

By the Committee on Education; and Senator Diaz de la Portilla

304-2662-04

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

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Paragraph (c) of subsection (2), paragraph
4 (e) of subsection (6), paragraph (e) of subsection (8),
5 paragraph (c) of subsection (15), subsection (18), and
6 paragraphs (a) and (b) of subsection (20) of section 1002.33,
7 Florida Statutes, are amended to read:

8 1002.33 Charter schools.--

9 (2) GUIDING PRINCIPLES; PURPOSE.--

10 (c) Charter schools may fulfill the following
11 purposes:

12 1. Create innovative measurement tools.

13 2. Provide rigorous competition within the public
14 school district to stimulate continual improvement in all
15 public schools.

16 3. Expand the capacity of the public school system.

17 4. Mitigate the educational impact created by the
18 development of new residential dwelling units.

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

22 (e)1. A Charter School Appeal Commission is
23 established to assist the commissioner and the State Board of
24 Education with a fair and impartial review of appeals by
25 applicants whose charter applications ~~charters~~ have been
26 denied, ~~or~~ whose charter contracts have not been renewed or
27 have been terminated by their sponsors, or whose disputes over
28 contract negotiations have not been resolved through
29 mediation.

30 2. The Charter School Appeal Commission may receive
31 copies of the appeal documents forwarded to the State Board of

1 Education, review the documents, gather other applicable
2 information regarding the appeal, and make a written
3 recommendation to the commissioner. The recommendation must
4 state whether the appeal should be upheld or denied and
5 include the reasons for the recommendation being offered. The
6 commissioner shall forward the recommendation to the State
7 Board of Education no later than 7 calendar days prior to the
8 date on which the appeal is to be heard. The state board must
9 consider the commission's recommendation in making its
10 decision, but is not bound by the recommendation. The decision
11 of the Charter School Appeal Commission is not subject to the
12 provisions of the Administrative Procedure Act, chapter 120.

13 3. The commissioner shall appoint the members of the
14 Charter School Appeal Commission. Members shall serve without
15 compensation but may be reimbursed for travel and per diem
16 expenses in conjunction with their service. One-half of the
17 members must represent currently operating charter schools,
18 and one-half of the members must represent school districts.
19 The commissioner or a named designee shall chair the Charter
20 School Appeal Commission.

21 4. The chair shall convene meetings of the commission
22 and shall ensure that the written recommendations are
23 completed and forwarded in a timely manner. In cases where the
24 commission cannot reach a decision, the chair shall make the
25 written recommendation with justification, noting that the
26 decision was rendered by the chair.

27 5. Commission members shall thoroughly review the
28 materials presented to them from the appellant and the
29 sponsor. The commission may request information to clarify the
30 documentation presented to it. In the course of its review,
31 the commission may facilitate the postponement of an appeal in

1 | those cases where additional time and communication may negate
2 | the need for a formal appeal and both parties agree, in
3 | writing, to postpone the appeal to the State Board of
4 | Education. A new date certain for the appeal shall then be set
5 | based upon the rules and procedures of the State Board of
6 | Education. Commission members shall provide a written
7 | recommendation to the state board as to whether the appeal
8 | should be upheld or denied. A fact-based justification for the
9 | recommendation must be included. The chair must ensure that
10 | the written recommendation is submitted to the State Board of
11 | Education members no later than 7 calendar days prior to the
12 | date on which the appeal is to be heard. Both parties in the
13 | case shall also be provided a copy of the recommendation.

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

15 | (e) When a charter is not renewed or is terminated,
16 | the school shall be dissolved under the provisions of law
17 | under which the school was organized, and any unencumbered
18 | public funds, except for capital outlay funds, from the
19 | charter school shall revert to the district school board.
20 | Capital outlay funds provided pursuant to s. 1013.62 that are
21 | unencumbered shall revert to the department to be
22 | redistributed among eligible charter schools. In the event a
23 | charter school is dissolved or is otherwise terminated, all
24 | district school board property and improvements, furnishings,
25 | and equipment purchased with public funds shall automatically
26 | revert to full ownership by the district school board, subject
27 | to complete satisfaction of any lawful liens or encumbrances.
28 | Any unencumbered public funds from the charter school,
29 | district school board property and improvements, furnishings,
30 | and equipment purchased with public funds, or financial or
31 | other records pertaining to the charter school, in the

1 possession of any person, entity, or holding company, other
2 than the charter school, shall be held in trust upon the
3 district school board's request, until any appeal status is
4 resolved.

5 (15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER
6 SCHOOLS-IN-A-MUNICIPALITY.--

7 (c) A charter school-in-a-municipality designation may
8 be granted to a municipality that possesses a charter; enrolls
9 students based upon a random lottery that involves all of the
10 children of the residents of that municipality who are seeking
11 enrollment, as provided for in subsection (10); and enrolls
12 students according to the racial/ethnic balance provisions
13 described in subparagraph (7)(a)8. When a municipality has
14 submitted charter applications for the establishment of a
15 charter school feeder pattern, consisting of elementary,
16 middle, and senior high schools, and each individual charter
17 application is approved by the district school board, such
18 schools shall then be designated as one charter school for all
19 purposes listed pursuant to this section. Any portion of the
20 land and facility used for a public charter school shall be
21 exempt from ad valorem taxes, as provided for in s. 1013.54,
22 for the duration of its use as a public school.

23 (18) FACILITIES.--

24 (a) A charter school shall utilize facilities which
25 comply with the ~~Florida State Uniform~~ Building Code pursuant
26 to chapter 553 except for the State Requirements for
27 Educational Facilities. Charter schools are not required to
28 comply, but may choose to comply, with the State Requirements
29 for Educational Facilities of the Florida Building Code
30 adopted pursuant to s. 1013.37. The local governing authority
31 shall not adopt or impose local building requirements or

1 restrictions that are more stringent than those found in the
2 Florida Building Code. The agency having jurisdiction for
3 inspection of a facility and issuance of a certificate of
4 occupancy shall be the local municipality or, if in an
5 unincorporated area, the county governing authority for Public
6 ~~Educational Facilities Construction adopted pursuant to s.~~
7 ~~1013.37 or with applicable state minimum building codes~~
8 ~~pursuant to chapter 553 and state minimum fire protection~~
9 ~~codes pursuant to s. 633.025, as adopted by the authority in~~
10 ~~whose jurisdiction the facility is located.~~

11 (b) A charter school shall utilize facilities that
12 comply with the Florida Fire Prevention Code, pursuant to s.
13 633.025, as adopted by the authority in whose jurisdiction the
14 facility is located as provided in paragraph (a).

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

19 ~~(c) Charter school facilities shall utilize facilities~~
20 ~~which comply with the Florida Building Code, pursuant to~~
21 ~~chapter 553, and the Florida Fire Prevention Code, pursuant to~~
22 ~~chapter 633.~~

23 (d) Charter school facilities are exempt from
24 assessments of fees for building permits, except as provided
25 in s. 553.80, and for building licenses and from assessments
26 of impact fees or service availability fees.

27 (e) If a district school board facility or property is
28 available because it is surplus, marked for disposal, or
29 otherwise unused, it shall be provided for a charter school's
30 use on the same basis as it is made available to other public
31 schools in the district. A charter school receiving property

1 from the school district may not sell or dispose of such
2 property without written permission of the school district.
3 Similarly, for an existing public school converting to charter
4 status, no rental or leasing fee for the existing facility or
5 for the property normally inventoried to the conversion school
6 may be charged by the district school board to the parents and
7 teachers organizing the charter school. The charter organizers
8 shall agree to reasonable maintenance provisions in order to
9 maintain the facility in a manner similar to district school
10 board standards. The Public Education Capital Outlay
11 maintenance funds or any other maintenance funds generated by
12 the facility operated as a conversion school shall remain with
13 the conversion school.

14 (f) To the extent that charter school facilities are
15 specifically created to mitigate the educational impact
16 created by the development of new residential dwelling units,
17 pursuant to subparagraph (2)(c)4., some of or all of the
18 educational impact fees required to be paid in connection with
19 the new residential dwelling units may be designated instead
20 for the construction of the charter school facilities that
21 will mitigate the student station impact. Such facilities
22 shall be built to the State Requirements for Educational
23 Facilities and shall be owned by a public or nonprofit entity.
24 The local school district retains the right to monitor and
25 inspect such facilities to ensure compliance with the State
26 Requirements for Educational Facilities. If a facility ceases
27 to be used for public educational purposes, either the
28 facility shall revert to the school district subject to any
29 debt owed on the facility, or the owner of the facility shall
30 have the option to refund all educational impact fees utilized
31 for the facility to the school district. The district and the

1 owner of the facility may contractually agree to another
2 arrangement for the facilities if the facilities cease to be
3 used for educational purposes. The owner of property planned
4 or approved for new residential dwelling units and the entity
5 levying educational impact fees shall enter into an agreement
6 that designates the educational impact fees that will be
7 allocated for the charter school student stations and that
8 ensures the timely construction of the charter school student
9 stations concurrent with the expected occupancy of the
10 residential units.

11 (20) SERVICES.--

12 (a) A sponsor shall provide certain administrative and
13 educational services to charter schools. These services shall
14 include contract management services;i7 full-time equivalent
15 and data reporting services;i7 exceptional student education
16 administration services;i7 test administration services,l
17 including payment of the costs of state-required or
18 district-required student assessments;i7 processing of teacher
19 certificate data services;i7 and information services,l
20 including equal access to student information systems that are
21 used by public schools in the district in which the charter
22 school is located. A total administrative fee for the
23 provision of such services shall be calculated based upon 5
24 percent of the available funds defined in paragraph (17)(b)
25 for all students. However, a sponsor may only withhold a
26 5-percent administrative fee for enrollment for up to and
27 including 500 students. For charter schools with a population
28 of 501 or more students, the difference between the total
29 administrative fee calculation and the amount of the
30 administrative fee withheld may only be used for capital
31 outlay purposes specified in s. 1013.62(2). Sponsors shall not

1 charge charter schools any additional fees or surcharges for
2 administrative and educational services in addition to the
3 5-percent administrative fee withheld pursuant to this
4 paragraph.

5 (b) If goods and services are made available to the
6 charter school through the contract with the school district,
7 they shall be provided to the charter school at a rate no
8 greater than the district's actual cost unless mutually agreed
9 upon by the charter school and the sponsor in a contract
10 negotiated separately from the charter. When mediation has
11 failed to resolve disputes over contracted services or
12 contractual matters not included in the charter, an appeal may
13 be made for a dispute resolution hearing before the Charter
14 School Appeal Commission. To maximize the use of state funds,
15 school districts shall allow charter schools to participate in
16 the sponsor's bulk purchasing program if applicable.

17 Section 2. The Department of Education shall conduct a
18 study of transportation issues as they relate to charter
19 schools, including, but not limited to, full-time equivalent
20 and data reporting services with respect to transportation;
21 the impact that transporting charter school students has on a
22 school district's average bus occupancy and the feasibility of
23 calculating average bus occupancy separately for charter
24 schools and school districts; and the additional costs of
25 transporting students who choose not to attend conversion
26 charter schools. The results of the study shall be presented
27 to the President of the Senate, the Speaker of the House of
28 Representatives, and the Charter School Appeal Commission no
29 later than November 1, 2004, for a public hearing and
30 development of legislative recommendations.

1 Section 3. Subsection (2) and paragraph (a) of
2 subsection (9) of section 1002.32, Florida Statutes, are
3 amended to read:

4 1002.32 Developmental research (laboratory) schools.--

5 (2) ESTABLISHMENT.--There is established a category of
6 public schools to be known as developmental research
7 (laboratory) schools (lab schools). Each lab school shall
8 provide sequential instruction and shall be affiliated with
9 the college of education within the state university of
10 closest geographic proximity. A lab school to which a charter
11 has been issued under s. 1002.33(5)(a) 2. must be affiliated
12 with the college of education within the state university that
13 issued the charter, but is not subject to the requirement that
14 the state university be of closest geographic proximity. For
15 the purpose of state funding, Florida Agricultural and
16 Mechanical University, Florida Atlantic University, Florida
17 State University, the University of Florida, and other
18 universities approved by the State Board of Education and the
19 Legislature are authorized to sponsor a lab school. The
20 limitation of one lab school per university shall not apply to
21 the following charter lab schools authorized prior to June 1,
22 2003: Florida State University Charter Lab K-12 ~~Elementary~~
23 School in Broward County, Florida Atlantic University Charter
24 Lab 9-12 High School in Palm Beach County, and Florida
25 Atlantic University Charter Lab K-12 School in St. Lucie
26 County.

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

29 (a) Each lab school shall be allocated its
30 proportional share of operating funds from the Florida
31 Education Finance Program as provided in s. 1011.62 based on

1 the county in which the lab school is located and the General
2 Appropriations Act. The nonvoted ad valorem millage that would
3 otherwise be required for lab schools shall be allocated from
4 state funds. The required local effort funds calculated
5 pursuant to s. 1011.62 shall be allocated from state funds to
6 the schools as a part of the allocation of operating funds
7 pursuant to s. 1011.62. Each eligible lab school in operation
8 as of September 1, 2002, shall also receive a proportional
9 share of the sparsity supplement as calculated pursuant to s.
10 1011.62. In addition, each lab school shall receive its
11 proportional share of all categorical funds, with the
12 exception of s. 1011.68, and new categorical funds enacted
13 after July 1, 1994, for the purpose of elementary or secondary
14 academic program enhancement. The sum of funds available as
15 provided in this paragraph shall be included annually in the
16 Florida Education Finance Program and appropriate categorical
17 programs funded in the General Appropriations Act.

18 Section 4. If any provision of this act or the
19 application thereof to any person or circumstance is held
20 invalid, the invalidity shall not affect other provisions or
21 applications of the act which can be given effect without the
22 invalid provision or application, and to this end the
23 provisions of this act are declared severable.

24 Section 5. This act shall take effect July 1, 2004.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 3000

4 The committee substitute expands the role of the Charter
5 School Appeal Commission to include advising the commissioner
6 and State Board of Education on disputes between a sponsor and
7 a charter school over contract negotiations that have not been
8 resolved through mediation.

9 The committee substitute provides that charter school capital
10 outlay funds provided by the state that are not encumbered
11 when the school's charter is not renewed or is terminated,
12 shall revert to the state to be redistributed to other
13 qualified charter schools.

14 The committee substitute provides that after a municipality
15 has submitted individual charter applications for a feeder
16 pattern of schools and the applications have been approved,
17 the schools shall then be designated as one charter school for
18 purposes of section 1002.33, Florida Statutes.

19 Charter schools must comply with the Florida Building Code but
20 are given the option of complying with the State Requirements
21 for Educational Facilities section of the Code. The local
22 governing authority is restricted from adopting or imposing
23 local building requirements or restrictions that are more
24 stringent than those in the Code. Inspections of charter
25 school facilities shall be by the local municipality or, if in
26 an unincorporated area, the county governing authority.

27 The committee substitute exempts charter schools from payment
28 of building license fees.

29 The committee substitute amends provisions relating to the use
30 of impact fee revenue collected to mitigate the educational
31 impact created by the development of new residential dwelling
32 units. The new language would allow the impact fees for a new
33 development to be designated for the construction of the
34 charter school facilities that will mitigate the student
35 station impact of the development. Such facilities must be
36 built to the standards of the State Requirements for
37 Educational Facilities section of the Florida Building Code
38 and must be owned by a public or nonprofit entity. The school
39 district would retain the right to monitor and inspect such
40 facilities. Should the facilities no longer be used for
41 educational purposes, ownership of the facilities shall revert
42 to the school district subject to any debt owed on the
43 facility, or the owner of the facility shall have the option
44 to refund all educational impact fees used for the facility to
45 the school district. The owner and the school district may
46 contractually agree to another arrangement for the use of the
47 facilities. The charter school facilities are to be
48 constructed concurrently with the occupancy of the residential
49 units.

50 Charter schools are granted equal access to student
51 information systems that are used by public schools in the
52 same district.

1 Charter school sponsors are prohibited from charging more than
2 the 5 percent administrative fee for services provided to the
3 charter school. Provision is made to allow an appeal to the
4 Charter School Appeal Commission when mediation has failed to
5 resolve disputes over contracted services or contractual
6 matters not included in the charter.
7
8 The committee substitute requires the Department of Education
9 to conduct a study of transportation issues as they relate to
10 charter schools and to report to the President of the Senate,
11 Speaker of the House of Representatives, and to the Charter
12 School Appeal Commission on specific transportation related
13 issues.
14
15 The name of the Florida State University Charter Lab school in
16 Broward County as it currently appears in statute is incorrect
17 and the name is corrected.
18
19 Clarification is provided that the county location of the
20 charter school, not the county location of the sponsor,
21 determines how funding will be calculated for students
22 attending a charter school.
23
24 A severability clause is added in the committee substitute.
25
26 Language in the original bill which would have allowed a state
27 community college or a state university to sponsor a charter
28 school either independently or in conjunction with a private
29 postsecondary institution is not included in the committee
30 substitute.
31
32 Language in the original bill that would have changed how
state capital outlay funds for charter schools are distributed
is not included in the committee substitute.