

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1279 w/CS Charter Schools

**SPONSOR(S):** Baxley

**TIED BILLS:** **IDEN. /SIM. BILLS:** CS/CS/SB 2242

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education K-20	<b>25Y 0N w/CS</b>	Ager	Bohannon
2) Education Appropriations (Sub)	15 Y, 1 N	Mizereck	Mizereck
3) Appropriations		Mizereck	Hansen
4)			
5)			

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### SUMMARY ANALYSIS

The bill provides guiding principles for the establishment and operation of charter schools. The guiding principles include high standards of student achievement, increased accountability, and specific emphasis on reading. The charter itself must contain specific information relating to the reading curriculum and show that instructional strategies are grounded in scientifically based reading research.

The bill revises provisions related to charter school sponsorship. The bill provides that a charter school sponsor must ensure that the charter school participates in the state's accountability system. The bill also authorizes community colleges to work with the school districts to develop charter schools that offer secondary education and an option to receive an associate degree upon high school graduation.

The bill modifies the charter school application and review process. The bill allows community college applications for charter schools to be approved by the district school board at any time. The bill requires the application to incorporate specified accountability principles relating to both quality of education and financial stability. The bill specifies that failure to participate in the state's accountability system may result in nonrenewal or termination of the charter.

The bill provides guidelines for the content of the annual progress report required of charter schools. The bill removes the existing limitation on the number of charter schools that may be established in a school district. The bill replaces the Charter School Review Panel with the Charter School Accountability and Funding Authority.

The bill repeals the current funding formula for distributing capital outlay funds and provides for a new funding methodology. However, the new methodology should not result in any fiscal impact to the state as charter schools are funded in a line-item, in an amount set by the Legislature in the General Appropriations Act.

**Please refer to the "Fiscal Comments" section.**

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1279d.ap.doc

**DATE:** April 23, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

#### B. EFFECT OF PROPOSED CHANGES:

##### **CHARTER SCHOOLS – GENERALLY: APPLICATION**

The Florida Legislature authorized charter schools in 1996. As provided in s.1002.33, F.S., charter schools are public schools that operate under contract (or charter) with a public sponsor. Section 1002.33(3), F.S., allows individuals, teachers, parents, a municipality, or a legal entity to apply for a charter to establish a new charter school or to convert a public school to a charter school. Charter schools are often free from state and local regulations and mandates, but are usually held accountable for the academic and financial performance of the school and its students.

The bill provides guiding principles for the establishment and operation of charter schools. The guiding principles specified in the bill include high standards of student achievement, increased accountability, and specific emphasis on reading. The bill requires the charter to contain specific information relating to the reading curriculum and show that instructional strategies are grounded in scientifically based reading research.

Similarly, the bill revises the required contents of the charter. Under the bill, the charter must ensure that the primary focus of the curriculum is on reading. The bill also requires that curriculum and instructional strategies must be consistent with the Sunshine State Standards. Further, reading strategies must be grounded in scientifically based reading research.

In addition to addressing accountability for the quality of education offered by charter schools, the bill also addresses financial accountability issues. The bill requires charter schools to provide an innovative and stable plan for capital outlay funding. The requirement ensures that smaller charter school operations have an opportunity participate in capital outlay funding, while also providing assurance as to the fiscal soundness of charter school operations

The bill modifies the charter school application and review process for all applications. The bill allows community college applications for charter schools to be approved by the district school board at any time. The bill revises the requirement that the district school boards consider other charter school applications to move the deadline from October 1 to September 1 of each calendar year. The bill also extends the time the State Board of Education has to act on charter school application appeals from 60 days to 90 days.

Beginning September 1, 2003, the charter school application must demonstrate:

- How the school will implement the guiding principles.
- How the school’s curriculum will enable students to meet the Sunshine State Standards.

- How success in student learning will be measured, as well as goals and objectives for improving student learning.
- How the school will employ curriculum and strategies to address the needs of students who read below, at, or above grade level.
- How the school will abide by its financial plan for each year of the requested charter, to a maximum of 5 years, together with a detail statement of expected revenues and operation expenses.

The bill also requires that the charter school application ensures fiscal responsibility by requiring the application to include:

- A full accounting of expected assets.
- A projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support.
- An expense projection that includes a full accounting of the costs of operation, including start-up costs.

The bill generally includes clarifying language, corrections to cross-references, and provides for the disposal of equipment and property at charter lab schools.

### **CHARTER SCHOOL SPONSORSHIP**

Section 1002.32, F.S., provides for the establishment of developmental research schools, which are commonly referred to as “lab schools.” Section 1002.32(2), F.S., authorizes Florida Agricultural and Mechanical University (FAMU), Florida Atlantic University (FAU), Florida State University (FSU), and the University of Florida (UF), to sponsor one or more lab schools. Prior to the 2002 session, the law provided that those schools could each sponsor a single lab schools.

Section 1002.33(5), F.S., limits the sponsorship of charter schools. Section 1002.33(5)(a), F.S., provides that a district school board may sponsor a charter school in the county over which the district school board has jurisdiction. Additionally, s. 1002.33(5)(b), F.S., provides that a state university may grant a charter to a lab school created under s. 1002.32, F.S., and that the state university is considered to be the sponsor the charter lab school.

Section 1002.33(5), F.S., requires charter school sponsors to monitor and review progress towards the goals established in the charter. Sponsors must ensure that the charter is innovative and consistent with the state education goals expressed in s.1003.03(5), F.S. Additionally, sponsors must monitor the revenues and expenditures of the charter school. The bill revises s. 1002.33(5), F.S., to provide an additional requirement that charter school sponsors ensure that the charter school participates in the state’s accountability system. The bill requires the sponsor to use appropriate interventions and sanctions if a charter school falls short of the performance measures specified in the charter.

The bill authorizes community colleges to work with the school districts to develop charter schools that offer secondary education. Such charter schools must also include an option to receive an associate degree upon high school graduation. The bill requires district school boards to cooperate with and assist the community college on the charter application.

See also, “**Amendments / Committee Substitute Changes**” section.

### **LIMITS ON THE NUMBER OF CHARTER SCHOOLS**

The number of charter schools is limited by the size of the district. A district with 100,000 or more students may have no more than 28 schools. A district with 50,000 to 99,999 students may have no more than 20 charter schools. A district with fewer than 50,000 students may have no more than 12

charter schools. Conversion schools do not count against these limits. Florida currently has 222 charter schools servicing approximately 51,000 students.

The bill repeals the limitations on the number of charter schools that may operate in any county. Any district school board that desires to impose a numerical cap is subject to review and approval of the State Board of Education.

### **CHARTER SCHOOL FUNDING AND ACCOUNTABILITY**

Section 1002.33(8)(a), F.S., currently includes the following grounds for termination or nonrenewal of a charter:

- Failure to meet the requirements for student performance stated in the charter.
- Failure to meet generally accepted standards of fiscal management.
- Violation of law.
- A showing of good cause.

The bill specifies that the failure to participate in the education accountability system, as provided for in s. 1008.31, F.S., is grounds for termination or nonrenewal of the charter.

The bill revises s. 1002.33(9), F.S., which requires s charter schools to make annual progress reports to its sponsor. The bill revises s. 1002.33(9), F.S., to require that the sponsor verify and forward such reports to the Commissioner of Education. The bill also specifies that the reports include specific performance data, financial status data, data on current and planned facilities, and information on school personnel, including the proportion that hold professional or temporary certificates.

Section 1002.33(23), F.S., provides for the Charter School Review Panel. The Panel consists of 2 appointees each from the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives. The Governor may appoint three members and may designate the chair. The purpose of the panel is to make recommendations to the Legislature, the Department of Education, charter schools, and to school districts for improving operations and oversight and for ensuring best business practices with charter schools.

The bill replaces the current Charter School Review Panel with the Charter School Accountability and Funding Authority. The bill provides that the Authority shall be comprised of the same members as specified for the Panel, however they shall serve staggered 3-year terms and be eligible for reappointment. The bill provides that the Governor shall annually designate the chair of the Authority. The bill prohibits any operator or sponsor of a charter school from serving on the Authority.

Currently, charter schools are funded in a similar manner to public schools, receiving funding through the Florida Education Finance Program (FEFP). Each sponsoring school district may withhold up to five percent of such funding for administrative costs. Charter schools also receive capital outlay funding in the General Appropriations Act. For fiscal year 2002-2003, charter schools received \$27,700,000 for capital outlay purposes from PECO funds. These funds are distributed by a formula specified in statute and are prorated if sufficient funds are not appropriated to fully fund the formula.

The bill repeals the current funding formula for distributing capital outlay funds. The bill assigns the Authority responsibility for evaluating charter school performance and compliance with the guiding principles in order to recommend an allocation for charter school facilities funding to the Commissioner of Education. In evaluating the performance of the charter school, the bill provides that the Authority is to consider:

- The charter school's need for permanent construction, related to the size and mission of the school.
- The financial stability of the charter school.

- Parental satisfaction.
- Improved student performance.
- Accreditation by the Commission on Schools of the Southern Association of Colleges and Schools (SACS)
- Other appropriate accountability and performance data.

The bill amends s. 1013.62, F.S., to establish new criteria for a charter school to receive capital outlay funds. The bill specifies that the Commissioner of Education shall allocate these funds based upon recommendations from the Authority. To be eligible for the funding, a charter school must satisfy one of the following requirements:

- Have been in operation for three or more years.
- Be an expansion or expanded feeder chain of a charter school currently receiving charter school capital outlay funds.
- Have been accredited by SACS.

If the application for a charter school is approved, the bill requires that the assets and liability projections required in the application are to be incorporated in the charter. The bill directs that such information is to be compared with similar information reflected in the annual report of the charter school. The bill also requires that the charter include a provision requiring internal auditors to notify the charter school governing board, the charter school sponsor, and the Department of Education in the event that an internal audit of the charter school reveals a deficit financial position.

See also, “**Fiscal Comments**” section.

C. SECTION DIRECTORY:

**Section 1:** Amends s. 1002.33, F.S.; provides guiding principles; requires an emphasis on reading; revises provisions relating to sponsorship; requires certain accountability measures; revises application requirements; requires fiscal projections in a charter application; extends the time allowed for the State Board of Education to act on an appeal; requires auditors to provide notification of certain financial conditions; provides additional requirements for a charter school’s annual report; eliminates limitations on the number of charter schools per district; replaces the Charter School Review Panel with the Charter School Accountability and Funding Authority and provides for purpose, composition and duties; revises provisions relating to accountability for charter school performance.

**Section 2:** Amends s. 1002.32, F.S.; corrects a cross-reference.

**Section 3:** Amends s. 1013.62, F.S.; provides considerations for the Charter School Accountability and Funding Authority in making allocation recommendations; requires the Commissioner of Education to allocate capital outlay funds to charter schools based upon recommendations of the Charter School Accountability and Funding Authority; provides criteria for funding eligibility; repeals the current formula for providing allocations.

**Section 4:** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Please refer to the “**Fiscal Comments**” section, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Currently, charter schools are funded in a similar manner to public schools, receiving funding through the Florida Education Finance Program (FEFP). Each sponsoring school district may withhold up to five percent of such funding for administrative costs. Charter schools also receive capital outlay funding in the General Appropriations Act. For fiscal year 2002-2003, charter schools received \$27,700,000 for capital outlay purposes from PECO funds. These funds are distributed by a formula specified in statute and are prorated if sufficient funds are not appropriated to fully fund the formula.

The bill repeals the current funding formula for distributing capital outlay funds. The bill provides for a new funding methodology based upon the recommendations of the Charter School Accountability and Funding Authority. The new methodology should not have a fiscal impact. The bill does not address the amount of funding for charter schools. Charter schools remain funded in a line-item in an amount determined by the Legislature in the General Appropriations Act.

The bill may have a fiscal impact on individual charter schools to the extent that the new funding methodology results in an increased or decreased allocation to a charter school.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not require counties or municipalities to spend or take action requiring the expenditure of funds.

2. Other:

Section 4, Art. IX of the State Constitution, provides that a school board is responsible for supervising, controlling, and operating all free public schools within its school district. Public schools include charter schools. Opponents of the provision of the bill that allows a community college or a state university to sponsor charter schools may argue that the provision violates a school board’s constitutional authority to control and operate all of the public schools in its district.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**Concerns Raised by Original Bill**

The original bill authorized state universities and community colleges to sponsor an unlimited number of charter schools without any involvement by the local district school boards. One consequence of this provision could have been to allow these charter lab schools to access both charter school capital outlay funds and lab school PECO funds. Charter lab schools currently receive more operating funds than conventional charter schools because the charter lab schools receive a proportionate share of the sparsity supplement -- even if a charter lab school is not located in a school district that generate sparsity supplement funds. The bill might also have resulted in sparsity funds being diverted from those school districts that truly deserve them.

Finally, conventional charter schools receive a proportionate share of operating funds from the FEFP; however, the funds they receive are a mix of state and local funds. Lab schools and, by extension, charter lab schools receive their share of the FEFP only from state funds. If additional charter lab schools were established, the State could lose the leverage of local funds and the funding of these students could become more of a state responsibility. Thus, to the extent that these changes resulted in the establishment of additional charter lab schools, the original bill could have had a significant fiscal impact on expenditures by the state.

The strike-everything amendment offered in the Education K-20 Committee does not include the provision in the original bill that expanded the sponsorship provisions of s. 1002.33(5), F.S.. Thus, the strike-everything amendment appears to have resolved the fiscal concerns raised by the original bill.

#### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 7, 2003, the Education K -20 Committee adopted a strike-everything amendment that made the following changes to the bill:

- Provides an additional guiding principle that charter schools provide an innovative and stable plan for capital outlay funding.
- Restores the current authorization for community colleges and state universities to sponsor charter schools.
- Removes additional authority for a community college or state university to act as a charter school sponsor.
- Authorizes community colleges to work with school districts to create "dual enrollment" charter schools, which are targeted for high school education and also allow students to earn an AA degree while they are in high school.
- Removes the date and application deadlines for these dual enrollment charters so that community colleges may receive approval from the school boards any time during the year.
- Reinstates the provision that limits state universities to sponsoring a single lab school.

- Clarifies that charter schools can become eligible for any capital outlay funding if they have been in existence for 3 years, or are an expansion of current school intended to help feeder pattern, or are accredited by the Southern Association of Colleges and Schools.

The strike-everything amendment offered in the Education K-20 Committee does not include the provision in the original bill that expanded the sponsorship provisions of s. 1002.33(5), F.S.. Thus, the strike-everything amendment appears to have resolved the fiscal concerns raised by the original bill and noted in the Comments section of this analysis.

### **Strike-All Amendment Approved by Education Appropriations Subcommittee**

On April 15, 2003, the House Education Appropriations Subcommittee recommended a strike-all amendment that differs from the bill with the committee substitute in the following ways:

- Eliminates the Funding Authority and keeps the funding for charter school capital outlay in the control of the Legislature
- Clarifies the criteria by which charter schools can become eligible for any capital outlay funding:
  - Must have been in existence for 3 years, be an expanded feeder pattern, or be SACS accredited
  - Have financial stability for future operations
  - Have satisfactory student achievement
  - Have final approval to be operating
  - Serve students in facilities not provided by the charter sponsor
- Establishes a formula for distributing capital outlay funds in the future, if the Legislature chooses to maintain, decrease, or increase the current level of funding. This formula puts priority on schools that received funding in the past
- Grandfathers in three lab schools that are being developed currently from the charter lab school reforms in the bill while protecting sparsity.
- Amends administrative fees withheld by school districts to a sliding fee scale based upon the size of the charter school. Charter schools that receive additional funding due to the reduced administrative fee must use these additional funds for capital outlay purposes.
- Clarifies the uses of charter school capital outlay to specify that charter schools can use the funds for renovation, remodeling, and maintenance of facilities that they own or are purchasing or are long-term leasing.

The sponsor intends to offer a substitute strike-all amendment in the Appropriations Committee. The substitute amendment includes the provisions of the amendment recommended by the Education Appropriations Subcommittee with the following revisions.

- Removes the sliding fee scale to determine the administrative fee withheld by school districts. The substitute amendment caps the administrative fee to 5% for a school with up to 500 students. For charter schools with a population of 501 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes.
- Caps total capital outlay funding that a charter school can receive from the state at one-fifteenth cost per student station set in law.



- Revises the formula for distributing capital outlay funds the Legislature may choose to maintain, decrease, or increase in the future. The formula puts priority on schools that received funding in 2002-2003; schools that are an expanded feeder pattern of schools that received funding in 2002-2003; and schools that have an approved charter, incurred long-term financing obligations, began construction on educational facilities prior to December 31, 2002; and are serving students beginning in the 2003-2004 school year.