

STORAGE NAME: h2087z.ei
DATE: June 15, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-306, Laws of Florida

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

BILL #: HB 2087, Second Engrossed (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 & 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:

- Allows an ad valorem tax exemption for facilities used to house a charter school.
- Allows a pro rata cancellation for a partial year's tax on property in the year of acquisition.
- Standardizes terminology and time periods.
- 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 districts to report applicant names applicants within 15 days of receipt of application and approvals or denials within 10 days of action.
- Allows applicant to appeal to State Board of Education if district school board fails to act on an application.
- Requires that prevailing party is awarded reasonable costs incurred in a 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.
- Requires charter schools to report financial information as other public schools report.
- Revises provisions for developmental research charter schools and charter technical career centers.
- Allows children of charter school board members to receive enrollment preference.
- Clarifies criteria for renewal of a charter.
- Provides that if a charter school is dissolved, terminated or nonrenewed, the reversion of all property and equipment purchased with public funds is subject to satisfaction of liens.
- Clarifies that charter schools are not exempt to those statutes specifically applying to charter schools; those pertaining to the provision of services to students with disabilities; and those relating to discrimination.
- Requires charter school facilities comply with new state building and fire codes in 2001.

- 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 and revises the method of distribution.

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The 2000-2001 General Appropriations Act contains an appropriation of \$20,000,000 for Charter School Capital Outlay for 2000-2001.

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

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.

Requirements of Charter Schools

A charter school must be nonsectarian, admit eligible students, be accountable to the sponsor for accountability, and is subject to an annual financial audit. It may not charge any tuition or fees that are not normally charged by other public schools. The school must meet all state and local health, safety and civil rights, including antidiscrimination provisions. An organization may not hold more than 15 charters statewide.

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.

Facilities

A charter school must use facilities which comply with the State Uniform Building Code for Public Educational Facilities Construction or with applicable state minimum building codes and fire protection codes. The State Uniform Building Code for Public Educational Facilities Construction will be phased out after January 1, 2001, when the statewide Florida Building code is implemented. The State Requirements for Educational Facilities will then only include non-building code requirements such as space standards, financial rules for fund sources, and rules for safety inspections on existing buildings.

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.

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Pursuant to s. 235.216, F.S., the costs-per-student station for each school level as adjusted for 2000-2001 by the Consumer Price Index are:

- \$12,382 for an elementary student station
- \$14,197 for a middle school student station
- \$18,786 for a high school student station

One-thirtieth of this amount is equivalent to:

- \$413 per charter school elementary student/year
- \$474 per charter school middle school student/year
- \$627 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.

Ad Valorem Exemption

Traditional public schools are exempt from ad valorem taxes when, pursuant to s. 196.192(1), F.S., they are owned by any exempt entity and used exclusively for exempt purposes. An exempt purpose includes an educational purpose, pursuant to s. 196.012(1), F.S.; "Exempt use of property' or 'use of property for exempt purposes' means predominant or exclusive use of property owned by an exempt entity for educational, literary, scientific, religious, charitable, or governmental purposes." Educational institutions include state and private schools. Charter schools are public schools. Private facilities used for a public charter school (such as school-in-workplace) are exempt from ad valorem taxes. Traditional charter schools that are leasing facilities do not receive the exemption.

Pro Rata Cancellation

Taxable status is determined as of January 1st. If on January 1st, an institution meets the definition of educational institution, the institution must apply for an exemption by March 1st. If an institution does not apply by March 1st, its status as an educational institution is lost. Counties, school boards, and community college district boards, pursuant to s. 196.29, F.S., do not have to apply for the exemption annually. These entities may also

request and receive a pro rata cancellation of the current year's taxes on newly acquired property.

Developmental Research Schools (DRS)

Developmental research schools (DRS) are K-12 public schools with are affiliated with the college of education within the state university of closest geographic proximity. There are currently four in Florida. Sponsors of the existing four schools are Florida Agricultural and Mechanical University (FAMU), Florida Atlantic University (FAU), Florida State University (FSU), and the University of Florida (UF). Other universities approved by the Board of Regents, the State Board of Education, and the Legislature are authorized to sponsor developmental research schools.

The mission of the schools is research, demonstration, and evaluation regarding management, teaching, and learning. A student population reflective of the student population of the public school system is encouraged and promoted; the admission process is designed to result in a representative sample of public schools enrollment based on sex, race, socioeconomic status, and academic ability.

Each DRS may charge a student activity and service fee. If a DRS charges the fee, must provide information regarding how the fee is used and an annual report to the parents on how the moneys were expended.

A DRS is allocated its proportional share of operating funds from the Florida Education Finance Program (FEFP). The nonvoted ad valorem millage and required local effort funds are from state funds. Each DRS receives sparsity funding and categorical funds with the exception of transportation funds and new categorical funds enacted after July 1, 1994. Each DRS receives discretionary funds for operating, discretionary capital improvement funds, funds for upgrading, renovating, an remodeling science laboratories as appropriated in the GAA.

Charter Technical Career Centers

Either a school board or a community college can sponsor a charter technical career center.

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.

Research on Conversion Charter Schools

According to the April 2000 report by the Office of Program Policy Analysis and Government Accountability:

Support for charter schools among school board members and district administration varies across districts. Opposition to charter schools by districts may arise from perceptions that the district will lose students and thus funding, resistance to losing oversight of a responsibility traditionally fulfilled by the board, and distrust of new and untested concepts.

Several district and charter school staff reported particular difficulties in relation to potential conversions of public schools to charter school status in some districts. Opposition reported ranged from district administrators' intimidating behavior at public meetings to the adoption of school board rules that do not allow existing public school structures to be used for charter schools. To date, only two traditional public schools have been converted into charter schools, the McKeel Academy of Technology in Polk County and Spring Creek Elementary in Lake County.

Conversion charter schools are doing very well in other states. Lisa Keegan, Arizona's Superintendent of Public Instruction, says that 15 to 20 percent in charter alternatives is needed in order to exert pressure on the system.

C. EFFECT OF PROPOSED CHANGES:

Ad Valorem Exemption

HB 2087 provides an exemption from ad valorem taxes for facilities *used* to house charter schools if the charter has been approved by the sponsor and the governing board according to the charter school law. Charter schools can receive the benefit of ad valorem tax relief for those facilities they lease. The landlord is required to certify by affidavit that the lease payments will be reduced to the extent of the exemption received. The property owner must disclose to the charter school the full amount of the benefits, and, as a result, the full benefit from the exemption must go to the charter school through a credit against the lease payment.

Pro Rata Cancellation

The bill adds the charter school governing board to the list of entities (counties, school boards, and community college district boards) in s. 196.29, F.S., that may receive a pro rata cancellation of property taxes due on newly acquired property. A charter school may request a tax cancellation after the March 1st deadline.

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.

Reporting of Applicants and Approvals or Denials

The district school board or sponsor must report to the Department of Education the following:

- Within 15 calendar days after receipt of a charter school application: the name of the applicant entity, the proposed charter school location, and its projected FTE
- Within 10 calendar days, the approval or denial of a charter application; and, if approved, the final projected FTE for the approved charter school.

Failure to Act

If the district school board fails to act on the application, an applicant may appeal to the State Board of Education just as if the application were denied.

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

Children of members of the governing board of a charter school may be given enrollment preference.

Developmental Research Charter Schools

The bill makes the following revisions regarding developmental research charter schools.

- Allows developmental research charter school to be open to any student eligible to attend the developmental research school or any student who resides in the district in which the charter school is located
- Allows a developmental research charter school to charge a student activity and service fee
- Provides that a developmental research charter school is eligible for up to a 15-year charter issued by a state university
- Exempts the developmental research charter school from providing alternative arrangements for teachers who choose not to teach in a developmental research charter school except as authorized by the employment policies of the state university which grants the charter to the developmental research charter school
- Provides that any unencumbered funds and all equipment and property purchased with university public funds revert to the state university that issued the charter after the complete satisfaction of all lawful liens or encumbrances
- Allows a developmental research charter school to receive categorical funds just as a traditional developmental research school receives categorical funds
- Allows a developmental research charter school to be affiliated with the university that issued the charter, not necessarily the one of closest geographic proximity
- Allows a developmental research charter school to be eligible to receive funding for charter school capital outlay; however, the bill limits the amount of traditional funds that a developmental research charter school may receive for capital outlay to an amount sufficient to meet the one-fifteenth of the cost per student station. The developmental research charter school may *only* receive the *difference* in the amount it receives from charter school capital outlay and the one-fifteenth of the cost per student station amount.

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.

Renewal

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 changes the length of time required for a charter school to be eligible for a 15-year charter renewal. A charter school must operate for a minimum of 2 years, rather than 3 years, and demonstrate exemplary academic programming and fiscal management to be eligible for the 15-year charter renewal.

Modification of Charter

The bill allows the charter school governing board, as well as the sponsor, to recommend modification of the charter during the initial term or any renewal term.

Reversionary Clause

In the event that a charter school is dissolved or terminated or nonrenewed, before all property and equipment purchased with a combination of public and private funds reverts to the district school board, all lawful liens or encumbrances must be completely satisfied.

Exemption From Statutes

The bill clarifies a charter school's exemption from the Florida School Code by specifying that an exception is statutes applying to charter schools. Additionally, charter schools must comply with the Florida School Code with respect to providing services to students with disabilities, those pertaining to civil rights, including those relating to discrimination, and those pertaining to student health, safety, and welfare.

Fingerprinting

The bill requires all members of the governing board, regardless of their time of service on the board, to be fingerprinted.

Facilities

The bill requires that, after January 1, 2001, charter schools use facilities that comply with the Florida Building Code under chapter 553, and the Florida Fire Prevention Code, under chapter 633.

Review

The date for legislative review is changed from 2000 to the 2005 Session.

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:

- \$ 826 per charter school elementary student/year
- \$ 947 per charter school middle school student/year
- \$1253 per charter school high school student/year

The bill provides for the distribution of funds on the basis of the second and third enrollment surveys: 60% after the second survey and the balance after the third survey.

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.

The conversion charter school pilot program is unfunded in the 2000-2001 General Appropriations Act.

Charter Technical Career Centers

The bill provides that if a charter technical career center is established by conversion to charter status, the governance of the charter center remains with its board of directors and the center is not affected by a change in governance of public technical centers or of programs within centers that are or have been governed by district boards. If 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 July 1, 2000, the center is not affected by this provision.

D. SECTION-BY-SECTION ANALYSIS:

- Section 1** Amends s. 296.1983, F.S., providing an exemption from ad valorem taxes for facilities used to house charter schools.
- Section 2** Amends s. 196.29, F.S., providing for the cancellation of certain taxes on real property acquired by a charter school governing board.
- Section 3** Amends s. 228.056, F.S., standardizing use of "application" rather than "proposal"; adding parents as entity who may submit proposal for conversion charter school; 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; requiring sponsor to report to department the name of applicants within 15 calendar days of receiving charter application and to report approval or denials of applications within 10 calendar days after action; providing appeals process for applicants when district school board fails to act on application; 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; allowing developmental research (DRS) charter schools to be open to any student eligible to attend DRS or to any student who resides in district; allowing charter schools to give enrollment preference to the child of a member of the governing board of the charter school; allowing a DRS charter school to charge a student activity and service fee; requiring charter schools to comply with certain cost accounting and reporting requirements; establishing the term of a charter issued to a developmental research school; providing an exception to a requirement for alternative arrangements for teachers who choose not to teach in a developmental research school to which a charter has been issued; clarifying that renewal of a charter is subject to criteria addressed in original charter and a charter may not be renewed if causes for nonrenewal are documented; revising eligibility requirements for a 15-year charter renewal; allowing a charter school governing board to initiate modifications to charter; specifying that reversion of ownership of charter school property is subject to satisfaction of any lawful liens or encumbrances; revising exemptions from statutes to specify certain statutes that charter schools must comply with; requires that members of the governing board of a charter school be fingerprinted; providing notice of a tax exemption; requiring facilities used as charter schools be in compliance with new building code and fire code beginning January 1, 2001; requiring the Legislature to review the operation of charter schools during the 2005 Regular Session of the Legislature.

Section 4 Amends s. 228.0561, F.S., revising the calculation for the funding allocation for charter school capital outlay; providing requirements for the distribution of such funds; deleting provisions relating to the sharing of funds for capital outlay purposes; providing for the reversion of property and funds of a developmental research charter school upon nonrenewal or termination; specifying that the reversion of charter school property is subject to the satisfaction of all lawful liens or encumbrances.

Section 5 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 grants to participating districts and reductions in funding for violations of requirements; requiring annual progress reports.

- Section 6** Amends s. 236.0817, F.S., clarifying eligibility for categorical funding for developmental research schools to which a charter has been issued.
- Section 7** Amends s. 236.053, F.S., providing requirements relating to charters issued to developmental research schools; clarifying provisions relating to funding; deleting obsolete language; providing additional funds for developmental research schools to which a charter has been issued.
- Section 8** Amends s. 228.505, F.S., establishing provisions relating to the governance of a charter technical career center.
- Section 9** Provides an effective date of July 1, 2000.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

Capital Outlay

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:

- \$ 826 per charter school elementary student/year
- \$ 947 per charter school middle school student/year
- \$1,253 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 2000-2001 General Appropriations Act contains an appropriation of \$20,000,000 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 charter schools."

The Department of Education projects a 10% per year growth in the number of eligible schools, and estimated 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 station the Center estimates the Charter School Capital Outlay appropriation needed for 2000-2001 to be \$26,356,500.

Although existing law under s. 228.056 (5), F.S., limited the number of charter schools to a possible 428 that would be eligible for Charter School Capital Outlay funding, HB 2087 provides that existing public schools converting to a charter schools will not be counted towards the limit and, notwithstanding any limit, a district school board or charter school applicant may request an increase of the limit from the State Board of Education. Consequently more than 428 charter schools could be eligible for Charter School Capital Outlay funding. The average enrollment per charter school in 1999-2000 is 165 students. If 428 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 HB 2087 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. The pilot program is unfunded for the 2000-2001 fiscal year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Appropriations for Charter School Capital Outlay that are 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 million in 2000-2001.

The charter school exemption from ad valorem taxes is estimated to reduce local ad valorem taxes by \$0.3 million in fiscal year 2000-2001.

The pro rata cancellation of the real property taxes will not impact the schools when their taxable status was determined as of January 1, 2000, and they applied by the March deadline. It will impact newly created charter schools which will owe taxes for partial year. The number of schools which will be newly created is unknown.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None

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 ad valorem tax exemptions and pro rata cancellation provisions will reduce the local government's revenue raising authority. However, the amount of this reduction is insufficient to trigger the mandates provision of the Constitution.

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:

None.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 2087 was a PCB of the Committee on Education Innovation. After being filed on March 21, 2000, the bill was referred to the committees on Finance & Taxation and Education Appropriations.

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

On April 18, 2000, the Committee on Education Appropriations passed the bill with the F&T amendment traveling with the bill.

An amendment adopted on the House floor on May 2, 2000, made the following changes:

- Includes the ad valorem tax exemption and the pro rata cancellation for partial year's tax. This was language from HB 2197 as it was amended when heard in the Committee on Finance and Taxation on April 11, 2000 and in the Committee on Education Appropriations on April 26, 2000. HB 2197 was originally a PCB from the Committee on Education Innovation.
- Eliminates the language allowing charter schools to establish magnet charter schools.
- Allows the charter school, as well as the sponsor, to recommend modification of the charter during the initial term or any renewal term.
- Added provisions for developmental research charter schools relating to student eligibility, fees, teachers, funding, geographic location, capital outlay, term of charter, and reversionary clause.
- Removes the definition of "information services".
- Authorizes a 15-year charter for schools that have shown success in 2 years of operation.
- Clarifies the exemptions of charter schools from statutes by specifying that an exception is statutes applying to charter schools; also specifies that charter schools must comply with the antidiscrimination provisions and with the Florida School Code with respect to providing services to students with disabilities.
- Requires legislative review of the operation of charter schools during the 2005 regular legislative session.
- Requires charter schools use facilities that comply with the Florida Building Code under chapter 553, and the Florida Fire Prevention Code under chapter 633 after January 1, 2001.
- Provides that if a charter technical career center is established by conversion to charter status, the governance of the charter center remains with its board of directors and the center is not affected by a change in governance of public technical centers or of programs within centers that are or have been governed by district boards. Any center or program that was governed by a school board and

transferred to a community college prior to the effective date of this bill will not be affected.

- Provides for the distribution of funds on the basis of the second and third enrollment surveys and for reporting to DOE applicant information and approvals and denials.

HB 2087 passed the House as amended by 97 yeas and 19 nays on May 2, 2000. The Senate substituted the House bill for CS/SB 1574 and on May 5, 2000, the Senate passed HB 2087 with 27 yeas and 10 nays. HB 2087 was ordered enrolled. On June 15, 2000, HB 2087 was approved by the Governor.

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

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Staff Director:

Alex Amengual

Ouida J. Ashworth