, demotion, or dismissal;
- unfavorable performance evaluation;
- reduction in pay, benefits, or rewards;
- elimination of the employee's position absent of a reduction in force as a result of lack of moneys or work; and/or
- other adverse significant changes in duties or responsibilities that are inconsistent with the employee's salary or employment classification.

An employee has 60 days to file a complaint with the Department of Education regarding an alleged unlawful reprisal. The department must acknowledge receipt of the complaint within three working days and provide copies of the complaint and any other relevant information to the named parties, who must acknowledge to the complainant that they have received the copies. If the department determines that there is reasonable cause to suspect a violation, they conduct an investigation to produce a fact-finding report, which they provide to the superintendent and the complainant within 90 days after receiving the complaint. The report may include recommendations to the parties or a proposed resolution and is admissible in any subsequent or related administrative or judicial review.

If the department is unable to conciliate a complaint within 60 days after receipt of the fact-finding report, it must terminate the investigation and notify the complainant and the superintendent of schools of the termination. Additionally, they must provide a summary of relevant facts found and the reasons for the termination. This summary is also presumed admissible as evidence in any judicial or administrative proceeding.

If the department determines reasonable grounds exist to believe that a prohibited action occurred and is unable to conciliate, it must either contract with the Division of Administrative Hearings (DOAH) or provide for a complaint to be heard by a panel of impartial persons. The panel must make findings of fact and conclusions of law for a final decision by the department.

In any action for which it is determined reasonable grounds exist to believe a prohibited action occurred, the relief must include:

- reinstatement of the employee to the same or equivalent position or payment of reasonable front pay;
- reinstatement of full fringe benefits and seniority rights, as appropriate;
- compensation, if appropriate, for lost wages, benefits, or other lost remuneration;
- payment of reasonable costs, including attorney's fees, to either the substantially prevailing employee or prevailing employer if the employee filed a frivolous action in bad faith;
- issuance of an injunction, if appropriate, by a court of competent jurisdiction; and
- temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome on the complaint, if it is determined that the action was not made in bad faith or for a wrongful purpose, and did not occur after a district school board's initiation of a personnel action against the employee which includes documentation of the employee's violation of a disciplinary standard or performance deficiency.

### **Time Lines**

The bill changes the date from November 15 to October 1 for a district to receive and consider charter school applications for charter schools to be opened at the beginning of the next school year. The bill provides that an applicant and district school board may mutually agree to a different time for school to open. They may also mutually agree to temporarily postpone the decision to a specific date at which time the district board must decide.

### **Disputes**

HB 2087 requires that the prevailing party is awarded reasonable attorney fees and costs incurred in a charter school dispute.

### **Number of Schools**

Conversion charter schools are exempted from being counted toward the cap on the number of charter schools in a district. The district school boards or charter school applicants are authorized to request, from the State Board, an increase of the limit on the number of charter schools in the district.

### **Eligible Students**

The bill authorizes a charter school to target student populations of students who meet reasonable academic, artistic, or other reasonable standards that are nondiscriminatory. The reasonable standards will be established by the governing board in accordance with state law and current practice in existing public schools.

### **Accounting System**

The bill requires charter schools to keep adequate records and accounts of all financial information comparable with that reported for other public schools. The accounts and codes used will be those in the most recent version of the department publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools." Charter schools will provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting. Charter schools which are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or parent, but must reformat this information for reporting.

### **Charter**

The bill changes one item which the charter must address and adds a new item. A charter governing board and the sponsor are required to consult with the Department of Education when addressing in the charter how rates of progress will be compared to those of comparable student populations. The charter is required to address the capacity of the charter school taking growth and certain factors currently in law into consideration. These factors include exceeding capacity of program, class, grade level, or building; and the limitation of the enrollment process to target certain student populations.

The bill clarifies conditions under which a charter may be renewed every five years. The criteria addressed in the original charter must have been successfully accomplished. Additionally, none of the following grounds may exist:

- failure to meet the requirements for student performance;
- failure to meet generally accepted standards of fiscal management;
- violation of law; and
- other good cause shown.

The bill lengthens the time frame required for the sponsor to notify the governing board for notice of renewal or termination of a charter; the time is revised from 90 days to six months. In the event that a charter school is dissolved or terminated or nonrenewed, all property and equipment purchased with a combination of public and private funds must be divided in a manner which gives both the school district and the private funding entity an equity value equal to the proportionate share invested by each entity.

### **Defining "Information Services"**

The bill defines "information services" which is one of the included services provided by the district to the charter school at no additional fee above the five percent administrative fee. "Information services" include, but are not limited to, electronic mail, Internet access, daily mail courier, or other information services as defined in the charter.

### **Capital Outlay**

The bill changes the charter school capital outlay from 1/30th to 1/15th of the cost-per-student station. One-fifteenth of the cost-per-student station adjusted for 2000-2001, the charter school capital outlay allocation per student would be as follows:

- \$ 774 per charter school elementary student/year
- \$ 888 per charter school middle school student/year
- \$1174 per charter school high school student/year

### **Conversion Charter School Pilot Program**

The bill establishes a statewide conversion charter school pilot program. The intent is to provide incentives for school districts to approve conversion charter schools. Ten schools will be selected. Application may be made by:

- a school principal,
- a majority of parents of students attending the school,
- a majority of the school's teachers, or
- a majority of the members of the school advisory council.

A majority of teachers is defined as more than 50 percent of the teachers employed at the school. A majority of parents is defined as more than 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to vote participate in the ballot process. The procedures established by the state board rule authorized in s. 228.056(3), F.S., will be applicable.

Principals, teachers or school advisory council members who apply are not subject to unlawful reprisals as a result of applying to participate in the pilot program. If there is an alleged unlawful reprisal, the procedures established in the charter school law will apply. The district school board receives and reviews the applications and selects the best applications. The district selected applications and the school board's letter of endorsement and commitment of support and cooperation toward success of program implementation are sent to a conversion charter school pilot program statewide selection panel.

The panel is comprised of nine members who are not elected public officials; three are appointed by the Governor, two by the Commissioner of Education, two by the President of the Senate, and two by the Speaker of the House. The panel reviews the applications and selects the ten which they deem to best comply with the purpose of the program.

Each district school board in which there is a school selected to participate in the pilot program receives the following grant for the 2001-2002 school year:

- One hundred thousand dollars for planning and development for each conversion charter school selected.

- Eighty thousand dollars for each conversion school selected with 500 or fewer students; or one hundred thousand dollars for each school selected with more than 1,001 students; or one hundred twenty thousand dollars for each school selected with more than 1,000 students; or as otherwise established in the General Appropriations Act (GAA).

The Commissioner of Education is authorized to reduce the district's 2002-2003 FEFP funding entitlement by the amount of the allocation awarded if he or she determines that the district fails to comply with its letter of endorsement and commitment of support and cooperation submitted with the application.

Each conversion school board must make annual progress reports to the district school board and the Commissioner of Education detailing the school's progress in achieving the purpose of the program, which is to produce significant improvements in student achievement and school management, to encourage and measure the use of innovative learning methods, and to make the school the unit for improvement.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1** Amends s. 220.1835, F.S., authorizing a tax credit for businesses that contribute facility space for use by a charter school or a core facility for use as a public educational K-12 facility; providing requirements for receipt of the tax credits; limiting the amount of the tax credits which may be granted annually; providing for an unused portion in any one year to be carried over for no more than five years; allowing the credit on a consolidated return basis for a taxpayer who files a consolidated return as a member of an affiliated group. **(See amendment section for changes to the bill)**

**Section 2** Amends s. 228.056, F.S., standardizing use of "application" rather than "proposal"; adding parents as entity who may submit proposal; prohibiting unlawful reprisals against district school board employees as a result of direct or indirect involvement in an application to establish a charter school; establishing procedures for reviewing and deciding alleged unlawful reprisals; revising the date by which charter school applications must be received by the district school board for school opening at the beginning of the school district's next school year; providing that applicant and district school board may mutually agree to a different time for school to open; providing that time periods in days are "calendar" days; providing that applicant and district school board may mutually agree to temporarily postpone decision to a specific date at which time the district board must decide; standardizing use of "charter" rather than "contract"; requiring the award of reasonable attorney fees and costs incurred to the prevailing party in a charter school dispute; exempting conversion charter schools from being counted toward the cap on number of charter schools in a district; authorizing district school boards or charter school applicants to request, from the State Board, an increase of the limit on the number of charter schools in the district; authorizing the establishment of academic, artistic, or other standards as conditions for eligibility; requiring charter schools to comply with certain cost accounting and reporting requirements; requiring a charter school governing board to consult with the Department of Education when addressing how rates of progress will be compared to those of comparable student populations in the charter; requiring a charter address the capacity of the charter school taking certain criteria and growth into consideration; clarifying that renewal of a charter is subject to

criteria addressed in original charter and that no causes for nonrenewal are documented; revising the time frame from 90 days to 6 months for notice of renewal or termination of a charter; provides for division of equity upon charter school nonrenewal or termination; defining "information services".

**Section 3** Amends s. 228.0561, F.S., providing for the division of equity upon charter school nonrenewal or termination.

**Section 4** Creates s. 228.0581, F.S., establishing a statewide conversion charter school pilot program; providing intent and purpose; providing for application for participation in the pilot program by school principals, parents, teachers or school advisory councils; prohibiting unlawful reprisals as a result of applying to participate in the pilot program; providing procedures for reviewing and deciding alleged unlawful reprisals; providing requirements for district school boards; establishing a program selection panel and providing membership and duties; authorizing allocations to participating districts and reductions in funding for violations of requirements; requiring annual progress reports.

**Section 5** Provides an effective date of July 1, 2000.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The total amount of the educational facility contribution tax credit for businesses must not exceed \$10 million. However, it is unknown at this time how many business firms will receive the \$200,000 annual tax credit for approved contributions. **[See amendment section for changes to the bill]**

#### 2. Expenditures:

Section 228.0561 (4), F. S., provides that the annual legislative budget request of the Department of Education shall include a request for capital outlay funding for charter schools. The request shall be based on the projected number of students to be served in charter schools who meet the eligibility requirements of this section.

The Department has estimated that under current law providing 1/30 of the cost per student station \$7,000,000 would be needed for 2000-2001.

This bill changes the capital outlay allocation from 1/30th to 1/15th of the cost per student station. This change will double the charter school capital outlay funding allocation. The amounts for 2000-2001, adjusted as provided in s.235.216 F.S., would be as follows:

- \$ 774 per charter school elementary student/year
- \$ 888 per charter school middle school student/year
- \$1,174 per charter school high school student/year

The Department of Education estimates the change from 1/30 to 1/15 the appropriation for charter school capital outlay for 2000-2001 will need to be \$14,000,000.

The House Appropriations Bill contains an appropriation of \$15,000,000 for Charter School Capital Outlay for 2000-2001. Section 228.0561 (1), F.S. provides that "If the funds appropriated are not sufficient, the commissioner shall prorate the available funds among eligible schools."

The Department of Education projects a 10% per year growth in the number of eligible school, and estimates the appropriation needed for 2002-2003 at \$16,940,000 and for 2003-2004 at \$18,634,000.

The Florida Charter School Resource Center at the University of South Florida estimates the number of charter schools in 2000-2001 will increase 46%, from 112 to 164, and the number of students attending charter schools will increase 58%, from 18,566 in 1999-2000 to 29,285 in 2000-2001. Using an average of \$900 per student the Center estimates the Charter School Capital Outlay appropriation needed for 2000-2001 to be \$26,356,500.

Section 228.056 (5), F.S., authorizes establishing up to 428 charter schools that would be eligible for Charter School Capital Outlay funding. The average enrollment per charter school in 1999-2000 is 165 students. If the maximum number of charter schools were to be established and the average enrollment remained at 165 the total charter school enrollment would be 70,620. At the average of \$900 per student as provided in HB2087 the annual Charter School Capital Outlay appropriation would need to be \$63 million at the 2000-2001 funding level per student.

This bill creates a pilot program for converting 10 schools to charter schools. Each school selected to participate in the pilot program would be given an award of \$100,000 for planning and development. For implementation \$80,000 per school selected with 500 or fewer students; \$100,000 per school selected with more than 500 but fewer than 1,001 students; and \$120,000 per school selected with more than 1,000 students. The total estimated cost is \$2 million for this pilot program is \$2,000,000; \$1,000,000 for planning and development and \$1,000,000 for implementation.

The bill provides that the schools selected by the statewide panel shall receive grants for the 2001-2002 school year. If this bill becomes law the appropriation will need to be included in the 2001-2002 Appropriations Act.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Appropriations for Charter School Capital Outlay that is distributed to school districts for use by charter schools increases the funds available and expended by local government for K-12 education. This is estimated to be \$15,000,000 in 2000-2001.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The educational facility contribution tax credit will be submitted to the revenue estimating conference. **[See amendment section for changes to the bill]**

III. 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 spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 11, 2000, the Finance and Taxation Committee adopted one amendment which removes the corporate income tax credit.

On April 18, 2000, the Committee on Education Appropriations passed the bill with Amendment No. 001 traveling with the bill.



**STORAGE NAME:** h2087a.ed

**DATE:** April 18, 2000

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VI. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Staff Director:

Alex Amengual

Ouida Ashworth

AS REVISED BY THE COMMITTEE ON Finance and Taxation:

Prepared by:

Staff Director:

Carol Dickson-Carr

Alan Johansen

AS REVISED BY THE COMMITTEE ON Education Appropriations:

Prepared by:

Staff Director:

William Cecil Golden

John Newman