

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 Committee on Education

BILL: CS/SB 1282

INTRODUCER: Committee on Education and Senator Stargel

SUBJECT: Charter Schools

DATE: April 1, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	Fav/CS
2.			JU	
3.			AED	
4.			AP	
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:

CS/SB 1282 addresses financial and performance accountability in charter schools by strengthening: the application process; the contracting process; charter school operations; charter school reporting requirements. Further, the bill addresses accountability by prohibiting certain service contracts and expenses subsequent to school closure, and by increasing governing board transparency.

The bill also expands charter school growth and flexibility by: allowing sponsors to preview a charter school application; clarifying instructional personnel contracts; expanding Florida College System institution charter school grades; and authorizing school districts to enter into interlocal agreements to issue permits on behalf of other governmental agencies.

The bill takes effect July 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 1002.33, 1002.331, 1002.332, and 1013.62.

II. Present Situation:

Charter schools are governed in law by s. 1002.33. Charter schools are public schools that operate under a charter agreement with a sponsor.¹ A charter school is typically sponsored by a district school board.² Charter schools are primarily owned by non-profit governing board, and may be operated on the governing board's behalf by a management company.³

Application

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.⁴ Sponsors receive and review all applications that are received on or before August 1 of each calendar year for charter schools that will open at the beginning of the next school year. Before approving or denying an application, the sponsor must allow the applicant to make technical corrections, if such errors are identified by the sponsor as cause to deny the application.⁵

Upon approval of an application, the sponsor and the charter school set forth the terms and conditions for the operation of the school in a written contract, called a charter. The sponsor has 60 days to provide an initial contract to the charter school. The sponsor and the charter school then have 75 days to negotiate and notice the contract for final approval.⁶

Operations

The Sponsor monitors the progress, revenues and expenditures of the charter school, and ensures compliance with state education goals and participation in the educational accountability system.⁷ Florida law contains additional requirements aimed toward ensuring financial and performance accountability of charter schools. For example, some of the requirements are:

- Annual reporting and financial audits, and sponsor monitoring of monthly financial statements;⁸
- Participation in statewide assessments and Florida's school grading system;⁹
- Interventions for unsatisfactory academic performance and financial instability;¹⁰
- Reporting of student performance information to parents and the public;¹¹ and
- Compliance with ethical standards for employees and governing board members.¹²

¹ s. 1002.33(7), F.S.

² s. 1002.33(5), F.S.

³ ss. 1002.33(7), (9)(h)-(j), and (12)(i), F.S. Charter schools may also be owned by a state university, Florida College System institution, or municipality.

⁴ s. 1002.33(3), F.S.

⁵ s. 1002.33(6)(b), F.S.

⁶ s. 1002.33(6)(h), F.S.

⁷ s. 1002.33(5)(b), F.S.

⁸ ss. 218.39(1)(e) and (f), 1002.33(9)(g) & (j), F.S.

⁹ ss. 1002.33(7)(a)4. and (16)(a)2., F.S.

¹⁰ ss. 1002.33(9)n. and 1002.345, F.S.

¹¹ ss. 1002.33(21)(b) and (23), F.S.

¹² ss. 1002.33(24) and (26), F.S.

Additionally, Florida law requires the identity of all relatives employed by the charter school who are related to individuals with certain decision making authority, including governing board members, to be disclosed.¹³

Charter schools must enroll all eligible students who submit a timely application, unless the number of applications exceeds the capacity. In such case, the school conducts a random selection process.¹⁴

Consequences

When a charter school is terminated or not renewed, unencumbered public funds revert to the sponsor while unencumbered capital outlay funds and federal charter school program grant funds revert to the department to be redistributed among eligible charter schools.¹⁵ The charter school is responsible for all debts of the charter school.¹⁶ The district may not assume the debt from any contract made between the governing body of the school and a third party, unless previously agreed upon in writing by both parties.¹⁷

There are no specific prohibitions on contractual services to be performed, or on escalation clauses, if the charter agreement expires or the school closes before the agreement expires.

III. Effect of Proposed Changes:

The bill primarily addresses areas of financial and performance accountability for charter schools.

Financial and Performance Accountability

Application and Contract

- Prohibits a governing board under a deteriorating financial condition, financial recovery plan or corrective action plan from being eligible to apply for a new charter school.
- Adds a requirement that the financial plan in the application must demonstrate that the applicant, or nonprofit organization that would operate the charter school, is financially qualified and capable of opening, operating and maintaining a high-quality charter school.
- Creates a requirement that charter school application must include:
 - A surety bond or letter of credit equivalent to 1% of the monthly projected budget;
 - Southern Association of Colleges and Schools (SACS) accreditation;
 - Proof that the education program will substantially replicate a high performing charter school notwithstanding different grades; or
 - Proof that the new charter school will be part of a high performing charter school system.
- Creates a requirement that the applicant may submit a draft application by May 1 and the sponsor must provide feedback by July 1.
- Confirms that the sponsor is prohibited from refusing to accept applications before August 1.

¹³ s. 1002.33(7)(a)18., F.S.

¹⁴ s. 1002.33(10)(b), F.S.

¹⁵ s. 1002.33(8)(e) and (f), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

- Shortens existing dates so that a sponsor has 30 days to provide the proposed charter, and the parties have 40 days to negotiate the agreement.
- Clarifies that applicable sponsor policies must be identified in the charter contract and subsequent changes to sponsor policies would not be applicable until the charter is amended.
- Adds that the Department of Education is required to create a new standard charter contract that cannot be amended; however, an applicant may request to use a nonstandard charter contract.

Operations

- Creates a requirement for a charter school to provide a uniform annual performance audit report, a detailed reporting of financial operations, and a monthly financial statement.
- Clarifies that members of a charter school board (or spouse of employee) may not be an employee of the charter school, educational service provider, or management organization.
- Clarifies ability for certain charter schools to consolidate separate charter agreements into one charter agreement.
- Adds to existing requirements by specifying that a charter school must submit a plan to sponsor before receiving federal funds, and that the sponsor has 30 days to reimburse federal funds.
- Adds that a sponsor must not require a certificate of occupancy more than 15 days before school starts.
- Adds that a sponsor must not require the charter school to identify students to be enrolled before the start of the school year as a condition of approval or renewal of the charter agreement.
- Creates authority for a school district to enter into an interlocal agreement to inspect and issue a permit or license to a charter school.
- Complies with federal grant requirements by adding that student academic achievement for all students is the most important factor in determining whether to renew or terminate a charter.
- Clarifies information that a charter school must provide to the public, specifically regarding the school, personnel, programs, and management company, as applicable.
- Adds that the charter school student election process is open to the public.

Consequences

- Prohibits a charter school that closes from spending more than \$35,000 unless:
 - The sponsor approves in writing;
 - The expenditure was previously approved by the sponsor per the charter agreement; or
 - The expenditure is for reasonable attorney fees and costs during any appeal.
- Adds that a charter agreement immediately terminates when the charter school closes.
- Creates a prohibition that certain service contracts may not extend beyond closure of a charter school, and prohibits acceleration payouts.

Additional Provisions

- Creates a definition of “management company” (and like terms “service provider,” “education management corporation,” and “outside entity”) to mean an entity hired to administer or direct operations of a public school, subject to the oversight of the governing

board. Adds a prohibition that a governing body may not hire a management company of which the governing body is a component unit.

- Creates a definition of “organize as or be operated by a nonprofit organization” to mean that a charter school must be owned by a nonprofit organization. Adds a prohibition that a for-profit organization may not have any ownership interest in a charter school.
- Creates deadlines for a high performing charter school that requests consolidation, so that the sponsor shall provide an initial draft charter to the charter school within 40 days and the parties have 50 days to negotiate the charter. Clarifies ability to seek mediation or an appeal if negotiations fail.
- Adds to existing eligibility criteria for a high performing charter school system to take into account the grade of all charter schools previously operated within the last three years, including schools not currently operated by the entity seeking high performing status.
- Deletes the option for Southern Association of Colleges and Schools accreditation as a means of obtaining capital outlay funding.
- Authorizes a Florida College System institution that operates an approved teacher preparatory program may also operate a charter school that offers elementary education.

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:

None.

C. Government Sector Impact:

Indeterminate.

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 Education on April 1, 2013:

CS/SB 1282 differs from SB 1282 in that it:

- Imposes additional provisions to further strengthen the financial and performance accountability of charter school, such as:
 - Strengthening the application and contract negotiation process to support necessary financial strength and capabilities for charter school operations.
 - Requiring applicants to disclose previous financial emergencies, Financial Recovery Plans and Corrective Action Plans.
 - Requiring additional monthly and annual reporting of financial operations.
 - Requiring the charter school's random enrollment selection process to be public.
 - Preventing service contracts (i.e., management company and employee contracts) from extending beyond the term of the charter agreement, and requires such contracts to terminate if the charter school closes before the term expires.
 - Defining "management company," "service provider," "education management organization," "outside entity," and "organize as or be operated by a nonprofit organization."
- Provides compliance with the federal charter school grant program by requiring sponsors to make student academic achievement for all students one of the most important factors in determining whether to renew or terminate a charter.
- Considers charter schools formerly operated by an entity, and the origination of charter school model, when determining status as a high performing charter school system.

CS/SB 1282 deletes from SB 1282 provisions such as:

- The requirement that a charter school's random selection process be observed by a sponsor or mutually agreed third party.
- The prohibition on a sponsor requiring a charter school to identify the names of students to be enrolled before the start of the school year as a condition of approval or renewal of the charter.
- The ability of entity that successfully operates a system of charter schools outside Florida to apply to the State Board of Education for status as a high performing charter school system and create high performing charter schools in certain situations.
- Modifications to a charter school's ability to use school district facilities.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
