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DATE: April 24, 2001

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FISCAL POLICY AND RESOURCES
ANALYSIS**

BILL #: CS/HB 1361

RELATING TO: Charter Schools

SPONSOR(S): Committee on Education Innovation and Representative(s) Arza & others

TIED BILL(S): None

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

- (1) EDUCATION INNOVATION YEAS 14 NAYS 0
- (2) FISCAL POLICY AND RESOURCES YEAS 13 NAYS 0
- (3) COUNCIL FOR LIFELONG LEARNING
- (4)
- (5)

I. SUMMARY:

CS/HB 1361 amends various provisions in current law relating to charter schools in order 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) require a school board that denies an existing public school's application to convert to a charter school to provide a written notice that specifies the exact reasons for the denial; (5) prohibit a sponsor from charging an application fee; (6) permit denied charter school applicants to file an appeal within 30 days after receiving the denial in writing; (7) specify that the State Board of Education's decision on an appeal is final; (8) authorize the establishment of charter school cooperatives; (9) remove the limits on the number of charter schools that can exist within a school district; (10) authorize a charter school to limit the enrollment process in order to target additional student populations; (11) require a charter school to annually determine its capacity; (12) provide additional criteria that must be used for the approval of a charter; (13) authorize a charter school to file an appeal when the charter is terminated for certain reasons; (14) authorize a charter school to directly apply to the Commissioner of Education for certain waivers; (15) clarify that the five percent administrative fee is limited to certain funds; (16) require that PECO maintenance funds generated by a conversion charter school remain with that school; (17) require the Department of Education to distribute capital outlay funds on a monthly basis, rather than twice a year; (18) require each public school that is in a charter school district to vote on whether or not to convert the public school to a charter school within a certain time period; and (19) specify the eligibility criteria that a charter school student must meet in order to participate in any interscholastic extracurricular activity offered at the public school that the student would otherwise have to attend.

This bill also authorizes the establishment of charter schools-in-a-development and charter schools-in-a-municipality in order to encourage residential developers and municipalities to provide the land and/or facility to be used for a charter school. The provided land and facility are exempt from ad valorem taxes.

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:

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|-----------------------------------|---|--|---|
| 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.

Subsection 228.056(4), Florida Statutes, further requires the sponsor to monitor and review the charter school in its progress toward the goals established in the charter, as well as the revenues and expenditures of the charter school.

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.

CRITERIA FOR A CHARTER

Subsection 228.056(9)(a), Florida Statutes, specifies the criteria that must be used to approve a charter. The criteria used for the approval of a charter must be based on the following:

- The charter school's mission, the students and the ages of students that will be served, and the grades that will be included in the charter school;
- The focus of the charter school's curriculum, the instructional methods that will be used, and any distinctive instructional techniques that will be employed;
- The current incoming baseline standard of student achievement, the outcomes that will be achieved, and the method of measurement that will be used;
- The methods that will be used to identify the educational strengths and needs of students;
- A method determining if a student satisfies high school graduation requirements;
- A method for resolving conflicts between the governing body of the charter school and the sponsor;
- The charter school's admission and dismissal procedures, as well as its student conduct code;
- The methods by which the charter school will achieve a racial/ethnic balance reflective of the community it serves or other public schools in the same school district;
- The financial and administrative management of the charter school;
- The manner in which the charter school will be insured;
- The term of the charter;
- The facilities that the charter school will use and their location;
- The qualifications that will be required of the charter school's teachers;
- The governance structure of the charter school;
- A timetable for implementing the charter; and
- The development of alternative arrangements for current students that choose not to attend a charter school that was converted from an existing public school.

PROGRESS REPORTS TO THE SPONSOR & OVERSIGHT

Subsection 228.056(9)(d), Florida Statutes, requires the governing board of a charter school to submit annual progress reports to the sponsor that must at least include the charter school's progress toward achieving the goals outlined in its charter; the information required in the annual school report pursuant to current law; financial records of the charter school; and salary and benefit levels of charter school employees.

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.

REPORTING OF STUDENT ENROLLMENT

The provisions of subsection 228.056(13), Florida Statutes, require students enrolled in a charter school to be funded as if they are enrolled in a basic program or a special program at any other public school in the school district. Each charter school must report its student enrollment to the school district and the school district must include each charter school's student enrollment in the school district's report of student enrollment.

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.

LEGISLATIVE REVIEW

According to subsection 228.056(20)(b), Florida Statutes, the Legislature is required to review the operation of charter schools during the 2005 Legislative Session.

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. Any portion of a facility used for a charter school must be exempt from ad valorem taxes.

CHARTER SCHOOL CAPITAL OUTLAY FUNDING

Section 228.0561, Florida Statutes, provides for charter school capital outlay funding and specifies that unless otherwise provided in the General Appropriations Act, the capital outlay allocation for each charter school must be determined by multiplying the charter school's projected student enrollment by one-fifteenth of the cost-per-student station for an elementary, middle, or high school. If the appropriated funds are not sufficient, the Commissioner of Education must prorate the funds among the charter schools.

Section 228.0561, Florida Statutes, requires that funds be distributed on the basis of capital outlay full-time equivalent (FTE) membership by grade level, which must be calculated by averaging the results of the second (October) and third (February) enrollment surveys. Current law requires that

60% of the funds be distributed after the second enrollment survey and the balance of the funds be distributed after the third enrollment survey. The Commissioner of Education is required to adjust subsequent distributions as necessary to reflect each charter school's actual student enrollment.

CHARTER SCHOOL DISTRICTS

Section 228.058, Florida Statutes, authorizes the State Board of Education to enter into a performance contract with a maximum of six school districts for the purpose of establishing them as charter school districts. Subsection 228.058(1), Florida Statutes, defines a charter school district as a school district in which the school board submitted and the State Board of Education approved a charter proposal that exchanges statutory and rule exemption for the agreement to meet certain performance goals included in the proposal. Subsection 228.058(3), Florida Statutes, requires the school board to be the governing board of the charter school district. The school board is responsible for supervising the schools in the charter school district and is authorized to charter each of its existing public schools, apply for deregulation of its public schools, or otherwise establish performance-based contractual relationships with its public schools for the purpose of providing them greater autonomy with accountability for their performance.

INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES

The provisions of subsection 232.425(3), Florida Statutes, specify the eligibility criteria that a traditional public school student must meet in order to participate in any interscholastic extracurricular activity.

Additionally, subsection 232.425(3)(c), Florida Statutes, specifies the eligibility criteria that a home education student must meet in order to participate in any interscholastic extracurricular activity offered at the public school that the student would otherwise have to attend. Specifically, a home education student is eligible to participate in any interscholastic extracurricular activity at the public school that the student would otherwise have to attend if the following conditions are met:

- The home education student must comply with the requirements of the home education program pursuant to current law;
- The home education student must maintain a 2.0 grade point average in all subjects while participating in any interscholastic extracurricular activity;
- The home education student must comply with the same residency requirements that students at the public school must comply with;
- The home education student must comply with the same standards of acceptance, behavior, and performance that are required of other students in interscholastic extracurricular activities; and
- The home education student must register with the public school his or her intent to participate in an interscholastic extracurricular activity before the beginning date of the season for the activity.

Additionally, a student that transfers from a home education program to a public school before or during the first grading period is academically eligible to participate in any interscholastic extracurricular activity during the first grading period if he or she maintained a 2.0 grade point average during the previous academic year or if he or she fulfilled the requirements of an academic performance contract if his or her grade point average was less than a 2.0 during the previous academic year.

Lastly, a public or nonpublic school student who is academically ineligible to participate in an interscholastic extracurricular activity is also ineligible to participate in an interscholastic extracurricular activity as a home education student until he or she maintains a 2.0 grade point average during one grading period or until he or she fulfills the requirements of an academic performance contract if his or her grade point average is less than a 2.0 during one grading period.

Although provisions exist in current law for a home education student to participate in any interscholastic extracurricular activity offered at the public school that the student would otherwise have to attend, similar provisions are not afforded to a charter school student.

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.

Additionally, the bill requires a school board that denies an existing public school's application to convert to a charter school to provide a written notice within 30 days that specifies the exact reasons for the denial. The notice must be accompanied by documentation that supports the reasons for the denial.

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. The sponsor is also 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. Furthermore, the bill specifies that a charter school is exempt from the sponsor's policies.

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 *decision*, rather than recommendation, specifying whether or not the school board should approve or deny the charter school application, this bill requires the school board to act in accordance with 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. The bill continues to prohibit the Department of Education from mediating 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 additional student populations. 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 a charter school; a charter school may limit the enrollment process in order to target students that meet reasonable academic, artistic, or other eligibility standards; students who wish to enroll in a charter school-in-a-development or charter school-in-a-municipality; and students articulating from one charter school to another charter school.

CHARTER SCHOOL FINANCIAL INFORMATION

This bill authorizes any charter school to employ accounting principles that are employed by not-for-profit organizations. Additionally, the bill requires these charter schools to reformat the information for reporting purposes. Since charter schools that employ not-for-profit accounting principles are required to reformat the information for reporting purposes, the information should be comparable to the information reported by other public schools.

CRITERIA FOR A CHARTER

This bill includes additional criteria that must be used for the approval of a charter. The additional criteria used for the approval of a charter must be based on (1) the charter school's means for ensuring accountability by analyzing student performance data and evaluating the effectiveness and efficiency of its major educational programs; (2) the charter school's description of clearly delineated responsibilities and the policies and practices needed to effectively manage the charter school; (3) the charter school's description of procedures that identify various risks and its plan to ensure the safety and security of its school population; (4) the charter school's identification and acquisition of appropriate technologies needed to improve educational and administrative performance; and (5) the charter school's potential strategies that will be used to recruit, hire, train, and retain qualified personnel.

Since current law specifies that the incoming baseline standard of student achievement, the outcomes that will be achieved, and the method of measurement that will be used are all criteria that must be used for the approval of a charter, this bill requires the school district to provide academic student performance data to charter schools for each of the students leaving existing public schools and provide academic progress rates of comparable student populations in the school district.

Although a charter school's facilities and their location is a current criterion that is used for the approval of a charter, this bill requires an applicant to submit a financial plan identifying the means for (1) providing funds to purchase real property; (2) constructing, renovating, repairing, and maintaining school facilities; (3) purchasing, lease-purchasing, or leasing permanent or relocatable facilities; and (4) purchasing vehicles for transportation. The bill prohibits funds appropriated by the Legislature for charter school fixed capital outlay purposes to be included in the financial plan.

PROGRESS REPORTS TO THE SPONSOR & OVERSIGHT

While current law requires the governing board of a charter school to submit annual progress reports to the sponsor that must at least include the charter school's progress toward achieving the goals outlined in its charter; the information required in the annual school report pursuant to current law; financial records of the charter school; and salary and benefit levels of charter school employees, this bill requires the governing board of a charter school to exercise continuing oversight over charter school operations.

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

CS/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

This 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.

REPORTING OF STUDENT ENROLLMENT

While each charter school must presently report its student enrollment to the school district and the school district must include each charter school's student enrollment in the school district's report of student enrollment, this bill requires each charter school's student enrollment report to be submitted

to the school district in the same format that the school district uses to submit its student enrollment report to the Department of Education.

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.

LEGISLATIVE REVIEW

This bill requires the Legislature to review the operation of charter schools during the 2003, rather than the 2005, Legislative Session.

CHARTER SCHOOLS-IN-A-DEVELOPMENT AND CHARTER SCHOOLS-IN-A-MUNICIPALITY

This bill establishes charter schools-in-a-development and charter schools-in-a-municipality. A charter school-in-a-development is established when a developer of a residential or other project provides the land and/or school facility to be used; enrolls students based upon a random lottery that involves all of the children of the residents of the development; and enrolls students according to the racial/ethnic balance reflective of the community or other public schools in the same school district. Any portion of the land and facility used for a charter school must be exempt from ad valorem taxes.

A charter school-in-a-municipality is established when a municipality possesses a charter; enrolls students based upon a random lottery that involves all of the children of the residents of the municipality; and enrolls students according to the racial/ethnic balance reflective of the community or other public schools in the same school district. Any portion of the land and facility used for a charter school must be exempt from ad valorem taxes.

CHARTER SCHOOL CAPITAL OUTLAY FUNDING

This bill deletes the provisions that require that 60% of charter school capital outlay funds be distributed after the second enrollment (October) survey and the balance of the funds be distributed after the third enrollment survey (February). Instead, the bill requires the Department of Education to distribute charter school capital outlay funds on a monthly basis beginning in the first fiscal year quarter. The monthly distribution must be based on one-twelfth of the amount the Department of Education expects the charter school to receive during the fiscal year. This new capital outlay distribution can alleviate the financial strains that some charter schools may incur by having to wait until October to receive their first capital outlay distribution.

The bill also requires that Public Education Capital Outlay (PECO) maintenance funds or any other maintenance funds generated by a conversion charter school facility must remain with that conversion charter school. This requirement appears to prohibit any school district from not allocating PECO maintenance funds to conversion charter schools.

CHARTER SCHOOL DISTRICTS

While current law authorizes the school board of a charter school district to charter each of its existing public schools, CS/HB 1361 requires each public school that has been in operation for at least two years within a school district that operates under a charter to vote on whether or not to convert the public school to a charter school within one year after the charter school district is approved. If a charter school district was approved prior to July 1, 2001, the required vote must occur no later than June 30, 2002.

INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES

This bill affords a charter school student with the same opportunity that is currently afforded to a home education student that wishes to participate in any interscholastic extracurricular activity

offered at the public school that the student would otherwise have to attend. The bill specifies the eligibility criteria that a charter school student (similar to a home education student) must meet in order to participate in any interscholastic extracurricular activity offered at the public school that the student would otherwise have to attend. Specifically, a charter school student is eligible to participate in any interscholastic extracurricular activity at the public school that the student would otherwise have to attend if the following conditions are met:

- The charter school student must comply with the requirements of the charter school education program determined by the governing board;
- The charter school student must maintain a 2.0 grade point average in all subjects while participating in any interscholastic extracurricular activity;
- The charter school student must comply with the same residency requirements that students at the public school must comply with;
- The charter school student must comply with the same standards of acceptance, behavior, and performance that are required of other students in interscholastic extracurricular activities; and
- The charter school student must register with the public school his or her intent to participate in an interscholastic extracurricular activity before the beginning date of the season for the activity.

Additionally, a student that transfers from a charter school to a public school before or during the first grading period is academically eligible to participate in any interscholastic extracurricular activity during the first grading period if he or she maintained a 2.0 grade point average during the previous academic year or if he or she fulfilled the requirements of an academic performance contract if his or her grade point average was less than a 2.0 during the previous academic year.

Lastly, a public or nonpublic school student who is academically ineligible to participate in an interscholastic extracurricular activity is also ineligible to participate in an interscholastic extracurricular activity as a charter school student until he or she maintains a 2.0 grade point average during one grading period or until he or she fulfills the requirements of an academic performance contract if his or her grade point average is less than a 2.0 during one grading period.

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) require a school board that denies an existing public school's application to convert to a charter school to provide a written notice that specifies the exact reasons for the denial; (5) prohibit a sponsor from charging an application fee; (6) permit denied charter school applicants to file an appeal within 30 days after receiving the denial in writing; (7) specify that the State Board of Education's decision on an appeal is final; (8) authorize the establishment of charter school cooperatives; (9) remove the limits on the number of charter schools that can exist within a school district; (10) authorize a charter school to limit the enrollment process in order to target additional student populations; (11) require a charter school to annually determine its capacity; (12) authorize charter schools to use not-for-profit accounting principles; (13) provide additional criteria that must be used for the approval of a charter; (14) authorize a charter school to file an appeal when the charter is terminated for certain reasons; (15) clarify that the charter school is responsible for the debts of the school; (16) authorize a charter school to directly apply to the Commissioner of Education for certain waivers; (17) require charter school student enrollment reports to be submitted in a certain format; (18) clarify that the five percent administrative fee is limited to certain funds; (19) require that PECO maintenance funds generated by a conversion charter school remain with that school; (20) change the date of the Legislative

review of charter schools; and (21) establish charter schools-in-a-development and charter schools-in-a-municipality.

SECTION 2: Amends subsection 228.0561(1), Florida Statutes, in order to modify the distribution method of charter school capital outlay funds.

SECTION 3: Amends section 228.058, Florida Statutes, in order to require each public school that is in a charter school district to vote on whether or not to convert the public school to a charter school within a certain time period.

SECTION 4: Amends subsection 232.425(3), Florida Statutes, in order to specify the eligibility criteria that a charter school student must meet in order to participate in any interscholastic extracurricular activity offered at the public school that the student would otherwise have to attend.

SECTION 5: 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.

By establishing charter schools-in-a-development, this bill may also have a positive fiscal impact on the private sector because corporate developers are encouraged to provide the land and/or facilities to be used for a charter school by exempting the land and facilities from ad valorem taxes.

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.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 10, 2001, the Committee on Education Innovation adopted a strike-everything amendment that primarily differs from the original bill in the following ways:

- The amendment requires a school board that denies an existing public school's application to convert to a charter school to provide a written notice that specifies the exact reasons for the denial;
- The amendment permits charter schools to target students that (1) meet academic or artistic standards, (2) articulate from one charter school to another charter school, and (3) wish to enroll in a charter school-in-a-development or a charter school-in-a-municipality;
- The amendment requires a school district to provide academic student performance data to charter schools for each of the students leaving existing public schools and provide academic progress rates of comparable student populations in the school district;
- The amendment requires charter schools to analyze student performance data in order to ensure accountability;
- The amendment requires charter schools to plan to ensure the safety and security of the school population;
- The amendment requires charter schools to maintain a specific facilities financial plan;
- The amendment requires charter schools to identify potential strategies used to recruit and retain qualified personnel;
- The amendment requires PECO maintenance funds generated by a conversion charter school to remain with that school;
- The amendment requires the Department of Education to distribute capital outlay funds on a monthly basis, rather than twice a year;

- The amendment requires each public school that is in a charter school district to vote on whether or not to convert the public school to a charter school within a certain time period;
- The amendment specifies the eligibility criteria that a charter school student must meet in order to participate in any interscholastic extracurricular activity offered at the public school that the student would otherwise have to attend; and
- The amendment authorizes the establishment of charter schools-in-a-development and charter schools-in-a-municipality.

The Committee on Education Innovation reported the bill favorably as a committee substitute.

On April 24, 2001, the Committee on Fiscal Policy and Resources adopted 7 amendments to the Committee Substitute.

Amendment 1 requires the School Board to expedite consideration of a resolution which would comply with Revenue Procedure 82-26 of the Internal Revenue Service.

Amendment 2 clarifies that the entrants in a admission lottery for a school-in-a-development shall not be limited to children of the residents of that development and that the entrants in a admission lottery for a school-in-a-municipality shall not be limited to children of the residents of that municipality.

Amendment 3 requires the governing board of a charter school to adopt and maintain an annual operating budget

Amendment 4 specifies that the qualifications of the teachers in a charter school shall be disclosed to a parent upon the submission of an application for enrollment.

Amendment 5 specifies that PECO maintenance funds shall be provided to a conversion charter school in the same manner that the funds are provided to traditional public schools

Amendment 6 clarifies that the charter school, in conjunction with the sponsor, will determine the charter school's capacity.

Amendment 7 provides that the charter of a charter school may be immediately terminated if the sponsor determines that the health, safety, or welfare of the students is threatened.

VII. SIGNATURES:

COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Staff Director:

Daniel Furman

Daniel Furman

AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Staff Director:

Kama Monroe

Greg Turbeville