

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1301 Charter Schools

SPONSOR(S): Legg

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1652

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Education Innovation & Career Preparation</u>	<u>6 Y, 0 N</u>	<u>White</u>	<u>White</u>
2) <u>Schools & Learning Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill amends provisions of law regulating charter schools and charter technical career centers (CTCCs) by:

- Requiring applicants for charter schools and CTCCs to use DOE-developed school applications and to attend DOE applicant training, and requiring sponsors to use a DOE-developed evaluation instrument for applications.
- Providing specific indicators of risk for financial difficulty for charter schools and CTCCs and requiring implementation of corrective action plans when indicators exist.
- Providing that the Commissioner of Education shall determine when charter schools or CTCCs are in a state of financial emergency and requiring implementation of financial recovery plans.
- Prohibiting nepotism in charter schools and CTCCs for employment and promotion policies.
- Establishing standards of conduct for charter school and CTCC governing board members, including requirements related to the solicitation and acceptance of gifts, business transactions, and conflicting employment or contractual relationships.
- Prohibiting the funding of charter school students in excess constitutional class size maximums.
- Providing parents and the public with student performance information when a charter school does not receive a school grade or a school improvement rating.
- Providing that district school board exclusivity to approve charter schools, if granted by the State Board of Education, shall continue so long as the school board complies with the requirements for exclusivity or until successfully challenged.

The bill does not appear to have a fiscal impact on state or local governments. **(See FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT).**

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty-- The bill subjects charter school and charter technical career center employees to statutory provisions prohibiting nepotism and conflicts of interests by state officers and employees.

Empower Families-- The bill requires charter schools that do not receive a school grade and charter alternative schools that do not receive a school improvement rating to report student performance comparison data to the parents of students enrolled in a charter school or on a charter school waiting list.

B. EFFECT OF PROPOSED CHANGES:

Overview of Florida Charter Schools and Charter Technical Career Centers

Charter Schools: In 1996, the Legislature enacted s. 228.056, F.S., Florida's first charter school law.¹ Charter schools are nonsectarian, public schools that operate under a performance contract, referred to as a "charter," with its sponsor. The charter frees the school from many regulations applicable to traditional public schools in order to encourage the use of innovative learning methods, while holding the school accountable for academic and financial results.²

Charter schools currently in existence are sponsored by a district school board or, in the case of a charter lab school, by a state university.³ In 2006, the Legislature created a new option for sponsorship with the establishment of the Florida Schools of Excellence Commission (FSEC).⁴ In a district that has not been granted the exclusive authority to approve charter schools,⁵ the FSEC may sponsor charter schools and approve municipalities, state postsecondary institutions, and regional educational consortia to act as charter school cosponsors.⁶

Since 1996, the number of charter schools in Florida has grown from five to 358 during the 2007-2008 school year. These schools are currently serving 104,319 students.⁷ Charter schools are open to all students residing within the district. Enrollment preference may be given to siblings of current charter school students or children of a charter school employee or governing board member. A charter school may limit enrollment⁸ in order to target specified student populations.⁹

¹ Chapter 96-186, L.O.F., *initially codified* as s. 228.056, F.S., *redesignated in 2002* as s. 1002.33, F.S.

² Section 1002.33(1), (2), (7), (9) (16), and (17), F.S.

³ Section 1002.33(5)(a), F.S.

⁴ Chapter 2006-302, L.O.F., *codified at* s. 1002.335, F.S. (providing that the FSEC is an independent state-level authorizer of charter schools, appointed by the State Board of Education based upon recommendations from the Governor, Senate President, and House Speaker).

⁵ For Fiscal Year 2007-2008, the State Board of Education granted exclusivity to three districts: Orange, Polk, and Sarasota County School Boards.

⁶ Section 1002.335(4)(a), F.S.

⁷ Online Charter School Directory, DOE, January 2008, *available at:*

http://www.floridaschoolchoice.org/information/charter_schools/files/fast_facts_charter_schools.pdf/

⁸ Section 1002.33(10), F.S.

⁹ Demographically, charter school student populations are very similar to traditional public school student populations, with the exception that traditional public schools serve a larger percentage of free or reduced price lunch eligible students (45.8 percent) than charter schools (35.2 percent). Data provided by the DOE based on Survey Two final data for the 2006-2007 school year.

Charter Technical Career Centers: A charter technical career center (CTCC) is a public school or a public technical center that is operated under a charter granted by a district school board, a community college board of trustees, or a combination of one or more of each of these entities. Like charter schools, CTCC operations are governed by a charter. Among other things, the charter must establish policies for measuring student performance, reporting of student data, and conflicts of interest. Three CTCCs have been established since the CTCC statute was enacted in 1999: (a) First Coast Technical Institute, St. John's County, 1999; (b) Flagler/Volusia Advanced Technology Center, Volusia County, 2001; and (c) Lake Technical Center, Lake County, 2004.¹⁰

Application Process and Review: An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under Florida law. The application must be submitted by August 1st of each year, unless the sponsor chooses a later date, and must contain:

- A detailed curriculum plan aligned with the Sunshine State Standards;
- Goals for improving student learning and measuring improvement; and
- An annual financial plan for each year of operation requested (up to five years) that sets forth the school's anticipated funds and assets, a spending plan, and sound fiscal policies for managing the school.¹¹

Statute requires the Department of Education (DOE) to develop a model charter school application, charter agreement, and charter renewal document. Sponsors are encouraged, but not required to use these documents.¹² The DOE is also required to offer training and technical assistance to charter school applicants, which addresses business plan development, startup cost estimation, enrollment projection, and available state and federal funding.^{13 14} Applicants are not, however, required to attend training.

Statute does not specify a process for evaluating charter school applications; however, the DOE has developed and posted an evaluation process on its website. It provides that each charter school application should be reviewed, and each applicant should be interviewed, by an evaluation team comprised of sponsor staff and/or external experts who collectively have education, business, non-profit, financial, legal, and organizational expertise. The team is to rate the applicant using the DOE Application Evaluation Instrument and to submit its recommendations to the sponsoring board.¹⁵

For CTCCs, statute provides that a district school board or community college board of trustees, or a consortium of one or more of each, may file a CTCC application. The application must include the following items: (a) the name of the proposed center; (b) the proposed structure of the center, including proposed members of the board of directors or a description of their qualifications and method of appointment or election; (c) the center's workforce development goals, curriculum, and outcomes and the methods of assessment; (d) the admissions policy and criteria for evaluating student admission; (e) a description of staff responsibilities and teacher qualifications; (f) procedures for involving business and industry representatives; (g) a method for determining whether a student has satisfied graduation requirements; (h) a method for granting secondary and postsecondary diplomas, certificates, and

¹⁰ Section 1002.34, F.S

¹¹ Section 1002.33(3)(a) and (6)(a), F.S.

¹² Section 1002.33(21), F.S.

¹³ Chapter 2006-190, s. 1, L.O.F., *codified at* s. 1002.33(6)(g) and (21), F.S.

¹⁴ The DOE conducted a charter school applicant training most recently on July 17, 2007, for applicants wishing to start schools in the 2008-2009 school year. Such trainings are made accessible year round and statewide via the web and, according to DOE representatives, will be offered annually each summer. See DOE, Office of Independent Education and Parental Choice, Training Opportunities *available at* http://www.floridaschoolchoice.org/Information/Charter_Schools/ Additionally, some districts provide their own applicant training.

¹⁵ See DOE, Office of Independent Education and Parental Choice, Overview of the Florida Charter School Application Process and Florida Charter School Application Evaluation Instrument *available at* http://www.floridaschoolchoice.org/Information/Charter_Schools/

degrees; (i) a description of and address for the physical facility in which the center will be located; (j) a method of resolving conflicts between the governing body of the center and the sponsor; and (k) a method for reporting student data.¹⁶

Statute governing CTCCs does not require the DOE to develop a model application for a center, training for center applicants, or an evaluation instrument.

Effect of bill: The bill adds requirements for both charter school and CTCC applicants to use an application developed by the DOE and to attend DOE applicant training prior to filing an application. Additionally, the bill requires sponsors for both charter schools and CTCCs to evaluate applications using an evaluation instrument developed by the DOE.

Financial Emergencies Act: The Local Governmental Entity and District School Board Financial Emergencies Act contained in Part V of ch. 218, F.S., is designed to promote financial responsibility, provide assistance for meeting essential services without interruption, and improve local financial management procedures for local governmental entities, school boards, and charter schools.¹⁷

Under the Act, a local government entity, charter school, and district school board must notify the Legislative Auditing Committee, and as appropriate, the Governor, Commissioner of Education, or sponsor when any of the following conditions occur or will occur if action is not taken:

- Failure to pay certain debts when due, as a result of a lack of funds;
- Failure to transfer at the appropriate time due to lack of funds: employee income tax or employer and employee contributions for social security or benefit plans;
- Failure for one pay period to pay due to lack of funds: employee wages and salaries or retirement benefits; or
- An unreserved or total fund balance or retained earnings deficit, or unrestricted or total net assets deficit, as reported on the balance sheet or statement of net assets on the general purpose or fund financial.¹⁸

Also, when one or more of the above conditions occur for:

- A local government entity or a district school board, the Governor or the Commissioner, as appropriate, is to contact the entity to determine what actions have been taken to resolve the condition and whether state assistance is needed. If assistance is needed, the local government entity or district school board is considered to be in a state of financial emergency.
- A charter school, the sponsor must contact the governing body to determine what actions have been taken to resolve the condition. The sponsor **may** require a financial recovery plan to be prepared by the governing body, which plan must prescribe actions to eliminate the condition.¹⁹

The charter school statute, s. 1002.33(7)(a)10. and (9)(g), F.S., adds that if an audit for a charter school reveals a state of financial emergency as defined in s. 218.503, F.S., it must be provided to the governing board within seven days and the sponsor and DOE must also be notified. The term “state of financial emergency,” however, is not defined in s. 218.503, F.S. The charter school statute further states that when a charter school is found to be in a state of financial emergency by a CPA or auditor that the school must file a financial recovery plan with the sponsor within 30 days after receipt of the audit.

Thus, it appears that statute requires the CPA or auditor to make the determination that a charter school is in a state of financial emergency, without specifically citing the criteria upon which the CPA or auditor is to make that determination. In contrast, there must be a finding by the Governor for a local

¹⁶ Section 1002.34(4), F.S.

¹⁷ Sections 218.50-218.504, F.S.

¹⁸ Section 218.503(1), F.S.

¹⁹ Section 218.503(3) and (4), F.S.

government entity or by the Commissioner of Education for a district school board that the entity or board needs state financial assistance before it is deemed to be in a state of financial emergency.

The DOE is statutorily required to develop guidelines for the development of financial recovery plans.²⁰ These guidelines were published in March 2007.²¹

Effect of Bill: The bill adds CTCCs to the Financial Emergencies Act; accordingly, CTCCs will be subject to the Act's requirements in the same manner as local government entities, school boards, and charter schools.

Further, the bill strikes the conflicting language discussed above, which is contained in the charter school statute, s. 1002.33(7)(a)10. and (9)(g), F.S., and which references audit findings of an undefined state of financial emergency and requires financial recovery plans under imprecise circumstances. To better define a process for identifying charter schools and CTCCs that are experiencing financial difficulties, the bill creates s. 1002.345, F.S.

Under this new section, the following indicators of risk for financial difficulty are specified: an end-of-year financial deficit; a substantial decline in student enrollment without a commensurate reduction in expenses; insufficient revenues to pay current operating expenses or long-term expenses, disproportionate administrative expenses; excessive debt or expenditures; inadequate fund balances or reserves; and failure to meet specified statutory financial reporting requirements.²² When one of these indicators occurs, a charter school and a CTCC are subject to an expedited review by the sponsor and the sponsor and governing board must develop, and file with the Commissioner of Education and the FSEC, a corrective action plan. If the sponsor and board are unable to agree on the components or necessity of the plan, the State Board of Education (SBE) determines the plan.

The governing board is required to monitor the corrective action plan and annually report on its implementation status to the sponsor. If a governing board fails to implement the plan within one year, the SBE must prescribe steps for compliance. The chair of the governing board must appear before the SBE to report on the status of the plan and its effect on resolving the financial difficulties.

Further, the new section requires the Commissioner of Education to determine if a charter school or a CTCC needs a financial recovery plan when an audit reveals a financial emergency condition specified in s. 218.503(1), F.S., or a deficit fund balance or deficit net assets. If the Commissioner determines that a plan is needed, the charter school or CTCC is considered to be in a state of financial emergency. The governing board is responsible for annually reporting on the status of plan implementation to the sponsor.

The DOE is required to provide technical assistance to charter schools, CTCCs, governing boards, and sponsors in developing corrective action and financial recovery plans.

Finally, the bill specifies that a sponsor may choose to not renew or terminate a charter if the school or center fails to correct the deficiencies in a corrective action plan within one year or if it exhibits one or more financial emergency condition specified in s. 218.503(1), F.S., for two consecutive years.

Nepotism and Conflicts of Interests: Florida's charter school statute does not regulate charter school governing board members or employees regarding conflicts of interest. Depending on the school's organizational structure, its governing board and/or employees may be subject to various state and federal laws governing conflicts of interest for public officers and employees or nonprofit organizations.

²⁰ Section 218.503(4) and 1002.33(7)(a)10., F.S.

²¹ See *Technical Assistance Paper: Charter School Financial Recovery Plan*, DOE, No. 2007-12, March 2007.

²² The bill also adds a requirement in s. 1002.33(9)(g), F.S., for charter schools to provide monthly financial statements their sponsors.

If the charter school is operated by a municipality, the Code of Ethics for Public Officers and Employees in ch. 112, F.S., governs. Under the Code, public officers, agency employees, and local government attorneys are prohibited from: using their position for private gain; purchasing, renting, or leasing any realty, goods or services for their agency from a business entity in which they have a material interest; and entering into business relationships with an entity that is regulated by or does business with the agency for which they serve.²³

If the charter school is operated by a nonprofit entity, Florida law provides that transactions between a nonprofit corporation and one or more of its directors, or to entities controlled or influenced by a director, may be void or voidable unless: (a) the relationship or interest is disclosed or known to the board of directors; (b) the relationship or interest is disclosed or known to the members entitled to vote on the contract or transaction; or (c) the contract or transaction is fair and reasonable to the corporation at the time it is authorized.²⁴

Further, if a nonprofit charter school chooses to obtain tax-exempt status, it must follow federal law governing conflicts of interest. Tax exempt organizations may not enter into transactions that benefit persons in certain influential positions within the organization or "disqualified persons."²⁵ Generally, disqualified persons include individuals with a substantial financial stake in the organization, persons in positions of authority over the organization's operations or finances, and family members of such persons.²⁶

Effect of Bill -- Nepotism: As a condition of receiving a charter, the bill requires charter school and CTCC applicants to disclose the names of relatives that will be employed by the charter school or CTCC. This requirement for full disclosure is also a part of the charter.

The bill prohibits personnel in charter schools and CTCCs that are operated by a private entity from employing or promoting a relative if he or she exercises jurisdiction or control over the individual. Additionally, the prohibition applies to governing board members and their relatives. Similarly, the bill prohibits a relative from accepting employment or a promotion if the decision is made or advocated by his or her relative. These provisions do not apply when an action is limited to the approval of a budget. The nepotism requirements in s. 112.3135, F.S., apply to charter school personnel in schools operated by municipalities or other public entities. A violation of s. 112.3135, F.S., subjects these personnel to the penalties in s. 112.317, F.S.

Effect of Bill -- Conflicts of Interest: Members of the governing board of a charter school or CTCC, including those operated by private entities, are subject to the same requirements that apply to public employees for the solicitation and acceptance of gifts, business transactions, and conflicting employment or contractual relationships in s. 112.313(2), (3) and (7), F.S. Under certain circumstances, a board member may seek an exemption from the provisions for business transactions and conflict of interest. The bill also subjects board members to the voting conflict requirements in s. 112.3143, F.S. Board members of charter schools or centers operated by public entities are explicitly subject to the requirements for public disclosure of financial interests in s. 112.3144, F.S. A violation of any of these provisions subjects governing board members to the penalties in s. 112.317, F.S.

Class Size: In 2002, voters amended Article IX, s. 1 of the Florida Constitution to set forth specific maximum class size limits for core curricula courses in public school classrooms.²⁷ Under the amendment by the 2010-2011 school year, the maximum number of students that may be assigned to

²³ Section 112.313, F.S.

²⁴ Section 617.0832(1), F.S.

²⁵ 26 U.S.C.A. 4958.

²⁶ 26 U.S.C.A. 4958(f)(1).

²⁷ Section 1003.01(14), F.S., defines "core curricula courses" to include mathematics, language arts/reading, science, social studies, foreign language, English for Speakers of Other Languages, exceptional student education, and courses taught in traditional self-contained elementary school classrooms. Section 1003.01(15), F.S., defines "extracurricular courses" to mean all courses that are not defined as "core-curricula courses," which may include, but are not limited to, physical education, fine arts, performing fine arts, and career education.

a teacher is: (a) 18 students in grades PK-3; (b) 22 students in grades 4-8; and (c) 25 students in grades 9-12.

In 2003, the Legislature enacted s. 1003.03, F.S., to execute the amendment's requirements. This legislation made both charter and traditional public schools subject to the amendment's requirements and set forth an implementation schedule and penalties for failure to comply with the schedule's requirements.

For the 2006-2007 school year, when class size began being measured at the school level, 88 charter schools (25 percent) and 177 traditional schools (six percent), prior to appeals, did not meet class size caps or reduction criteria. After class size reduction appeals, 49 charter schools (14 percent) and 89 traditional schools (three percent) did not meet class size caps or reduction criteria.²⁸ Subsequent to the appeals, a total of \$5,318,921 was transferred from operating class size reduction funds to class size reduction FCO in the aforementioned schools. Of that amount, \$2,056,794 was transferred for the 49 charter schools.²⁹

For the 2007-2008 school year, 19 charter schools (five percent) and 69 (two percent) of traditional schools, prior to appeals, did not meet class size caps or reduction criteria. Class size reduction appeals were required to be filed with the Commissioner of Education by January 2, 2008.³⁰

Effect of Bill: The bill amends the charter school statute, s. 1002.33(17), F.S., to provide that the maximum number of students eligible to be funded in any charter school classroom shall be the maximum number prescribed by law. In other words, students in excess of these maximums will not be reportable full-time equivalent students for Florida Education Finance Program funding purposes.

School Grades: Charter schools are subject to the same academic performance accountability requirements applicable to traditional public schools. Thus, charter school students must take the Florida Comprehensive Assessment Test (FCAT) and charter schools are graded annually.³¹

Florida's School Grading System requires the Commissioner of Education to prepare an annual performance report for each school and school district based primarily on student FCAT performance.³² A school's grade is determined based on student achievement scores, student learning gains, and improvement of the lowest quartile of students.³³ Schools are graded on a scale of "A" to "F."³⁴ Alternative schools³⁵ receive a school improvement rating, but may elect to receive a school grade.³⁶

In order to receive a grade, a school must have at least 30 students with valid FCAT reading and math scores from the current and previous year.³⁷ Schools that do not meet these criteria do not receive a school grade. Further, a school that tests fewer than 90 percent of its students may receive a school grade of "I," or "incomplete," unless the DOE determines that its data accurately reflects that school's progress.³⁸ According to DOE representatives, these rules were established in order to ensure that a school's grade was based on a statistically valid sample size.³⁹

²⁸ White Paper on School Grades and Class Size Reduction Compliance, DOE, October 8, 2007.

²⁹ Memo: Charter School Class Size Fixed Capital Outlay, DOE, March 2, 2007.

³⁰ DOE PowerPoint Presentation, Update on the Class Size Amendment, January 8, 2008.

³¹ Section 1002.33(9)(l)1., F.S.

³² Section 1008.34(1) and (3), F.S.

³³ Section 1008.34(3)(a), F.S.

³⁴ Section 1008.34(2), F.S.

³⁵ An alternative school provides dropout prevention and academic intervention under s. 1003.53, F.S.

³⁶ Section 1008.341, F.S.

³⁷ Rule 6A-1.09981(3)(c) and (4)(a) and (b), F.A.C.

³⁸ Rule 6A-1.09981(9)(b), F.A.C.

³⁹ Telephone conference with DOE representatives in July 2007.

School Grades and School Improvement Ratings: The bill provides reporting requirements for the DOE and each charter school that does not receive a school grade or a school improvement rating, to the extent that the information does not compromise a student's privacy.

The DOE must provide charter schools that do not receive a school grade or a school improvement rating and that serve at least ten students who participate in the statewide assessment with student performance data, including learning gains, which is used to determine a school grade or a school improvement rating. Each charter school must report student performance comparisons by grade groupings to the parents of a student enrolled in a charter school or on a charter school waiting list, the school district, and the governing board. The report must compare the performance of: (a) each charter school that does not receive a school grade or school improvement rating with that of traditional public schools in the district in which the charter school is located and to other charter schools in the state; and (b) each charter alternative school with all alternative schools in the state. Such reporting must comply with s. 1002.22, F.S. and 20 U.S.C. s. 1232(g), relating to student records and privacy.

The bill also requires charter schools to post this information on their website and provide for other notice to the public, as provided for in SBE rule. The FSEC must include a link on its website to this information.

School District Sponsorship Exclusivity: On or before March 1st of each year, a district school board may present a written resolution to the SBE indicating that it wishes to retain the exclusive authority to sponsor charter schools within its boundaries.⁴⁰ If granted, the FSEC may not approve charter schools within the district.⁴¹

Exclusivity may not be granted to a district that has never approved a charter school, unless it has never received an approvable application.⁴² Exclusivity is to be granted if the SBE determines that the district has provided fair and equitable treatment to its charter schools during the past four years. To make this determination, the SBE is to consider input from charter schools within the district and a district resolution that addresses whether the district has:

- Complied with charter school law;
- Accurately charged authorized administrative costs;
- Permitted charter schools to purchase district services at cost;
- Not placed a moratorium or enrollment caps on charter schools;
- Complied with SBE orders pertaining to charter schools;
- Assisted charter schools in meeting facility needs;
- Fairly distributed federal and state grant funds;
- Provided staff and resources to charter schools at cost; and
- Complied with school choice program requirements.⁴³

SBE rule provides that a grant of exclusivity lasts from July 1st of the year in which granted until June 30th of the next calendar year.⁴⁴

For Fiscal Year 2007-2008, 41 school districts filed applications for exclusivity with the SBE. Three districts withdrew their applications prior to consideration⁴⁵ and the remaining 38 applications were considered by the SBE during its September and October 2007, meetings. The SBE granted exclusivity to three districts;⁴⁶ denied exclusivity to eight districts on grounds that they did not have a

⁴⁰ Section 1002.335(5)(c), F.S.

⁴¹ Section 1002.335(5)(i), F.S.

⁴² Section 1002.335(5)(g), F.S.

⁴³ Section 1002.335(5)(e), F.S.; Rule 6A-6.0783, F.A.C.

⁴⁴ Rule 6A-6.0783, F.A.C.

⁴⁵ Applications were withdrawn by the school districts in Brevard, Citrus, and Santa Rosa Counties.

⁴⁶ Orange, Polk, and Sarasota County School Boards.

history of sponsoring charter schools;⁴⁷ and denied exclusivity to the remaining 27 districts on grounds that they had not satisfied 100 percent of the factors constituting fair and equitable treatment of charter schools.⁴⁸

Effect of Bill: The bill provides that a grant of exclusive authority shall be continuous, so long as a district school board continues to comply with the statutory requirements for such authority. It establishes a rebuttable presumption that a district school board that has been granted exclusivity is acting in good faith in its capacity to review applications. A party may challenge a school district's exclusive authority by filing a notice of challenge with the SBE that describes the reasons for the challenge. The challenging party must provide a copy of the notice to the school board. The SBE must grant the school board a hearing and opportunity to respond in writing to the challenge. The SBE must decide the challenge within 60 days of the notice.

C. SECTION DIRECTORY:

Section 1. -- Amending s. 11.45, F.S.; adding CTCCs to Auditor General reporting requirements; and requiring the Auditor General to adopt rules for CTCC financial reporting.

Section 2. -- Amending s. 218.50, F.S.; adding CTCCs to the Financial Emergencies Act.

Section 3. -- Amending s. 218.501, F.S.; adding CTCCs to the Financial Emergencies Act.

Section 4. -- Amending s. 218.503, F.S.; adding CTCCs to the Financial Emergencies Act; and requiring the Commissioner of Education to determine whether a state of financial emergency exists.

Section 5. -- Amending s. 218.504, F.S.; adding CTCCs to the Financial Emergencies Act.

Section 6. -- Amending s. 1002.33, F.S., relating to charter schools; requiring use of specified documents developed by the DOE; requiring applicant training; revising provisions relating to a state of financial emergency; prohibiting nepotism and requiring compliance with specified conflict of interest regulations; requiring monthly financial reporting; prohibiting funding for students in excess of class size requirements; and revising student assessment data requirements.

Section 7. -- Amending s. 1002.335, F.S., relating to the FSEC; revising district school board exclusivity provisions; prohibiting nepotism and requiring compliance with specified conflict of interest regulations; and revising student assessment data requirements.

Section 8. -- Amending s. 1002.34, F.S., relating to CTCCs; requiring CTCC use of specified documents developed by the DOE; requiring applicant training; revising provisions relating to a state of financial emergency; and prohibiting nepotism and requiring compliance with specified conflict of interest regulations.

Section 9. -- Creating s. 1002.345, F.S.; specifying requirements for charter schools and CTCCs that are experiencing financial difficulty or that are found by the Commissioner of Education to be in a state of financial emergency.

Section 10. -- Providing an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

⁴⁷ Baker, Charlotte, Clay, DeSoto, Gilchrist, Hardee, Jefferson, and Suwannee County School Boards.

⁴⁸ Bay, Broward, Collier, Duval, Escambia, Flagler, Gadsden, Hernando, Hillsborough, Indian River, Lake, Lee, Levy, Manatee, Martin, Miami-Dade, Monroe, Nassau, Osceola, Palm Beach, Pasco, Pinellas, St. Johns, St. Lucie, Sumter, Volusia, and Wakulla.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill requires the DOE to perform a number of tasks to assist charter schools and CTCCs, including offering or arranging training and specific technical assistance for applicants, assisting with the development and monitoring of financial recovery plans, and providing and comparing student performance information. The DOE already provides these types of services to districts and other schools. The administrative workload associated with the bill is expected to have an insignificant fiscal impact.

Under the bill, a charter school will not be provided funds for the students in a classroom in excess of the statutory maximum class size as prescribed by law. According to the DOE, the impact of this policy if applied for the current year, in which class sizes are reduced by two at the school level by law, is a total of \$41,325 for the eight charter schools not in compliance.⁴⁹ Using the 2007-08 class size data for all charter schools, and applying the 2010-11 constitutional class size maximums to the individual classroom, the additional students would be equivalent to approximately \$35 million.⁵⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Under the bill, charter schools, including those operated by private entities, will not be provided funds for students who exceed the class size caps in law.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of

⁴⁹ DOE, March 3, 2008. The estimate assumes that all classes out of compliance are for students in kindergarten through grade three.

⁵⁰ DOE, March 10, 2008.

February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the Auditor General to adopt rules for the financial audits of CTCCs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Representative Legg submitted the following sponsor statement:

For over a decade, charter schools have been a significant part of this state's educational landscape. As successful as Florida's charter schools are, we should not settle for simply maintaining them but instead continue our work to exceed expectations and surpass the objectives we have set for ourselves. HB 1301 is an effort to seek better accountability and administrative clarity as well as preserve the highest level of integrity possible for our students, staff, and faculty.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 18, 2008, the Committee on Education Innovation and Career Preparation reported the bill favorably with one strike everything amendment. The strike everything amendment:

- Removes the bill's inclusion of "uncle, aunt, first cousin, nephew, [and] niece" in its definition of the term "relative," clarifies the bill's proscription of nepotism, adds a provision allowing the governing board to unanimously waive the proscription of nepotism, and requires reporting of such waiver.
- Provides that the financial statements that a charter school is to provide to its sponsor are to be quarterly, rather than monthly.
- Removes the bill's provision that prohibited charter schools from receiving funding for students in excess of the maximum class size requirements specified in law.
- Adds that a governing board member of a charter school is subject to the exemption in s. 112.313(15), F.S., which authorizes a public officer, under specified circumstances, to maintain an employment relationship with a tax exempt organization that does business with the officer's agency.
- Provides that a school district may apply to the SBE for exclusivity to authorize charter schools every four fiscal years beginning in 2008-2009 and that when granted, exclusivity lasts four fiscal years; whereas, the bill authorized annual applications for exclusivity and provided that exclusivity once granted lasted in perpetuity unless successfully challenged.
- Revises the conditions that trigger a finding of charter school or CTCC financial weakness.