

HB 1913

2004

1 A bill to be entitled

2 An act relating to charter schools; amending s. 1002.33,
3 F.S.; revising authorized purposes of charter schools;
4 providing for appeals under certain circumstances;
5 providing for reversion of capital outlay funds to the
6 Department of Education under certain circumstances;
7 providing for designation as one charter school of schools
8 in a charter school feeder pattern under certain
9 circumstances; revising provisions relating to facility
10 compliance with building construction standards;
11 clarifying Florida Building Code and Florida Fire
12 Prevention Code compliance requirements for charter
13 schools; clarifying jurisdiction for inspections;
14 providing an exemption from assessment of certain fees;
15 providing for use of educational impact fees; requiring an
16 agreement relating to allocation and use of impact fees;
17 requiring a charter school sponsor to provide additional
18 services; prohibiting certain fees or surcharges for
19 certain services; revising provisions relating to
20 contracts for goods and services; requiring a study of
21 transportation issues by the department; amending s.
22 1002.32, F.S.; correcting the name of a charter lab
23 school; revising provisions relating to the allocation of
24 lab school funds from the Florida Education Finance
25 Program; providing for severability; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

HB 1913

2004

30 Section 1. Paragraph (c) of subsection (2), paragraph (e)
 31 of subsection (6), paragraph (e) of subsection (8), paragraph
 32 (c) of subsection (15), subsection (18), and paragraphs (a) and
 33 (b) of subsection (20) of section 1002.33, Florida Statutes, are
 34 amended to read:

35 1002.33 Charter schools.--

36 (2) GUIDING PRINCIPLES; PURPOSE.--

37 (c) Charter schools may fulfill the following purposes:

- 38 1. Create innovative measurement tools.
- 39 2. Provide rigorous competition within the public school
 40 district to stimulate continual improvement in all public
 41 schools.
- 42 3. Expand the capacity of the public school system.
- 43 4. Mitigate the educational impact created by the
 44 development of new residential dwelling units.

45 (6) APPLICATION PROCESS AND REVIEW.--Beginning September
 46 1, 2003, applications are subject to the following requirements:

47 (e)1. A Charter School Appeal Commission is established to
 48 assist the commissioner and the State Board of Education with a
 49 fair and impartial review of appeals by applicants whose charter
 50 applications ~~charters~~ have been denied, ~~or~~ whose charter
 51 contracts have not been renewed or have been terminated by their
 52 sponsors, or whose disputes over contract negotiations have not
 53 been resolved through mediation.

54 2. The Charter School Appeal Commission may receive copies
 55 of the appeal documents forwarded to the State Board of
 56 Education, review the documents, gather other applicable
 57 information regarding the appeal, and make a written
 58 recommendation to the commissioner. The recommendation must

HB 1913

2004

59 state whether the appeal should be upheld or denied and include
60 the reasons for the recommendation being offered. The
61 commissioner shall forward the recommendation to the State Board
62 of Education no later than 7 calendar days prior to the date on
63 which the appeal is to be heard. The state board must consider
64 the commission's recommendation in making its decision, but is
65 not bound by the recommendation. The decision of the Charter
66 School Appeal Commission is not subject to the provisions of the
67 Administrative Procedure Act, chapter 120.

68 3. The commissioner shall appoint the members of the
69 Charter School Appeal Commission. Members shall serve without
70 compensation but may be reimbursed for travel and per diem
71 expenses in conjunction with their service. One-half of the
72 members must represent currently operating charter schools, and
73 one-half of the members must represent school districts. The
74 commissioner or a named designee shall chair the Charter School
75 Appeal Commission.

76 4. The chair shall convene meetings of the commission and
77 shall ensure that the written recommendations are completed and
78 forwarded in a timely manner. In cases where the commission
79 cannot reach a decision, the chair shall make the written
80 recommendation with justification, noting that the decision was
81 rendered by the chair.

82 5. Commission members shall thoroughly review the
83 materials presented to them from the appellant and the sponsor.
84 The commission may request information to clarify the
85 documentation presented to it. In the course of its review, the
86 commission may facilitate the postponement of an appeal in those
87 cases where additional time and communication may negate the

HB 1913

2004

88 need for a formal appeal and both parties agree, in writing, to
 89 postpone the appeal to the State Board of Education. A new date
 90 certain for the appeal shall then be set based upon the rules
 91 and procedures of the State Board of Education. Commission
 92 members shall provide a written recommendation to the state
 93 board as to whether the appeal should be upheld or denied. A
 94 fact-based justification for the recommendation must be
 95 included. The chair must ensure that the written recommendation
 96 is submitted to the State Board of Education members no later
 97 than 7 calendar days prior to the date on which the appeal is to
 98 be heard. Both parties in the case shall also be provided a copy
 99 of the recommendation.

100 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.--

101 (e) When a charter is not renewed or is terminated, the
 102 school shall be dissolved under the provisions of law under
 103 which the school was organized, and any unencumbered public
 104 funds, except for capital outlay funds, from the charter school
 105 shall revert to the district school board. Capital outlay funds
 106 provided pursuant to s. 1013.62 that are unencumbered shall
 107 revert to the department to be redistributed among eligible
 108 charter schools. In the event a charter school is dissolved or
 109 is otherwise terminated, all district school board property and
 110 improvements, furnishings, and equipment purchased with public
 111 funds shall automatically revert to full ownership by the
 112 district school board, subject to complete satisfaction of any
 113 lawful liens or encumbrances. Any unencumbered public funds from
 114 the charter school, district school board property and
 115 improvements, furnishings, and equipment purchased with public
 116 funds, or financial or other records pertaining to the charter

HB 1913

2004

117 school, in the possession of any person, entity, or holding
 118 company, other than the charter school, shall be held in trust
 119 upon the district school board's request, until any appeal
 120 status is resolved.

121 (15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-
 122 A-MUNICIPALITY.--

123 (c) A charter school-in-a-municipality designation may be
 124 granted to a municipality that possesses a charter; enrolls
 125 students based upon a random lottery that involves all of the
 126 children of the residents of that municipality who are seeking
 127 enrollment, as provided for in subsection (10); and enrolls
 128 students according to the racial/ethnic balance provisions
 129 described in subparagraph (7)(a)8. When a municipality has
 130 submitted charter applications for the establishment of a
 131 charter school feeder pattern, consisting of elementary, middle,
 132 and senior high schools, and each individual charter application
 133 is approved by the district school board, such schools shall
 134 then be designated as one charter school for all purposes listed
 135 pursuant to this section. Any portion of the land and facility
 136 used for a public charter school shall be exempt from ad valorem
 137 taxes, as provided for in s. 1013.54, for the duration of its
 138 use as a public school.

139 (18) FACILITIES.--

140 (a) A charter school shall utilize facilities which comply
 141 with the Florida State Uniform Building Code pursuant to chapter
 142 553 except for the State Requirements for Educational
 143 Facilities. Charter schools are not required to comply, but may
 144 choose to comply, with the State Requirements for Educational
 145 Facilities of the Florida Building Code adopted pursuant to s.

HB 1913

2004

146 1013.37. The local governing authority shall not adopt or impose
 147 local building requirements or restrictions that are more
 148 stringent than those found in the Florida Building Code. The
 149 agency having jurisdiction for inspection of a facility and
 150 issuance of a certificate of occupancy shall be the local
 151 municipality or, if in an unincorporated area, the county
 152 governing authority ~~for Public Educational Facilities~~
 153 ~~Construction adopted pursuant to s. 1013.37 or with applicable~~
 154 ~~state minimum building codes pursuant to chapter 553 and state~~
 155 ~~minimum fire protection codes pursuant to s. 633.025, as adopted~~
 156 ~~by the authority in whose jurisdiction the facility is located.~~

157 (b) A charter school shall utilize facilities that comply
 158 with the Florida Fire Prevention Code, pursuant to s. 633.025,
 159 as adopted by the authority in whose jurisdiction the facility
 160 is located as provided in paragraph (a).

161 (c)(b) Any facility, or portion thereof, used to house a
 162 charter school whose charter has been approved by the sponsor
 163 and the governing board, pursuant to subsection (7), shall be
 164 exempt from ad valorem taxes pursuant to s. 196.1983.

165 ~~(c) Charter school facilities shall utilize facilities~~
 166 ~~which comply with the Florida Building Code, pursuant to chapter~~
 167 ~~553, and the Florida Fire Prevention Code, pursuant to chapter~~
 168 ~~633.~~

169 (d) Charter school facilities are exempt from assessments
 170 of fees for building permits, except as provided in s. 553.80,
 171 and for building licenses and from assessments of impact fees or
 172 service availability fees.

173 (e) If a district school board facility or property is
 174 available because it is surplus, marked for disposal, or

HB 1913

2004

175 otherwise unused, it shall be provided for a charter school's
176 use on the same basis as it is made available to other public
177 schools in the district. A charter school receiving property
178 from the school district may not sell or dispose of such
179 property without written permission of the school district.
180 Similarly, for an existing public school converting to charter
181 status, no rental or leasing fee for the existing facility or
182 for the property normally inventoried to the conversion school
183 may be charged by the district school board to the parents and
184 teachers organizing the charter school. The charter organizers
185 shall agree to reasonable maintenance provisions in order to
186 maintain the facility in a manner similar to district school
187 board standards. The Public Education Capital Outlay maintenance
188 funds or any other maintenance funds generated by the facility
189 operated as a conversion school shall remain with the conversion
190 school.

191 (f) To the extent that charter school facilities are
192 specifically created to mitigate the educational impact created
193 by the development of new residential dwelling units, pursuant
194 to subparagraph (2)(c)4., any educational impact fees required
195 to be paid in connection with the new residential dwelling units
196 may be designated instead for the construction of the charter
197 school facilities that will mitigate the student station impact.
198 However, such facilities shall be built to the State
199 Requirements for Educational Facilities of the Florida Building
200 Code, adopted pursuant to s. 1013.37, and shall be owned by a
201 public or nonprofit entity. The local school district retains
202 the right to monitor and inspect such facilities to ensure
203 compliance with the State Requirements for Educational

HB 1913

2004

204 Facilities. If the facilities cease to be used for public
 205 educational purposes, the entire facility shall revert to the
 206 school district. The party responsible for payment of the
 207 educational impact fees and the local zoning authority levying
 208 the educational impact fees shall enter into an agreement that
 209 designates the educational impact fees that will be allocated
 210 for the charter school student stations and that ensures the
 211 timely and concurrent construction of the charter school student
 212 stations.

213 (20) SERVICES.--

214 (a) A sponsor shall provide certain administrative and
 215 educational services to charter schools. These services shall
 216 include contract management services; full-time equivalent and
 217 data reporting services; exceptional student education
 218 administration services; test administration services,
 219 including payment of the costs of state-required or district-
 220 required student assessments; processing of teacher certificate
 221 data services; and information services, including equal access
 222 to student information systems that are used by public schools
 223 in the district in which the charter school is located. A total
 224 administrative fee for the provision of such services shall be
 225 calculated based upon 5 percent of the available funds defined
 226 in paragraph (17)(b) for all students. However, a sponsor may
 227 only withhold a 5-percent administrative fee for enrollment for
 228 up to and including 500 students. For charter schools with a
 229 population of 501 or more students, the difference between the
 230 total administrative fee calculation and the amount of the
 231 administrative fee withheld may only be used for capital outlay
 232 purposes specified in s. 1013.62(2). Sponsors shall not charge

HB 1913

2004

233 charter schools any additional fees or surcharges for
 234 administrative and educational services in addition to the 5-
 235 percent administrative fee withheld pursuant to this paragraph.

236 (b) If goods and services are made available to the
 237 charter school through the contract with the school district,
 238 they shall be provided to the charter school at a rate no
 239 greater than the district's actual cost unless mutually agreed
 240 upon by the charter school and the sponsor in a contract
 241 negotiated separately from the charter. When mediation has
 242 failed to resolve disputes over contracted services or
 243 contractual matters not included in the charter, an appeal may
 244 be made for a dispute resolution hearing before the Charter
 245 School Appeal Commission. To maximize the use of state funds,
 246 school districts shall allow charter schools to participate in
 247 the sponsor's bulk purchasing program if applicable.

248 Section 2. The Department of Education is hereby directed
 249 to conduct a study of transportation issues as they relate to
 250 charter schools, including, but not limited to, full-time
 251 equivalent and data reporting services with respect to
 252 transportation; the impact that transporting charter school
 253 students has on a school district's average bus occupancy and
 254 the feasibility of calculating average bus occupancy separately
 255 for charter schools and school districts; and the additional
 256 costs of transporting students who choose not to attend
 257 conversion charter schools. The results of the study shall be
 258 presented to the President of the Senate, the Speaker of the
 259 House of Representatives, and the Charter School Appeal
 260 Commission no later than November 1, 2004, for a public hearing
 261 and development of legislative recommendations.

HB 1913

2004

262 Section 3. Subsection (2) and paragraph (a) of subsection
 263 (9) of section 1002.32, Florida Statutes, are amended to read:
 264 1002.32 Developmental research (laboratory) schools.--
 265 (2) ESTABLISHMENT.--There is established a category of
 266 public schools to be known as developmental research
 267 (laboratory) schools (lab schools). Each lab school shall
 268 provide sequential instruction and shall be affiliated with the
 269 college of education within the state university of closest
 270 geographic proximity. A lab school to which a charter has been
 271 issued under s. 1002.33(5)(a) 2. must be affiliated with the
 272 college of education within the state university that issued the
 273 charter, but is not subject to the requirement that the state
 274 university be of closest geographic proximity. For the purpose
 275 of state funding, Florida Agricultural and Mechanical
 276 University, Florida Atlantic University, Florida State
 277 University, the University of Florida, and other universities
 278 approved by the State Board of Education and the Legislature are
 279 authorized to sponsor a lab school. The limitation of one lab
 280 school per university shall not apply to the following charter
 281 lab schools authorized prior to June 1, 2003: Florida State
 282 University Charter Lab K-12 ~~Elementary~~ School in Broward County,
 283 Florida Atlantic University Charter Lab 9-12 High School in Palm
 284 Beach County, and Florida Atlantic University Charter Lab K-12
 285 School in St. Lucie County.

286 (9) FUNDING.--Funding for a lab school, including a
 287 charter lab school, shall be provided as follows:

288 (a) Each lab school shall be allocated its proportional
 289 share of operating funds from the Florida Education Finance
 290 Program as provided in s. 1011.62 based on the county in which

HB 1913

2004

291 the lab school is located and the General Appropriations Act.
 292 The nonvoted ad valorem millage that would otherwise be required
 293 for lab schools shall be allocated from state funds. The
 294 required local effort funds calculated pursuant to s. 1011.62
 295 shall be allocated from state funds to the schools as a part of
 296 the allocation of operating funds pursuant to s. 1011.62. Each
 297 eligible lab school in operation as of September 1, 2002, shall
 298 also receive a proportional share of the sparsity supplement as
 299 calculated pursuant to s. 1011.62. In addition, each lab school
 300 shall receive its proportional share of all categorical funds,
 301 with the exception of s. 1011.68, and new categorical funds
 302 enacted after July 1, 1994, for the purpose of elementary or
 303 secondary academic program enhancement. The sum of funds
 304 available as provided in this paragraph shall be included
 305 annually in the Florida Education Finance Program and
 306 appropriate categorical programs funded in the General
 307 Appropriations Act.

308 Section 4. If any provision of this act or the application
 309 thereof to any person or circumstance is held invalid, the
 310 invalidity shall not affect other provisions or applications of
 311 the act which can be given effect without the invalid provision
 312 or application, and to this end the provisions of this act are
 313 declared severable.

314 Section 5. This act shall take effect July 1, 2004.