

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1279 w/CS Charter Schools

SPONSOR(S): Baxley

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education K-20	25Y 0N w/CS	Ager	Bohannon
2) Education Appropriations (Sub)	15 Y, 1 N	Mizereck	Mizereck
3) Appropriations	38 Y, 0 N	Mizereck	Hansen
4)			
5)			

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 revises the administrative fees that may be withheld. The bill limits certain universities to one lab school, with some specific grandfather provisions, and changes the public employer of school personnel at certain lab schools.

The bill provides for a reduction in the administrative fee withheld by the school district for charter schools over 500 students. Any savings resulting through the reduction in the administrative fee must be used for capital outlay purposes. The bill clarifies that capital outlay for charter schools, from all sources, should not exceed the 1/15 cost per student station statutory formula.

The bill revises the authorized uses of capital outlay funds and revises the current funding formula for distributing capital outlay funds beginning in 2003-2004. However, the new distribution method 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: h1279e.ap.doc

DATE: April 30, 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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." The bill revises section 1002.32(2), F.S., to authorize Florida Agricultural and Mechanical University (FAMU), Florida Atlantic University (FAU), Florida State University (FSU), and the University of Florida (UF), to sponsor one lab school, with a grandfather provision for lab schools authorized prior to June 1, 2003 at Florida State University and Florida Atlantic University. The bill also changes the public employer for lab school personnel in lab schools that will begin operations after the 2002-2003 fiscal year.

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 and removes time deadlines on the application and approval process of these charters.

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 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 and information on in-field and out-of-field teachers.

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. The bill revises the administrative fee structure to establish a cap in the administrative fee withheld for charter schools over 500 students and provide flexibility for these schools to use funds for capital outlay purposes. The bill clarifies that capital outlay for charter schools, from all sources, should not exceed the 1/15 cost per student statutory formula. 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 revises the current funding formula for distributing capital outlay funds beginning in the 2003-2004 fiscal year. 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. To be eligible for the funding, a charter school must satisfy 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.
- Have financial stability.
- Have satisfactory student achievement.
- Have received final approval from its sponsor.
- Serve students in facilities not provided by the sponsor.

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; adds a cause for nonrenewal or termination; 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; caps administrative fees.

Section 2: Amends s. 1002.32, F.S.; corrects a cross-reference; limits the number of charter lab schools; clarifies public employer of lab school personnel.

Section 3: Amends s. 1013.62, F.S.; revises criteria for funding eligibility; limits amount of state capital outlay funding; adds authorized uses of capital outlay funds; revises the current formula for providing capital outlay allocations beginning in 2003-2004.

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 revises the current funding formula for distributing capital outlay funds beginning in 2003-2004. 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:

Original concerns regarding community college or state university sponsorship of charter schools were removed during the amendatory process. See "Amendments/Committee Substitute Changes."

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Concerns raised during committee hearings on the original bill were addressed during the amendatory process. See "Amendments/Committee Substitute Changes."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Concerns Raised by Original Bill

The following concerns raised in the original bill have been addressed in the amendatory process:

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.

Strike-All Amendment Adopted by Education K-20 Committee

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.

Strike-All Amendment Adopted in Appropriations Committee

On April 24, 2003, a substitute strike-all amendment was adopted by the Appropriations Committee. The changes described below are also reflected in this bill analysis.

The substitute strike-all 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.

