

**STORAGE NAME:** h1665s1.llc.doc  
**DATE:** February 28, 2002

**HOUSE OF REPRESENTATIVES**  
**COUNCIL FOR LIFELONG LEARNING**  
**ANALYSIS**

**BILL #:** CS 1665  
**RELATING TO:** Charter Schools  
**SPONSOR(S):** Council for Lifelong Learning and Representative Ritter  
**TIED BILL(S):** None

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

- (1) EDUCATION INNOVATION YEAS 12 NAYS 0
  - (2) COUNCIL FOR LIFELONG LEARNING YEAS 14 NAYS 0
  - (3)
  - (4)
  - (5)
- 

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

This committee substitute changes the date that charter school facilities must comply with the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code from January 1, 2001 to the effective date of the Florida Building Code, which presumably is March 1, 2002.

This committee substitute requires charter school facilities to comply with the requirements for public education facilities specified in the Florida Building Code or with the requirements of educational occupancies specified in the Florida Building Code. However, facilities owned by or leased from a school board must comply with the requirements for public education facilities.

This committee substitute provides that charter schools are to be classified as public schools for the purpose of zoning approval, the assessment of zoning fees, site plan fees, and development fees. Additionally, this committee substitute exempts charter school facilities from being assessed building permit fees, except as provided in current law, and impact fees or service availability fees.

This committee substitute requires municipalities and counties to adopt procedures to ensure that administrative reviews and public hearings involving charter schools are scheduled and conducted on an expedited basis. Specifically, a charter school matter that involves an administrative review must be resolved by the municipality or county within 30 days, while a charter school matter that involves a public hearing and permits an appeal to a board of adjustment, city or town council, or board of supervisors must be resolved by the municipality or county within 90 days.

Lastly, this committee substitute no longer requires the purpose of a charter school to be all of the criteria outlined in current law, but rather an individual charter school is not required to comply with all the purposes outlined in current law.

This committee substitute does not appear to have an immediate fiscal impact on state or local governments (Please see Fiscal Comments for additional information).

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 type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

This committee substitute may not support the principle of less government because it increases regulations by requiring municipalities and counties to adopt procedures to ensure that hearings and administrative reviews of charter schools are conducted.

B. PRESENT SITUATION:

**Charter Schools and their Purpose**

According to s. 228.056, F.S., 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.
- Create new professional opportunities for teachers.
- Provide rigorous competition within the public school district to stimulate continual improvement in all public schools.
- Provide additional academic choices for parents and students.
- Expand the capacity of the public school system.

**Charter School Facilities**

Provisions in s. 228.056(17)(a), F.S., require a charter school to utilize facilities that comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to s. 235.26, F.S., or with applicable state minimum building codes pursuant to ch. 553, F.S., and state minimum fire protection codes pursuant to s. 633.025, F.S.

After January 1, 2001, provisions in s. 228.056(17)(c), F.S., require a charter school to utilize facilities that comply with the Florida Building Code (FBC), pursuant to ch. 553, F.S., and the Florida Fire Prevention Code, pursuant to ch. 633, F.S.

**State Uniform Building Code for Public Educational Facilities Construction**

According to s. 235.26(1), F.S., the Florida Building Commission must adopt a uniform statewide building code for the planning and construction of public educational and ancillary plants within the

Florida Building Code by July 1, 2001. The State Uniform Building Code must include standards relating to:

- Prefabricated facilities or factory-built facilities that are designed to be portable, relocatable, demountable, or reconstructible and are primarily used as classrooms.
- The sanitation of educational and ancillary plants and the health of occupants of educational and ancillary plants.
- The safety of occupants of educational and ancillary plants.
- Accessibility for children.
- The performance of life cycle cost analyses on alternative architectural and engineering designs to evaluate their energy efficiencies.

According to s. 235.26(2)(a), F.S., all public educational and ancillary plants constructed by a school board must conform to the Florida Building Code and the Florida Fire Prevention Code, and such plants are exempt from all other state building codes; county, municipal, or other local amendments to the Florida Building Code and local amendments to the Florida Fire Prevention Code; building permits, and assessments of fees for building permits, except as provided in s. 553.80, F.S., ordinances; road closures; and impact fees or service availability fees.

### **The Florida Building Code (FBC)**

Pursuant to s. 553.73(1)(a), F.S., the Florida Building Code must contain or incorporate all rules and laws that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities.

The Florida Building Code establishes minimum safety standards for the design and construction of buildings by addressing such issues as structural integrity; mechanical, plumbing, electrical, lighting, heating, air conditioning, ventilation, fireproofing, and exit systems; safe materials; energy efficiency; and accessibility by persons with physical disabilities.

Section 423, FBC, outlines state requirements for Public Educational Facilities. According to the Department of Education, charter schools that are on public property are subject to this section of the FBC. Public Education Facilities must comply with the Florida Building Code and the Uniform Fire Safety Standards as adopted by the State Fire Marshal. In addition to complying with the Florida Building Code and the Uniform Fire Safety Standards as adopted by the State Fire Marshal, s. 423, FBC, requires public educational facilities to comply with the following federal and state laws and rules:

- State Requirements for Educational Facilities (SREF)
- Federal Emergency Management Agency rules and regulations.
- Florida Statutes and state rules, including, but not limited to ch. 235, 240, 255, 442, 468, 471, 481, 489, 553, 633, and s. 287.055, F.S.
- Accessibility Requirements for Children's Environment.
- The handbook for public playground safety.
- The American National Standard Safety Color Code for Marking Physical Hazards.
- The American Society of Civil Engineers.
- Life Cycle Cost Guidelines for Materials and Buildings for Florida's Public Educational Facilities.

Section 306, FBC, relates to educational occupancy. It does not appear to clearly define the scope of an educational occupancy. According to the Department of Community Affairs, an educational occupancy can be a public or private facility. Section 306, FBC, states that all public educational occupancies must comply with s. 423, FBC. However, non-public educational occupancies may not

be subject to s. 423, FBC, and may only be required to follow the minimum safety standards in the Florida Building Code.

### **Fire Safety Codes**

According to s. 633.025, F.S., the Florida Fire Prevention Code and the Life Safety Code adopted by the State Fire Marshal constitute the state minimum fire protection codes. Pursuant to s. 633.0215(1), F.S., the Florida Fire Prevention Code must contain or incorporate by reference all fire safety rules and laws that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities. Additionally, the code is statutorily required to include the National Fire Protection Association's Fire Prevention Code and its Life Safety Code.

### **Non-Renewal or Termination of Charters**

The provisions of s. 228.056(11), F.S., permit the sponsor (school district) of a charter school to not renew the charter at the end of the charter's term for certain reasons or to terminate the charter during the term of the charter for certain reasons. Pursuant to s. 228.056(11)(e), F.S., all school board property and improvements, furnishings, and equipment purchased with public funds must automatically revert to the school board if a school's charter is not renewed or is terminated.

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

This committee substitute changes the date that charter school facilities must comply with the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code from January 1, 2001 to the effective date of the Florida Building Code, which presumably is March 1, 2002.

This committee substitute requires charter school facilities to comply with the requirements for public education facilities specified in the Florida Building Code or with the requirements of educational occupancies specified in the Florida Building Code. However, facilities owned by or leased from a school board must comply with the requirements for public education facilities. It appears that this committee substitute requires charter schools that utilize public facilities to comply with the more stringent requirements of public education facilities specified in the Florida Building Code. Conversely, it appears that this committee substitute requires charter schools that utilize non-public facilities to comply with the less stringent requirements of educational occupancies specified in the Florida Building Code.

This committee substitute provides that charter schools are to be classified as public schools for the purpose of zoning approval, the assessment of zoning fees, site plan fees, and development fees. Additionally, this committee substitute exempts charter school facilities from being assessed building permit fees, except as provided in s. 553.80, F.S., and impact fees or service availability fees. Section 228.056(1), F.S., currently states that charter schools are fully recognized as public schools.

This committee substitute requires municipalities and counties to adopt procedures to ensure that administrative reviews and public hearings involving charter schools are scheduled and conducted on an expedited basis. Specifically, a charter school matter that involves an administrative review must be resolved by the municipality or county within 30 days, while a charter school matter that involves a public hearing and permits an appeal to a board of adjustment, city or town council, or board of supervisors must be resolved by the municipality or county within 90 days.

Lastly, this committee substitute no longer requires an individual charter school to comply with all of the purposes listed in current law.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends s. 228.056, F.S., to (1) revise provisions relating to the purpose of charter schools; (2) revise provisions relating to the compliance of the Florida Building Code; (3) require charter schools to be classified as public schools for the purpose of zoning approval and certain fees; and (4) provide requirements for administrative reviews and public hearings involving charter schools.

**Section 2:** Establishes an effective date of July 1, 2002.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

This committee substitute does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Please see Fiscal Comments.

2. Expenditures:

Please see Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Please see Fiscal Comments.

D. FISCAL COMMENTS:

It is possible that a school board may have to expend additional dollars in order to repair or renovate a charter school facility that reverts to the school board upon the termination of a school's charter because the school's facilities comply with the less stringent requirements of educational occupancies specified in the Florida Building Code. The likelihood of this scenario is unknown.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This committee substitute does not appear to require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This committee substitute does not appear to reduce the authority that counties or municipalities have to raise revenues.

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

This committee substitute does not appear to reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This committee substitute does not appear to violate any constitutional provisions.

B. RULE-MAKING AUTHORITY:

This committee substitute does not grant additional rule-making authority.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 28, 2002, the Council for Lifelong Learning adopted two amendments without objection. The amendments primarily differ from the original bill in the following ways:

- Section 228.056(2), F.S., does not require an individual charter school to comply with all the purposes listed in current law.
- Charter schools are classified as public schools for the purpose of zoning approvals, the assessment of zoning fees, site plan fees, and development fees.

The Council for Lifelong Learning passed this bill favorable as a committee substitute.

VI. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Trevor Mask

Staff Director:

Daniel Furman

AS REVISED BY THE COUNCIL FOR LIFELONG LEARNING:

Prepared by:

Trevor Mask

Council Director:

Patricia Levesque