

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 903 Charter Schools

SPONSOR(S): Education Committee; PreK-12 Appropriations Subcommittee; K-20 Innovation Subcommittee; and Adkins

TIED BILLS: **IDEN./SIM. BILLS:** SB 1852

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	12 Y, 0 N, As CS	Beagle	Sherry
2) PreK-12 Appropriations Subcommittee	11 Y, 3 N, As CS	Seifert	Heflin
3) Education Committee	14 Y, 3 N, As CS	Beagle	Klebacha

SUMMARY ANALYSIS

The bill increases the accountability of charter schools by:

- Requiring the Commissioner of Education to annually determine a high-performing charter school's, or high-performing charter school system's, continued eligibility for "high-performing" status. A high-performing charter school or charter school system that fails to meet eligibility criteria will lose its classification as "high-performing."
- Requiring each charter school to maintain a website with information or online links to information regarding any entity that owns, operates, or manages the school and any management fees the school pays to such entity.

The bill also:

- Authorizes Florida College System institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12.
- Requires a sponsor to provide federal funds to charter schools on a reimbursement basis, if certain requirements are met. A charter school and its sponsor may mutually agree to another arrangement regarding federal funds.
- Clarifies the process for appealing the denial of a charter school application submitted by a high-performing charter school.
- Clarifies the extent to which charter schools must comply with statutory provisions regarding educator compensation, performance evaluation, and contracting.
- Authorizes certain advantages for charter schools that predominantly serve students with disabilities and meet accreditation and financial requirements.

The bill takes effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter Schools

Charter schools¹ are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”² The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.³ One of the guiding principles of charter schools is to meet high standards of student achievement and increase parental choice and student learning opportunities.⁴

A charter school may be sponsored by a district school board or, in the case of a charter lab school, by a state university.⁵ Each charter school is administered by a governing board.⁶ State universities, Florida College System (FCS) institutions, municipalities, and private, nonprofit s. 501(c)(3) of the Internal Revenue Code status organizations⁷ may operate a charter school.⁸

Florida College System Institution Charter Schools

Present Situation

Florida College System (FCS) institutions are statutorily authorized to, in cooperation with the school board or boards within the institution’s service area, develop charter schools that offer secondary education⁹ and allow students to obtain an associate degree¹⁰ upon graduation from high school. Students have full access to all college facilities, activities, and services.¹¹ There are seven FCS institution charter schools operating in Florida:

- Northwest Florida State College (NFSC): NFSC Collegiate High School in Okaloosa County;
- St. Petersburg College: St. Petersburg Collegiate High School in Pinellas County;
- Polk State College (PSC): PSC Lakeland Collegiate High School and PSC Chain of Lakes Collegiate High School in Polk County;
- Indian River State College: Clark Advanced Learning Center in Martin County; and

¹ In the 2011-12 school year, there are 525 charter schools operating in 44 of Florida’s 67 school districts and at two state universities. Charter schools currently serve 178,892 students. Florida Department of Education, *Charter Schools Funding Report*, at 1 (Jan. 1, 2012)[hereinafter *Funding Report*].

² Section 1002.33(7), F.S.

³ Section 1002.33(2) and (16), F.S.

⁴ Section 1002.33(2), F.S.

⁵ Section 1002.33(5)(a), F.S.

⁶ Section 1002.33(9)(h)-(j), F.S.

⁷ The internal revenue code defines a 501(c)(3) status organization as a private, nonprofit organization that is organized exclusively for religious, scientific, literary, or educational purposes or for the purpose of promoting amateur sports or for preventing cruelty to animals or children. These organizations are exempt from federal income taxes. 26 U.S.C. s. 501(c)(3).

⁸ Section 1002.33(5)(b)4., (12)(i), and (15)(b)-(c), F.S.

⁹ Under Florida law, the term “secondary school” is synonymous with “high school” (grades 9 through 12). Section 1003.01(2), F.S. (definition of “school”). Generally speaking, elementary schools serve students in kindergarten through grade 5, middle schools serve students in grades 6 through 8, and high schools serve students in grades 9 through 12. Section 1003.01(2), F.S. High school grade levels served by FCS institution charter schools vary. For example, St. Petersburg Collegiate High School serves students in grades 10 through 12. St. Petersburg Collegiate High School, *Admissions*, <http://www.spcollege.edu/spchs/Admission.html> (last visited Feb. 2, 2012). In contrast, Edison State College’s two collegiate high schools serve students in grades 9 through 12. *See, e.g.*, Edison Collegiate High School, *Admissions*, <http://echs.edison.edu/about/admission-process/> (last visited Feb. 2, 2012).

¹⁰ Associate degrees include the associate in arts, associate in science, and associate in applied science degrees. *See* rule 6A-14.030(1)-(3), F.A.C.

¹¹ Section 1002.33(5)(b)4., F.S.

- Edison State College: Edison Collegiate High School in Charlotte County and Edison Collegiate High School in Lee County.¹²

FCS institution charter schools may not serve students in the elementary or middle grades.¹³

Effect of Proposed Changes

Currently, FCS institution charter schools may only serve students in the secondary grades. The bill authorizes FCS institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12. This will enable FCS institutions to use these charter schools as teaching labs for prospective teachers enrolled in their teacher preparation programs.

High-Performing Charter Schools and Charter School Systems

Present Situation

Legislation enacted in 2011 established criteria for identifying charter schools and charter school systems with a track record of exemplary academic performance and financial stability.¹⁴ A high-performing charter school is a charter school that during each of the three previous years:

- Received at least two school grades of “A” and no grade below “B;”
- Received an unqualified opinion¹⁵ on each annual financial audit; and
- Has not received an annual financial audit that reveals a financial emergency condition.¹⁶

A high-performing charter school system is a system of charter schools operated by a municipality or other public entity that is authorized by law to operate a charter school; a private, nonprofit, s. 501(c)(3) of the Internal Revenue Code status corporation; or a private for-profit education management corporation that:

- Includes at least three high-performing charter schools in Florida;
- Has at least 50 percent of its charter schools designated as “high-performing” with no charter school receiving a school grade of “D” or “F;” and
- Has not received an annual financial audit that revealed a financial emergency condition for any charter school operated by the entity in Florida.¹⁷

High-performing charter schools receive various advantages. A high-performing charter school may:

- Increase the school's enrollment once per year;
- Expand grade levels within kindergarten through grade 12 to add grade levels not already served;¹⁸

¹² Review of FCS institution websites (Jan. 26, 2012).

¹³ Section 1002.33(5)(b)4., F.S

¹⁴ Sections 1 and 2, ch. 2011-232, L.O.F.

¹⁵ An unqualified audit opinion means that the charter school's financial statements are materially correct. Telephone interview with Florida Auditor General staff (March 24, 2011).

¹⁶ Section 1002.331(1), F.S. A financial emergency condition includes failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes; failure for one pay period to pay wages, salaries, and retirement benefits owed; or a fund balance or total net assets deficit. Section 218.503(1), F.S. A charter school in the workplace satisfies audit requirements for “high-performing” status if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition. Section 1002.331(1)(c), F.S. A “deteriorating financial condition” is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition. Section 1002.345(1)(a)3., F.S.

¹⁷ Section 1002.332(1), F.S.

¹⁸ Enrollment increases and grade level expansion may not exceed 15 percent of the student capacity authorized by the charter. Section 1002.331(2)(a) and (b), F.S.

- Submit quarterly, rather than monthly, financial statements to its sponsor;
- Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the school's governing board, regardless of the charter renewal cycle; and
- Receive a modification of its charter to a term of 15 years or a 15-year charter renewal.¹⁹

In addition to these advantages, a high-performing charter school may submit a charter school application to replicate its educational program in any school district in the state.²⁰ Such applications may only be denied based upon limited criteria.²¹ If an application submitted by a high-performing charter school is denied, the sponsor must provide the applicant and the Department of Education (DOE) with a letter of denial stating its reasoning with supporting documentation. Like other application denials, a high-performing charter school may appeal the sponsor's denial to the State Board of Education and the sponsor may submit a response to the appeal. The appeals process for high-performing charter school applications differs from other appeals in that the state board conducts the appeal without convening the Charter School Appeal Commission²² and independently reviews whether the sponsor based its decision upon the statutory denial criteria.²³

In order to receive "high-performing" status, a charter school or charter school system must request verification by the Commissioner of Education that the school meets the eligibility requirements.²⁴ The law provides for removal of a charter school's "high-performing" status if it receives a school grade of "C" in any two years during the term of the 15-year charter.²⁵ The law does not provide a process for annually reviewing a charter school's, or charter school system's, continued eligibility for "high-performing" status. Nor does it specify a process for removing the status if a school or system is no longer eligible.²⁶

Effect of Proposed Changes

The bill requires the commissioner to annually determine a charter school's, or charter school system's, continued eligibility for "high-performing" status. A high-performing charter school or charter school system may maintain its "high-performing" status, unless the commissioner determines that the charter school or system no longer meets eligibility criteria. If a high-performing charter school or system fails to meet eligibility criteria, the commissioner must notify the school or system of its declassification as "high-performing." These changes establish explicit standards for reviewing continued eligibility for

¹⁹ Section 1002.331(2), F.S. The charter may be modified or renewed for a lesser term at the option of the charter school, is subject to annual review by the sponsor, and may be terminated for grounds currently specified in statute. *Id.* A sponsor may terminate or not renew a charter school's charter if the school fails to participate in Florida's accountability system; fails to meet the student performance outcomes agreed upon in the charter; fails to meet generally accepted standards of fiscal management; or violates the law. Section 1002.33(8)(a), F.S.

²⁰ Section 1002.331(3)(a), F.S.

²¹ Section 1002.33(6)(b)3.b., F.S. An application to replicate a high-performing charter school may only be denied if clear and convincing evidence demonstrates material noncompliance with application requirements related to curricula, student learning goals, reading instruction, and financial management; material noncompliance with law requiring charter schools to be nonsectarian; comply with student enrollment requirements; be accountable to the sponsor; be tuition free; and meet state and local health, safety, and civil rights requirements; that the proposed charter school does not substantially replicate one of the applicant's high-performing charter schools; that the applicant misrepresented important facts or concealed information during the application process; or the proposed charter school's educational program and financial management practices do not materially comply with the charter school statute. *Id.* "Material noncompliance" is a failure to follow requirements or a violation of prohibitions applicable to charter school applications which is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. Section 1002.33(6)(b), F.S. (flush-left provisions at end of paragraph).

²² The Charter School Appeal Commission (CSAC) is a body comprised of school district and charter school representatives that reviews charter school application appeals filed with the state board. CSAC must review the appeal and make a written recommendation to the state board as to whether it should be upheld or denied. The state board must consider the CSAC's recommendation, but is not bound by it when making its final decision. Section 1002.33(6)(e)1. and 2., F.S.

²³ Section 1002.33(6)(c)3.b., F.S.

²⁴ Sections 1002.331(5) and 1002.332(2), F.S.

²⁵ Section 1002.331(4), F.S.

²⁶ *See* ss. 1002.331 and 1002.332, F.S.

“high-performing” status and for declassifying high-performing charter schools and systems that fail to meet eligibility criteria.

Additionally, the bill clarifies that the high-performing charter school application appeals process is conducted in the same manner as other application appeals, except that the state board conducts the appeal without convening the Charter School Appeal Commission.

Public Information Regarding Charter Schools

Present Situation

State law requires dissemination of information to the public regarding charter school performance. DOE must annually provide a statewide analysis and comparison of charter school students and traditional public school students. The comparison is based upon the academic performance of charter school students as measured by the statewide assessment program and information reported in each school’s annual progress report.²⁷

Charter schools with less than 30 students do not receive school grades because at least 30 students are required in order to obtain a valid sample size for school grading purposes.²⁸ DOE must report student assessment data to these charter schools, which in turn must report the data to parents of students attending the charter school, parents of children on the charter school’s waiting list, the district in which the charter school is located, and the governing board of the charter school.²⁹ The charter school must post both student performance and comparison data on its internet website and also provide notice to the public at large.³⁰

Legislation enacted in 2011 required each charter school’s governing board to appoint a representative to facilitate parental involvement, assist stakeholders, and resolve disputes. The representative must reside in the school district where the charter school is located and a separate representative must be appointed for each charter school it operates in the district. Each governing board must hold at least two open public meetings in the district per school year. The charter school principal and appointed representative must be physically present at these meetings.³¹

A charter school’s governing board may contract with a private, for-profit management company to provide management services on its behalf. Management companies provide, among other things, curriculum development, administrative, business, compliance, personnel, and student recruiting services.³² The law does not require charter schools to maintain an internet website or post on a website information regarding entities that own, operate, or manage the charter school.

Effect of Proposed Changes

The bill requires each charter school to maintain an internet website that enables the public to obtain information regarding the school, its personnel, and its programs. The website must include information or online links to information regarding any entity who owns, operates, or manages the school, including any nonprofit or for-profit entity; the names of all governing officers and administrative personnel of the entity; and any management fees the school pays to the entity. The information or online links must be prominently displayed and easily accessible to visitors of the website. This change will provide greater transparency regarding for-profit management companies or other entities that

²⁷ Section 1002.33(23), F.S.

²⁸ See rule 6A-1.09981(4)(a)-(b), F.A.C.

²⁹ Section 1002.33(21)(b), F.S. Student performance data reporting requirements for ungraded and unrated charter schools apply only to schools with at least 10 students who are tested on statewide assessments. *Id.*

³⁰ Section 1002.33(21)(b), F.S. Reporting of data must comply with federal law governing education records privacy. *Id.*, see 20 U.S.C. s. 1232g.

³¹ Chapter 2011-232, L.O.F.; s. 1002.33(7)(d), F.S. A sponsor may not require that governing board members reside in the district if the governing board complies with these requirements. Section 1002.33(7)(d), F.S.

³² Florida Department of Education, *Charter Schools – FAQs*,

https://www.floridaschoolchoice.org/information/charter_schools/faqs.asp (last visited Jan. 26, 2012).

manage a charter school's operations. Members of the public will also be able to access information regarding the fees a charter school pays to a management company.

Federal Funding of Charter Schools

Present Situation

Charter schools, like traditional public schools, receive federal education funding through such programs as the Individuals with Disabilities Education Act (IDEA),³³ Title I programs for disadvantaged students,³⁴ and Title II programs for improving teacher quality.³⁵ Typically, federal education programs are structured so that funding flows from the federal government to a state educational agency,³⁶ which then awards subgrants to local education agencies (LEA) within the state.³⁷ School districts are the LEA for district public schools, including charter schools. Federal education funds are received by the school district, which then distributes to the charter school its proportionate share of funding.³⁸

Each federal education program has unique policy goals and expenditure, record keeping, and annual financial and performance accountability reporting requirements.³⁹ Federal regulations provide penalties for grantees and subgrantees⁴⁰ that fail to comply with grant requirements. These penalties include withholding, suspension, or termination of grant funds or designation as a "high risk" grantee.⁴¹

Federal law requires school districts to ensure that charter schools receiving federal funds comply with federal grant requirements.⁴² School districts typically address issues related to a charter school's compliance with federal grant requirements in the charter.⁴³ In addition, Florida law provides several mechanisms which enable school districts to provide financial oversight of charter schools. Charter schools must submit annual financial reports,⁴⁴ provide for an annual financial audit,⁴⁵ and submit to the district monthly financial statements.⁴⁶ Among other things, a charter school's annual financial audit must include violations of law, contract provisions, or grant agreements.⁴⁷

According to the DOE, school districts distribute federal funds directly to charter schools, provide in-kind services in lieu of funds, or use a combination of both methods. School districts use a variety of methods to distribute federal funds directly to charter schools, including directly advancing funds, reimbursing expenditures, or making purchases on behalf of charter schools.⁴⁸

³³ 20 U.S.C. s. 1411(e).

³⁴ 20 U.S.C. s. 6301 et. seq.

³⁵ 20 U.S.C. ss. 6601-6641; s. 1002.33(17)(c)-(d), F.S.

³⁶ The Florida Department of Education is Florida's state educational agency for federal funding purposes. *See* 20 U.S.C. s. 1412(a).

³⁷ *See* 20 U.S.C. ss. 1412(a) and 1413(a).

³⁸ Section 1002.33(17)(c), F.S.

³⁹ 34 C.F.R. ss. 76.702, 80.36, 80.32, 80.33, and 80.42 (fiscal, procurement, and inventory management records); 34 C.F.R. s. 80.41 (financial reports include status, cash transaction, and capital outlay reports).

⁴⁰ 34 C.F.R. s. 80.3. Federal regulations governing administration of federal education grant programs define "grantee" to mean the government to which a grant is awarded and which is accountable for the use of the funds provided, i.e. DOE. Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided, i.e., school districts. *Id.*

⁴¹ 34 C.F.R. s. 80.43 (noncompliance with grant terms); 34 C.F.R. s. 80.12 (high-risk grantees). Special conditions are placed upon "high risk" grantees, including payment of grant funds on a reimbursement basis; withholding of authority to proceed to subsequent grant phases until performance expectations are met; or requiring additional financial reports, project monitoring, and technical or management assistance. 34 C.F.R. s. 80.12. Grant recipients who commit fraud may be debarred or suspended from participation in all federally funded programs. 34 C.F.R. s. 80.43(d); Exec. Order No. 12549, 34 C.F.R. s. 80.35.

⁴² 34 C.F.R. s. 80.3; 34 C.F.R. s. 300.209(b).

⁴³ Telephone interview with Florida Department of Education, Charter Schools Director (Feb. 1, 2012).

⁴⁴ Section 1002.33(9)(g), F.S.

⁴⁵ Sections 218.39(1)(e) and (f) and 1002.33(9)(j)1. and 2., F.S.

⁴⁶ Section 1002.33(9)(g), F.S. High-performing charter schools may submit quarterly, rather than monthly, financial statements. Section 1002.331(2)(c), F.S.

⁴⁷ Section 10.856(2)(b)2.c., Rules of the Auditor General.

⁴⁸ *Funding Report*, *supra* note 1, at 21-22.

Effect of Proposes Changes

The bill requires a sponsor to monthly reimburse a charter school for expenditures of federal funds, unless another method of disbursing federal funds is mutually agreed to by the charter school and sponsor. The charter school must provide invoices evidencing expenditures to the sponsor at least 30 days before the monthly reimbursement date set by the sponsor. Charter schools that choose to receive federal funds on a reimbursement basis must comply with applicable state and federal requirements governing use of federal funds. In order to receive federal funds on a reimbursement basis, a charter school must submit to the sponsor for approval a plan outlining the charter school's use of federal funds. This change provides charter schools with greater autonomy regarding purchases made with federal funds, while enabling the sponsor to oversee the charter school's compliance with state and federal requirements governing use of such funds. See Fiscal Comments.

Other

Effect of Proposed Changes

The bill authorizes certain advantages for charter schools that predominantly serve students with disabilities and meet academic and financial qualifications. These advantages include ability to increase enrollment or expand grade levels; submit quarterly, rather than monthly, financial statements to the sponsor; consolidate multiple charter schools operated in the same school district under one charter; and receive a 15-year charter. To receive these advantages, a charter school must:

- Serve a population of 90 percent or more students with disabilities,⁴⁹
- Be accredited by the Commission on Schools of the Southern Association of Colleges and Schools;
- Have an unqualified opinion on annual financial audits in the most recent 3 fiscal years; and
- Be either ungraded or unrated, or once graded or rated, receive a grade of "A" or "B" or school improvement rating of "Improving."⁵⁰

Charter school sponsors provide various administrative services to sponsored charter schools. Services include contract management; student enrollment and achievement data reporting; federal program administration; and test administration for statewide assessments. With some exceptions, the sponsor may withhold an administrative fee of up to five percent of the charter school's total operating funds. For individual charter schools, the fee may be withheld for enrollment for up to 250 students.⁵¹ Students with disabilities receive additional weighted funding to cover the cost of special education and related services provided to such students. This increases the total operating funds that may be considered when calculating administrative fees for charter schools that predominantly serve students with disabilities.⁵² The bill provides that the administrative fee for charter schools that meet the specified qualifications must be based upon unweighted full-time equivalent students. This reduces the fee that the sponsor may withhold for services.

Charter schools are generally exempt from the Florida K-20 Education Code (Chapters 1000-1013, F.S.), unless compliance with a particular statute is specifically required by law.⁵³ In 2011, the Legislature enacted the Student Success Act (Act), which required school districts and charter schools to implement reforms to educator compensation, performance evaluations, and contracts. These reforms were designed for implementation by traditional public schools; however, charter schools are

⁴⁹ For the purposes of the bill, the term "student with a disability" means students with intellectual disabilities; hearing, visual, or speech-language impairments; emotional or behavioral disabilities; orthopedic or other health impairments; autism spectrum disorder; traumatic brain injuries; or specific learning disabilities. Section 1007.02(2), F.S.

⁵⁰ Charter schools with less than 30 students do not receive school grades because at least 30 students are required in order to obtain a valid sample size for school grading purposes. See rule 6A-1.09981(4)(a)-(b), F.A.C. A charter alternative school may choose to receive a school improvement rating in lieu of a school grade. Sections 1008.34(3)(a) and 1008.341, F.S.

⁵¹ Section 1002.33(20)(a)1. and 2., F.S. Among other exceptions, the sponsor of a high-performing charter school may withhold a 2 percent administrative fee for enrollment up to 250 students. Section 1002.33(20)(a)3., F.S.

⁵² Section 1011.62(1)(c), F.S.

⁵³ Section 1002.33(16), F.S.

required to implement them in the same manner as school districts.⁵⁴ As an unintended result, some school districts have interpreted the Act to require charter schools to implement the same employment policies as traditional public schools, even though implementation of a particular policy requires a complete structural shift from a private sector employment model to a model designed for public employers.⁵⁵

The bill makes several changes to clarify the extent to which charter schools must comply with the Act's educator compensation, performance evaluation, and contracting requirements. The bill clarifies that provisions related to instructional personnel workforce reductions and contracts do not apply to charter schools, unless the school awards contracts and such contracts are for a term longer than one year. The bill also states that such provisions do not apply to charter school instructional personnel who are at-will employees. The bill requires charter schools to award annual salary adjustments to instructional personnel based upon annual performance evaluation results (like traditional public schools). However, flexibility is provided to determine salary supplements and other methods of compensation.⁵⁶

Current law requires charter schools to comply with the "substantive requirements" related to educator performance evaluations. The bill clarifies the meaning of "substantive requirements" by requiring that a charter school's evaluation instrument comply with subsection (2) of s. 1012.34, F.S. Thus, charter schools must develop a performance evaluation that differentiates among four performance levels, supports effective instruction and student learning growth, is designed to improve instructional quality, and uses student data from multiple sources. The net effect of the bill's educator compensation, performance evaluation, and contracting provisions is to require charter schools to adopt employment policies that incorporate key concepts promoted by the Act, while providing flexibility to shape these policies in a manner that fits the charter school context.

For purposes of interpreting Education Code statutes that a charter school is required to comply with, the bill equates a charter school's headmaster with a district school superintendent and a governing board with a school board. Thus, for example, when a charter school must comply with a statutory provision that imposes a duty on school boards, the charter school's governing board must perform the duty.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.33, F.S., relating to charter schools; to authorize a charter school operated by a FCS institution to serve students in kindergarten through grade 12 if certain criteria are met; to clarify the application appeals process for high-performing charter schools; to require charter schools to maintain an internet website; to require posting of information regarding any entity who owns, operates, or manages the school on the website; to clarify compliance with certain statutory requirements; to require that federal education funding be reimbursed to a charter school, unless otherwise mutually agreed to by the charter school and sponsor; to provide certain advantages to charter schools that predominantly serve students with disabilities and meet eligibility criteria.

Section 2. Amends s. 1002.331, F.S., relating to high-performing charter schools; to require the commissioner to annually review a high-performing charter school's eligibility for high-performing status; and to require declassification of charter schools that fail to maintain eligibility.

⁵⁴ Chapter 2011-1, L.O.F. There are 224 charter schools participating in Florida's Race to the Top grant. These charter schools will be implementing reforms to performance evaluations and compensation systems. Florida Department of Education, *LEA Approval Status List*, <http://www.fldoe.org/arra/Racetothetop-archive.asp> (last visited Feb. 27, 2012).

⁵⁵ Brief for School Board of Orange County, at 12-13, *Response to the State Board of Education in Appeal by Renaissance Charter School, Orlando* (Dec. 12, 2011)(on file with committee). For example, at least one school district has interpreted the Act's contract and workforce reduction provisions to prohibit charter schools from employing teachers on an at-will basis. *Id.*

⁵⁶ For example, the Act's salary schedule provisions provide opportunities for teachers to earn salary supplements based upon assignment to a Title I school or low-performing school. Charter school teachers are not assigned to schools in the same manner as teachers employed by a school district and many charter schools are single-school operations. Teachers in a charter school that does not meet these criteria, or that is not part of a system of charter schools that includes schools that meet these criteria, have no opportunity to earn these salary supplements. *See, e.g.,* s. 1012.27(1), F.S.

Section 3. Amends s. 1002.332, F.S., relating to high-performing charter school systems; to require the commissioner to annually review a high-performing charter school system's eligibility for high-performing status; and to require declassification of charter school systems that fail to maintain eligibility.

Section 4. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill does not require a charter school to receive federal funds on a reimbursement basis if the school and sponsor mutually agree to a different arrangement.

Charter schools that do not currently have a website might incur costs associated with website design and online hosting.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 31, 2012, the K-20 Innovation Subcommittee reported the proposed committee substitute (PCS) for HB 903 favorably as a committee substitute. The PCS added provisions that:

- Required the Commissioner of Education to annually determine a high-performing charter school's, or high-performing charter school system's, continued eligibility for "high-performing" status. A high-performing charter school or charter school system that fails to meet eligibility criteria will lose its classification as "high-performing."
- Prohibited a sponsor from renewing a charter school's charter if the school has received two school grades of "F" within the three year period prior to renewal. In addition, the PCS required the sponsor to terminate a charter if the school receives two school grades of "F" in any three-year period.
- Required each charter school to maintain a website with information or online links to information regarding any entity which owns, operates, or manages the school and any management fees the school pays to such entity.
- Authorized Florida College System institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12.

The PCS removed provisions that:

- Authorized school districts to proportionately share discretionary millage for capital outlay funds with charter schools on a per-student basis, for capital outlay purposes.
- Required recalculation of a school district's Florida Education Finance Program (FEFP) funding if it does not share discretionary millage for capital outlay funds with charter schools.
- Required a school district to distribute recalculated FEFP funds to each charter school in the district in an amount equal to the amount the charter school would have received if the district shared discretionary millage for capital outlay funds.
- Increased the annual number of new charter schools that may be created by a high-performing charter school from one to three.
- Restated that high-performing charter schools within a high-performing charter school system may receive the same benefits as individual high-performing charter schools, e.g., increase enrollment and expand grade levels.

On February 14, 2012, the PreK-12 Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute (CS). The CS required a sponsor to provide federal funds to charter schools on a reimbursement basis, rather than by direct advances, unless the school and sponsor agree to a different arrangement. The CS also added provisions requiring a charter school to comply with state and federal laws regarding administration of federal funds and submit to the sponsor for approval a plan outlining its use of such funds.

On February 27, 2012, the Education Committee adopted four amendments and reported the bill favorably as a committee substitute (CS). The CS:

- Clarified the process for appealing the denial of a charter school application submitted by a high-performing charter school.
- Removed provisions requiring a sponsor to terminate or not renew the charter of schools earning a grade of "F" within a three-year period.
- Clarified the extent to which charter schools must comply with statutory provisions regarding educator compensation, performance evaluation, and contracting.
- Authorized certain advantages for charter schools that predominantly serve students with disabilities and meet accreditation and financial requirements.