

**STORAGE NAME:** h1361.ei.doc  
**DATE:** April 3, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
EDUCATION INNOVATION  
ANALYSIS**

**BILL #:** HB 1361  
**RELATING TO:** Charter Schools  
**SPONSOR(S):** Representative(s) Ralph Arza & Heather Fiorentino  
**TIED BILL(S):** None

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

- (1) EDUCATION INNOVATION
  - (2) FISCAL POLICY & RESOURCES
  - (3) COUNCIL FOR LIFELONG LEARNING
  - (4)
  - (5)
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**I. SUMMARY:**

HB 1361 amends various provisions in current law relating to charter schools in order to:

- Prohibit a public school from using the term “charter” in its name or title unless the school is currently operating under a charter approved by law;
- Expand the statutory purpose of charter schools;
- Require existing public schools to be in operation for at least two years before converting to a charter school;
- Prohibit a sponsor from charging an application fee;
- Permit denied charter school applicants to file an appeal within 30 days after receiving the denial in writing;
- Specify that the State Board of Education’s decision on a charter school appeal is final;
- Authorize the establishment of charter school cooperatives;
- Remove the limits on the number of charter schools that can exist within a school district;
- Authorize a charter school to limit the enrollment process in order to target an additional student population;
- Require a charter school to annually determine its capacity;
- Authorize charter schools to use not-for-profit accounting principles;
- Authorize a charter school to file an appeal when the charter is terminated for certain reasons;
- Clarify that the charter school is responsible for the debts of the school;
- Authorize a charter school to directly apply to the Commissioner of Education for certain waivers;
- Authorize a charter school to allow certified teachers to teach out of field;
- Clarify that the five percent administrative fee that sponsors can assess is limited to certain funds; and
- Clarify that an employer or a consortium of business partners or employers may also establish a charter school-in-the-workplace.

In anticipation of an increase in the number of charter schools statewide, the Department of Education estimates that an additional staff member is required at an average annual cost of \$66,119. This anticipated increase in the number of charter schools may also increase administrative costs for school districts.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

By removing the limits on the number of charter schools that can exist within a school district, this bill may actually increase the number of statewide charter schools (charter schools are recognized as public schools). Consequently, this bill may not support the principle of less government.

B. PRESENT SITUATION:

**CHARTER SCHOOLS AND THEIR PURPOSE**

According to section 228.056, Florida Statutes, charter schools are part of the state's program of public education and are fully recognized as public schools. Current law specifies that the purpose of charter schools must be to improve student learning; increase learning opportunities for all students, with an emphasis placed on students that are identified as academically low achieving; encourage the use of different and innovative learning methods; increase learning opportunity choices for students; establish a new form of accountability for schools; require the measurement of learning outcomes and create innovative measurement tools; establish the school as the unit for improvement; and create new professional opportunities for teachers.

**CHARTER SCHOOL CONVERSIONS**

Subsection 228.056(1), Florida Statutes, specifies that creating a new school or converting an existing public school to a charter school are methods that may be used to form a charter school. In the situation where an existing public school, including a school-within-a-school, wants to convert to a charter school, subsection 228.056(3), Florida Statutes, requires the school board or school principal, teachers, parents, and/or the school advisory council to submit an application requesting permission to convert the existing school to a charter school.

**CHARTER SCHOOL SPONSOR & THE APPLICATION PROCESS**

Subsection 228.056(4), Florida Statutes, authorizes a school board to sponsor a charter school in the county over which the school board has jurisdiction. Specifically, a school board must receive and review all applications for a charter school. Within 60 days after receiving a charter school application, a school board must approve or deny a charter school application through a majority vote.

If a school board denies a charter school application, it must express in writing the specific reasons for which the charter school application was denied within 10 calendar days after rendering its decision. According to subsection 228.056(4)(b), Florida Statutes, a charter school applicant may appeal a school board's denial of a charter school application or its failure to render a decision on a charter school application to the State Board of Education within 30 calendar days after the school

board's denial of the application or failure to render a decision on the application. Within 60 calendar days after a charter school applicant files an appeal, the State Board of Education must accept or reject the school board's initial decision through a majority vote. Subsequently, the State Board of Education must remand the charter school application to the school board with its written recommendation specifying whether or not the school board should approve or deny the charter school application. Subsection 228.056(4)(c), Florida Statutes, requires the school board to act upon the recommendation of the State Board of Education within 30 calendar days after receiving the recommendation. The school board may fail to act in accordance with the recommendation of the State Board of Education if it determines that the recommendation is contrary to law or contrary to the best interest of the students or the community. The school board's action on the State Board of Education's recommendation is a final action subject to judicial review.

### **CONFLICT RESOLUTION**

Subsection 228.056(4)(f), Florida Statutes, specifies that the terms and conditions for the operation of a charter school must be set forth by the sponsor (school board) and the charter school applicant in a written contractual agreement (charter). Current law requires the sponsor and the charter school applicant to mutually agree to the provisions of the charter within six months. With the exception of disputes relating to charter school application denials, subsection 228.056(4)(f), Florida Statutes, requires the Department of Education to provide mediation services for any disputes relating to the charter school statute (section 228.056, Florida Statutes) that arise after the approval of a charter school application. If the Commissioner of Education determines that a dispute cannot be resolved through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings.

### **NUMBER OF CHARTER SCHOOLS**

Subsection 228.056(5), Florida Statutes, limits the number of newly created charter schools that can exist within a school district. The limits are based on the number of students that exist within a school district. Specifically, a school district that has at least 100,000 students can establish a maximum of 28 charter schools; a school district that has 50,000-99,999 students can establish a maximum of 20 charter schools; and a school district that has less than 50,000 students can establish a maximum of 12 charter schools. Current law specifies that an existing public school that converts to a charter school must not be counted toward the aforementioned limits. Additionally, a charter school or a sponsor can seek approval from the State Board of Education to increase the limit on the number of charter schools that can exist within a school district.

### **CHARTER SCHOOL ENROLLMENTS**

According to subsection 228.056(6)(b), Florida Statutes, a charter school must enroll an eligible student that submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such a situation, applicants are admitted through a random selection process.

A charter school is only authorized to limit the enrollment process in order to target specific student populations. Such populations include students within specific age groups or grade levels; students considered to be at risk of dropping out of school or academic failure; students who wish to enroll in a charter school-in-the-workplace; and students residing within a reasonable distance of the charter school.

### **CHARTER SCHOOL FINANCIAL INFORMATION**

Subsection 228.056(8)(i), Florida Statutes, requires charter schools to maintain all financial records that constitute their accounting system in accordance with the accounts and codes prescribed in the most recent issue of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools." Charter schools are required to provide annual financial information and

program cost information in the state required format to the school district so that the school district can submit the information to the state.

Charter schools that are operated by a municipality or a not-for-profit organization may use the accounting system of the municipality or the not-for-profit organization but must reformat the information contained in the accounting system for reporting purposes.

#### **NON-RENEWAL OR TERMINATION OF CHARTERS**

The provisions of subsection 228.056(10), Florida Statutes, permit the sponsor of a charter school to not renew the charter at the end of the charter's term for certain reasons. Such reasons include failure to meet the requirements for student performance stated in the charter; failure to meet generally accepted fiscal management standards; violation of the law; or any other demonstrated good cause.

Subsection 228.056(10)(c), Florida Statutes, requires the sponsor of a charter school to notify in writing the governing body of the charter school whether or not the charter will be renewed or terminated. This written notification must be submitted to the charter school at least 90 days before the actual renewal or termination of the charter. The written notification must also detail the specific reasons for renewing or terminating the charter and must inform the charter school that the governing body may, within 14 calendar days after receiving the notice, request an informal hearing before the sponsor. Should the governing body of the charter school request an informal hearing, the sponsor must conduct the hearing within 30 calendar days after receiving the request. Should the sponsor still decide to terminate or refuse to renew the charter, the charter school may appeal the decision, within 14 calendar days, to the State Board of Education.

Within 60 calendar days after a charter school files an appeal, the State Board of Education must accept or reject the school board's initial decision through a majority vote. Subsequently, the State Board of Education must provide the school board with its written recommendation specifying whether or not the school board should renew or terminate the charter. The school board is required to act upon the recommendation of the State Board of Education within 30 calendar days after receiving the recommendation. The school board may fail to act in accordance with the recommendation of the State Board of Education if it determines that the recommendation is contrary to law or contrary to the best interest of the students or the community. The school board's action on the State Board of Education's recommendation is a final action subject to judicial review.

Subsection 228.056(10)(d), Florida Statutes, authorizes a sponsor to terminate a charter immediately if it determines that good cause has been shown or if the health, safety, or welfare of the students is threatened. Under such a scenario, current law does not provide a charter school with the opportunity to request an informal hearing before the sponsor or appeal the decision to the State Board of Education.

Lastly, the provisions of subsection 228.056(10)(f), Florida Statutes, specify that the governing body of a charter school is responsible for all of the school's debts if the school's charter is terminated or not renewed.

#### **EXEMPTION FROM SCHOOL CODE**

According to subsection 228.056(11), Florida Statutes, a charter school must operate in accordance with its charter and must be exempt from all of the statutes of the Florida School Code, except those statutes specifically applying to charter schools; those statutes pertaining to the provision of services to students with disabilities; those statutes pertaining to civil rights; and those statutes pertaining to student health, safety, and welfare.

Subsection 228.056(11), Florida Statutes, authorizes the sponsor, upon the request of a charter school, to apply to the Commissioner of Education for a waiver of the provisions of chapters 230-239, Florida Statutes (these chapters are part of the school code), that are applicable to charter schools. However, the provisions of chapters 236 (public school finance & tax) and 237 (public school financial accounts & expenditures), Florida Statutes, are not eligible for a waiver if the waiver affects public school funding allocations or creates an inequity in public school funding.

#### **CHARTER SCHOOL TEACHERS**

Subsection 228.056(12)(f), Florida Statutes, requires charter school teachers to be certified. The subsection authorizes a charter school governing board to employ skilled selected non-certified personnel to provide instructional services or to assist instructional personnel as education paraprofessionals in the same manner as defined in chapter 231, Florida Statutes, and as provided by State Board of Education rule for charter school governing boards.

Additionally, subsection 228.056(12)(f), Florida Statutes, prohibits a charter school from employing an individual to provide instructional services or to serve as an education paraprofessional if the individual's teaching certificate or license is suspended or revoked.

#### **ADMINISTRATIVE FEES**

According to subsection 228.056(13)(e), Florida Statutes, a school district must provide certain administrative and educational services to charter schools. The services must include contract management services, FTE (full-time equivalent) data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services. Any administrative fee charged by the school district for the provision of services must be limited to five percent of the available funds "defined in paragraph (b)."

Subsection 228.056(13)(b), Florida Statutes, delineates the basis for funding students enrolled in a charter school. Specifically, funding for students enrolled in a charter school must be the sum of the school district's operating funds from the Florida Education Finance Program, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted FTE students in the school district; multiplied by the weighted FTE students for the charter school. Charter schools are entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program.

#### **CHARTER SCHOOLS-IN-THE WORKPLACE**

Subsection 228.056(22), Florida Statutes, establishes charter schools-in-the-workplace in order to increase business partnerships in education, reduce school and classroom overcrowding throughout the state, and offset the high costs associated with the construction of educational facilities. Charter schools-in-the-workplace may be established when a business partner provides the school facility to be used; enrolls students based upon a random lottery that involves all of the children of the employees of the business; and enrolls students according to the racial/ethnic balance reflective of the community or other public schools in the same school district.

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

#### **CHARTER SCHOOLS AND THEIR PURPOSE**

The bill prohibits a public school from using the term "charter" in its name or title unless the school is currently operating under a charter that has been granted pursuant to the charter school statute (section 228.056, Florida Statutes).

Additionally, the bill amends current law in order to expand the purpose of charter schools. The additional purpose of charter schools must be to provide rigorous competition within the public school district in order to stimulate continual improvements in all public schools, provide additional academic choices for parents and students, and expand the capacity of the public school system.

### **CHARTER SCHOOL CONVERSIONS**

This bill requires an existing public school to be in operation for at least two years before it submits an application to convert to a charter school.

### **CHARTER SCHOOL SPONSOR & THE APPLICATION PROCESS**

The bill prohibits a sponsor from charging a charter school applicant a fee related to the processing or consideration of the charter school application. Additionally, the sponsor is prohibited from considering or approving a charter school application solely because an applicant promises to provide the sponsor with some kind of a future payment.

The bill also stipulates that a charter school applicant may appeal a school board's denial of a charter school application or its failure to render a decision on a charter school application to the State Board of Education within 30 calendar days after *receiving* the school board's [written] denial of the application or failure to render a decision on the application, rather than after the school board's denial of the application or failure to render a decision on the application.

Since a school board must express in writing the specific reasons for which the charter school application was denied within 10 calendar days after rendering its decision, the above provision appears to provide a denied charter school applicant with some additional time to prepare an appeal based on the specific reasons that were provided in writing.

Once the State Board of Education remands a charter school application to the school board with its written recommendation specifying whether or not the school board should approve or deny the charter school application, this bill requires the school board to act upon the *decision*, rather than the recommendation, of the State Board of Education and no longer permits a school board to fail to act in accordance with the recommendation of the State Board of Education. Consequently, the State Board of Education's decision on an appeal is final.

### **CONFLICT RESOLUTION**

The bill clarifies that the Department of Education must provide mediation services for any disputes relating to the charter school statute (section 228.056, Florida Statutes) that arise after the approval of a charter school application as well as any dispute relating to the approved charter. However, the bill no longer prohibits the Department of Education from mediating disputes relating to charter school application denials. Instead, the bill simply stipulates that the Department of Education is not required to mediate disputes relating to charter school application denials.

### **CHARTER SCHOOL COOPERATIVES**

The bill specifically authorizes charter schools to enter into cooperative agreements in order to form charter school cooperative organizations that may provide certain services. The provided services include charter school planning and development, direct instructional services, contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development. By authorizing charter schools to enter into cooperative agreements, it appears that charter schools may be able to consolidate and share resources and services.

### **NUMBER OF CHARTER SCHOOLS**

The bill removes the limits on the number of newly created charter schools that can exist within a school district. Removing the limits on the number of newly created charter schools that can exist

within a school district may provide some relief to school districts that have or are near the maximum number of charter schools permitted by law. An increase in the number of charter schools that exist within a school district may stimulate competition between charter schools and traditional public schools and may enhance student learning.

#### **CHARTER SCHOOL ENROLLMENTS**

The bill specifically directs the governing board of a charter school to annually determine the capacity of the charter school. Requiring the governing board of a charter school to determine the school's capacity appears to prevent other entities such as a school district from imposing an arbitrary capacity on student enrollment.

The bill also authorizes a charter school to limit the enrollment process in order to target an additional student population. In addition to students within specific age groups or grade levels, students considered to be at risk of dropping out of school or academic failure, students who wish to enroll in a charter school-in-the-workplace, and students residing within a reasonable distance of the charter school; a charter school may limit the enrollment process in order to target students that meet reasonable academic, artistic, or other eligibility standards.

#### **CHARTER SCHOOL FINANCIAL INFORMATION**

This bill authorizes any charter school to employ generally accepted accounting principles that are employed by not-for-profit organizations. However, the bill does not require the charter schools to reformat the information for reporting purposes. If charter schools that employ not-for-profit accounting principles are not required to reformat the information for reporting purposes, the information may not be comparable to the information reported by other public schools.

#### **NON-RENEWAL OR TERMINATION OF CHARTERS**

This bill authorizes the governing body of a charter school, whose charter has been terminated immediately because good cause has been shown or the health, safety, or welfare of the students has been threatened, to appeal the decision to the State Board of Education within 14 days after receiving the sponsor's decision to terminate the charter. Although providing a charter school with an opportunity to appeal the decision may afford the charter school with some due process rights, it may also be detrimental to students if their health, safety, or welfare has actually been threatened and the school is permitted to continue to operate during the ongoing appeal process.

This bill also clarifies that a charter school, not the governing body of a charter school, is responsible for all of the school's debts if the school is terminated or not renewed. It should be noted that the Department of Education legally opined that the individual members of a charter school's governing body are not individually liable for the debts of the school if the school's charter is terminated or not renewed.

#### **EXEMPTION FROM SCHOOL CODE**

HB 1361 authorizes the governing board of a charter school, rather than the sponsor of a charter school, to apply to the Commissioner of Education for a waiver of the provisions of chapters 230-239, Florida Statutes (these chapters are part of the school code), that are applicable to charter schools. Upon receiving the waiver request, the commissioner must provide a copy of the request to the sponsor. Should the commissioner grant the waiver, he must notify the charter school's governing board and its sponsor of his decision.

#### **CHARTER SCHOOL TEACHERS**

The bill authorizes a charter school governing board to employ skilled selected non-certified personnel to provide instructional services or to assist instructional personnel as education paraprofessionals in the same manner as defined in chapter 231, Florida Statutes, as provided by

the governing board's procedures or policies pursuant to State Board of Education rule for charter school governing boards.

The bill also authorizes the governing board to approve the provision of instructional services by certified teachers that are teaching out of their field.

Additionally, the bill clarifies that a charter school may not knowingly employ an individual to provide instructional services or to serve as an education paraprofessional if the individual's teaching certificate or license is suspended or revoked.

### **ADMINISTRATIVE FEES**

While any administrative fee charged by the school district for the provision of services to a charter school must be limited to five percent of the charter school's available operating and categorical funds, this bill clarifies that the five percent fee does not include capital outlay funds, federal and state grants, or any other funds, unless explicitly provided by law.

### **CHARTER SCHOOLS-IN-THE-WORKPLACE**

The bill clarifies that an employer or a consortium of business partners or employers may also establish a charter school-in-the-workplace upon providing the school facility to be used; enrolling students based upon a random lottery that involves all of the children of the employees; and enrolling students according to the racial/ethnic balance reflective of the community or other public schools in the same school district.

#### **D. SECTION-BY-SECTION ANALYSIS:**

**SECTION 1:** Amends section 228.056, Florida Statutes, to (1) prohibit a public school from using the term "charter" in its name or title unless the school is currently operating under a charter; (2) expand the purpose of charter schools; (3) require existing public schools to be in operation for at least two years before converting to a charter school; (4) prohibit a sponsor from charging an application fee; (5) permit denied charter school applicants to file an appeal within 30 days after receiving the denial in writing; (6) specify that the State Board of Education's decision on an appeal is final; (7) authorize the establishment of charter school cooperatives; (8) remove the limits on the number of charter schools that can exist within a school district; (9) authorize a charter school to limit the enrollment process in order to target an additional student population; (10) require a charter school to annually determine its capacity; (11) authorize charter schools to use not-for-profit accounting principles; (12) authorize a charter school to file an appeal when the charter is terminated for certain reasons; (13) clarify that the charter school is responsible for the debts of the school; (14) authorize a charter school to directly apply to the Commissioner of Education for certain waivers; (15) authorize a charter school to allow certified teachers to teach out of field; (16) clarify that the five percent administrative fee is limited to certain funds; and (17) clarify that an employer or a consortium of business partners or employers may also establish a charter school-in-the-workplace.

**SECTION 2:** Establishes an effective date of July 1, 2001.

#### **III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

##### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

This bill does not appear to have a fiscal impact on state revenues.



2. Expenditures:

Please see FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

Please see FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By removing the limits on the number of charter schools that can exist within a school district, this bill may have a positive fiscal impact on the private sector because corporate developers may be provided with an opportunity to construct additional charter school facilities.

D. FISCAL COMMENTS:

In anticipation of an increase in the number of charter schools statewide, the Department of Education estimates that an additional staff member is required at an average annual cost of \$66,119. This anticipated increase in the number of charter schools may also increase administrative costs for school districts.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties and municipalities have to raise revenues.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional issues.

B. RULE-MAKING AUTHORITY:

This bill does not provide additional rule-making authority.

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C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Staff Director:

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Daniel Furman

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Daniel Furman