

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: CS/SB 1852

INTRODUCER: Committee on Education Pre-K - 12 and Senator Wise

SUBJECT: Charter Schools

DATE: February 6, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	deMarsh-Mathues	ED	Fav/CS
2.	_____	_____	HE	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

District school boards must annually proportionately share the revenue generated by the millage levy with charter schools in the school district on a per-student basis or be subject to a Florida Education Finance Program (FEFP) recalculation. Recalculated funds are to be submitted by the district school board to its charter schools within 30 days of receipt and are only to be used for capital outlay purposes.

Federal funds issued for the benefit of charter schools and students and sent to a district school board must be distributed in full within 60 days of receipt.

This bill authorizes Florida College System (FCS) institutions that offer an approved teacher preparation program to operate one K-12 charter school in each district that the FCS serves.

A district school board would be required to provide a charter school with training and access to a school district's student achievement database in instances where academic student performance data cannot be given to the charter school.

A formal grievance procedure would be made available to sponsors or charter schools when they are unable to reach resolution and request mediation. The process of a school closing is suspended upon the grievance, pending mediation, unless the charter is terminated for emergency reasons.

A professional development plan provided by charter school cooperative organizations to the State Board of Education would qualify for meeting continuing education requirements.

This bill would allow any type of charter school seeking high-performing status to compensate for being in a state of financial emergency by showing that it has the finances to cover the deficiency, or that the deficiency does not result in a deteriorating financial condition. This exception is currently available only to charter-schools-in-a-workplace.

High-performing charter schools would be authorized to establish a maximum of three new charter schools annually, an increase from the current one new school per year authorized in law.

High-performing charter schools that are part of a system would be given greater flexibility to make changes in the areas of increased student enrollment beyond capacity caps, expansion of grade levels, consolidation of multiple schools and an increase in charter terms. This is the same flexibility currently extended to high-performing charter schools irrespective of whether they are part of a system.

This bill substantially amends sections 163.3180, 1002.32, 1002.33, 1002.331, 1002.332, 1002.34, 1002.345, 1011.68, 1012.32, and 1013.62, of the Florida Statutes.

II. Present Situation:

Charter Schools

Charter schools are governed in law by s. 1002.33, F.S. Charter schools are considered to be public schools.¹ Terms and conditions for charter school operation are to be agreed to by the sponsor and applicant through a written contractual agreement, which represents the charter.² Although the initial term of a charter is restricted to four or five years, to facilitate access to long-term financial construction funding, s. 1002.33(7)(a)12., F.S., authorizes charters of up to 15 years for those operated by a municipality or other public entity, or by a private not-for-profit 501(c)(3) corporation.

Various individuals and entities are authorized to file an application for a new charter school, including teachers, parents, a group of individuals, a municipality or a legal entity.³ District school boards and state universities (regarding the creation of a charter lab school) are authorized to serve as sponsors of charter schools. Sponsors review and approve or deny charter school applications, monitor progress, and ensure compliance with state education goals and participation in the education accountability system.⁴

¹ s. 1002.33(1), F.S.

² s. 1002.33(6)(h), F.S.

³ s. 1002.33(3), F.S.

⁴ s. 1002.33(5), F.S.

Florida College System institutions are authorized to develop charter schools in collaboration with the school district, provided that the charter schools include an option for students to receive an associate degree upon high school graduation.⁵

The 2011 Florida Legislature established the designation of “high-performing charter schools” and “high-performing charter school systems.”⁶ A charter school is considered high-performing if it:

- Received at least two “A” grades and no school grade below “B” during each of the previous 3 school years;
- Received an unqualified opinion on each annual financial audit in the last three fiscal years for which audits are available; and
- Did not receive a financial audit that showed one or more financial emergency conditions in the last three fiscal years for which audits are available.

Virtual charter schools cannot be considered for designation as a high-performing charter school.⁷

High-performing charter schools are granted certain benefits by virtue of their designation. These schools are authorized to:

- Increase student enrollment once a year by up to 15 percent more than capacity identified in the charter;
- Expand grade levels within K-12 grades to add grades if the annual enrollment increase is not exceeded;
- Submit a quarterly, rather than monthly financial statement to the sponsor;
- Consolidate charters of multiple, high-performing charter schools under a single charter;
- Receive a modification of its charter to a term of 15 years or a 15 year charter renewal, although it remains subject to annual sponsor review and termination provisions; and
- Replicate at the rate of one charter per year.⁸

Written notification, including an exact enrollment increase and specified grade levels, must be provided to a sponsor by March 1 if a high-performing charter school intends to increase enrollment or expand grade levels the following year.

High-performing charter school systems are defined as an entity that:

- Operates at least three high-performing charter schools in the state;
- Operates a system of charter schools in which at least 50 percent are high-performing and, no charter school received a school grade of “D” or “F”, except in instances where:

⁵ s. 1002.33(5)(j), F.S.

⁶ ch. 2011-232, L.O.F.

⁷ s. 1002.331(1), F.S.

⁸ s. 1002.331(2)(e) and (3)(a), F.S..

- The entity took over operation of a public school with a “D” or “F” grade and in this case, the grade is not to be considered for high-performing purposes for three years; or
- A new charter school is started that serves a student population, the majority of which is in a school zone served by a public school identified as lowest performing. In this case, the grade will not be considered if it maintains a grade that is higher than that public school within three years of establishment; and
- Has not received a financial audit showing one or more financial emergency conditions for any charter school now operated by the entity.

Upon request by an entity, the Commissioner of Education is required to provide a letter of verification that the entity is designated as a high-performing charter school system.

High-performing charter school systems are authorized to replicate schools pursuant to the same method and at the same rate prescribed for high-performing charter school replication.⁹

To date, 115 charter schools have received high-performing designation. As of August 1, 2011, districts received 47 applications from high-performing charter schools requesting replication.¹⁰

District School Tax

In addition to other millage authorized for current operation, each school board may levy up to 1.5 mills more against the taxable value for school purposes for district schools, including charter schools, at the school board’s discretion, to fund:

- New construction and remodeling, as included in the district’s educational plant survey;
- Maintenance, renovation, and repair of existing school plants or leased facilities to correct deficiencies;
- Purchase, lease-purchase or lease of school buses or of new and replacement equipment, computer hardware;
- Payments for educational facilities and sites due under a lease-purchase agreement up to a specified cap;
- Payment of certain loans, costs required for state and federal compliance, costs of leasing relocatable educational facilities and cost of certain school buses; and
- Payment of the cost of the initial library collection at a new school.¹¹

III. Effect of Proposed Changes:

This bill expands the current prohibition on a sponsor’s policies applying to a charter school to include a sponsor’s procedures and prior decisions of the school board.

This bill authorizes Florida College System (FCS) institutions that offer an approved teacher preparation program to operate one K-12 charter school in each district that the FCS serves. This

⁹ s. 1002.332(1) and (2), F.S.

¹⁰ DOE Draft Bill Analysis on SB 1852 (January 19, 2012). On file with the Senate Committee on Education Pre-K – 12.

¹¹ s. 1011.71 (2), F.S.

represents an expansion of grade levels, as this authority is currently limited to development of secondary charter schools. Additionally, by including all districts that the FCS serves, it is unclear how areas of service are determined.

A district school board would be required to provide charter school personnel with training and access to a school district's student achievement database in instances where academic student performance data cannot be given to the charter school. It is unclear how extensive training would need to be, and whether a database would require alteration to accommodate new users. Additionally, it is uncertain whether access to the database would include individual student education records. If so, access to these records would be governed by s. 1002.22, F.S., and the federal Family Educational Rights and Privacy Act (FERPA), pursuant to 20 U.S.C. s. 1232g. The federal and state laws protect the privacy of student records. Section 1002.22, F.S., gives public school elementary and secondary school students and their parents the right to access their educational records, to challenge the content of the records, and to have privacy with respect to the records. Section 1002.221, F.S., prohibits the release of K-12 educational records without written consent of the student or parent except as permitted by the FERPA.

This bill establishes a formal grievance procedure to be made available to sponsors or charter schools when they are unable to reach resolution and request mediation. The process of a school closing is suspended upon the grievance, pending mediation, unless the charter is terminated for emergency reasons (such as for health, safety and welfare purposes.)

Charter school cooperative organizations composed of high-performing charter schools, consortiums, or individual charter schools may satisfy continuing education requirements through provision of a professional development plan to the State Board of Education.

District school boards must annually proportionately share the revenue generated by the millage levy with charter schools in the school district on a per-student basis or be subject to FEFP recalculation. Currently, district school boards have discretionary authority to share this revenue. According to the Department of Education (DOE), currently three school districts provide charter schools with these funds.¹²

Recalculated funds are to be submitted by the district school board to its charter schools within 30 days of receipt and are only to be used for capital outlay purposes.

Federal funds intended for charter schools and students and sent to a district school board must be distributed in full within 60 days of receipt, including funds received through Title I and Title II of the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act (IDEA). A representative from the Lee County School District expresses various concerns about implementing this provision, specifically:

- The language covers too many funding streams in that allocation methods for each grant can vary not only by grant, but by year;

¹² These are Franklin, Sarasota and Sumter counties. DOE Draft Bill Analysis on SB 1852 (January 19, 2012). On file with the Senate Committee on Education Pre-K – 12.

- The language is imprecise in that there are many subparts to Title I, Title II and IDEA, and each may have different rules for allocations, allowable activities, and set-asides, and the funds might follow a student that leaves a particular school;
- The language proposes a possibly inappropriate use of federal funds, in that school districts do not receive actual federal funds at the beginning of the school year; rather, they receive an award, which permits them to draw down federal funds as needed on an immediate basis (i.e. expenditures taking place in the next day or so);
- The language may result in the unnecessary transfer of funds. For example, if the district transferred cash to a charter school, the charter would have to document all interest earned on that deposit until it was actually expended on the approved grant activity, and return the interest to the school district. Also, throughout the year, each school might have to return funds earmarked to students who have withdrawn, plus interest.¹³

Current law provides for a school to qualify as high-performing if it did not receive an audit showing a financial emergency in the last three years as one of its criteria. An exception is provided exclusively to charter-schools-in-a-workplace if there is an audit showing that the school has the money to cover deficiencies, or that the deficiency does not result in a deteriorating financial condition. This bill makes the exception provided to charter-schools-in-a-workplace available to all charter schools applying for high-performing status.

High-performing charter schools would be authorized to establish a maximum of three new charter schools annually, which is an increase from the current one new school per year authorized in law.

High-performing charter schools that are part of a system would be given greater flexibility to make changes as follows:

- Increase student enrollment once a school year by up to 15 percent more than the capacity authorized in the charter, subject to written notice to the sponsor;
- Expand grade levels within K-12 grades to add grade levels not already served if the annual enrollment increase is within allowable limits, subject to written notice to the sponsor;
- Submit a quarterly, rather than monthly, financial statement to the sponsor;
- Consolidate under a single charter the charters of multiple high-performing charter schools located in the same district by the charter schools' governing boards, irrespective of renewal cycle; and
- Increase the charter term to up to 15 years or a 15-year charter renewal, providing that the charter is compliant with statutory provisions regarding written notification to the sponsor and capacity determination requirements.

This is the same flexibility currently extended to high-performing charter schools irrespective of whether they are part of a system.

¹³ Dr. Jeff McCullers, Director, Grants and Program Development, Liaison, Public Charter Schools, The School District of Lee County, Letter to Martha Asbury, Assistant Deputy Commissioner of Finance and Operations, Department of Education (February 1, 2012). On file with the Committee on Education Pre-K – 12.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the authority to increase by three new schools per year, of those charter schools that are governed by a for-profit management organization, high-performing charter schools would be able to expand more quickly. High-performing charter schools that are part of a system would also be able to increase in scope and size more quickly, and also replicate faster under the provisions in the bill.

C. Government Sector Impact:

District school boards would be required to equally share the revenue generated through additional millage with charter schools, based upon a set per-student formula. It is unclear what type of fiscal impact this could potentially have on a district school board regarding capital outlay and the reduced ability to repay debt obligation, if any.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Committee on Education Pre-K – 12 on February 6, 2012:

This bill:

- Expands the number of charter schools that an FCS institution is authorized to operate, from one charter school, to one per district in which the FCS institution serves;
- Requires the district school board to provide charter schools with training and access to its student achievement database if the board is unable to provide student performance data;
- Establishes a formal grievance procedure for sponsors and charter schools unable to reach resolution and provides for a cessation of a school closing while the case is pending, unless the charter is terminated for emergency reasons; and
- Authorizes charter school cooperative organizations to submit a professional development plan to satisfy continuing education requirements.

B. Amendments:

None.