

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 Appropriations

BILL: CS/SB 1630

INTRODUCER: Appropriations Committee and Senator Legg

SUBJECT: Education

DATE: April 25, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Klebacha	ED	Favorable
2.	Armstrong	Elwell	AED	Favorable
3.	Elwell	Hansen	AP	Fav/CS
4.				
5.				
6.				

I. Summary:

CS/SB 1630, provides various measures to strengthen financial and performance accountability of charter schools. The bill would also expand charter school growth and flexibility. These measures would occur in the application process, the contract process, charter school operations, and in the shape of additional consequences a charter school would face.

High-performing charter schools would be able to increase enrollment once per school year up to facility capacity. The bill would create deadlines for a sponsor to provide a high-performing charter school a draft charter agreement and to negotiate the charter agreement, when a high-performing charter school requests to consolidate charters.

The full implementation of online Next Generation Sunshine State Standards in English/Language Arts and Mathematics assessments for all kindergarten through grade 12 public school students would be contingent upon an independent third party verifying that the technology infrastructure, connectivity, and capacity of all public schools and school districts is capable of successfully deploying and implementing the assessments.

This bill has no fiscal impact on appropriations.

The effective date of the bill is upon becoming a law.

This bill substantially amends sections 1002.33 and 1002.331 of the Florida Statutes, and creates two undesignated sections of law.

II. Present Situation:

Charter Schools

Charter schools are governed in law by s. 1002.33, F.S. 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 the 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.⁸ For example, some of the requirements are:

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

¹ Section. 1002.33(7), F.S.

² Section 1002.33(5), F.S.

³ Section 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 Section 1002.33(3), F.S.

⁵ Section 1002.33(6)(b), F.S.

⁶ Section 1002.33(6)(h), F.S.

⁷ Section 1002.33(5)(b), F.S.

⁸ Section 1002.33, F.S.

⁹ Section 218.39(1)(e) and (f), 1002.33(9)(g) and (j), F.S.

¹⁰ Section 1002.33(7)(a)4. and (16)(a)2., F.S.

¹¹ Section 1002.33(9)n. and 1002.345, F.S.

¹² Section 1002.33(21)(b) and (23), F.S.

- Compliance with ethical standards for employees and governing board members.¹³

Additionally, Florida law requires the disclosure of the identity of all relatives employed by the charter school who are related to individuals with certain decision-making authority, including governing board members.¹⁴

Charter schools must enroll all eligible students who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade, level, or building. In this case, the school conducts a random selection process.¹⁵

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 of Education (DOE) to be redistributed among eligible charter schools.¹⁶ The charter school is responsible for all debts of the charter school.¹⁷ 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.¹⁸

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.

Next Generation Sunshine State Standards

The Next Generation Sunshine State Standards (NGSS) in English/Language Arts (which includes reading standards) and in Mathematics were adopted by the Florida State Board of Education on July 27, 2010, and codified in statute during the 2013 Legislative session.¹⁹ The standards in both English/Language Arts and in Mathematics must be fully implemented beginning in the 2013-2014 school year.²⁰

In Florida, school districts are concerned about the following challenges related to the implementation of the new NGSS standards:²¹

- Preparedness concerns regarding the pedagogical knowledge needed by teachers to effectively deliver content at the level of rigor required by the standards.

¹³ Section 1002.33(24) and (26), F.S.

¹⁴ Section 1002.33(7)(a)18., F.S.

¹⁵ Section 1002.33(10)(b), F.S.

¹⁶ Section 1002.33(8)(e) and (f), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See <http://www.fldoe.org/bii/curriculum/sss/>. (last visited March 15, 2013). Section 11 of ch. 2013-27, L.O.F., codified the NGSS standards in s. 1003.41, F.S.

²⁰ Florida Department of Education, *Next Generation Sunshine State Standards*, <http://www.fldoe.org/bii/curriculum/sss/> (last visited March 15, 2013).

²¹ State Board of Education, (Feb. 18, 2013), See http://www.fldoe.org/board/meetings/2013_02_18/common.pdf. Florida is a member of PARCC.

- Assessment concerns regarding how students with special needs will be assessed, how students and teachers must be prepared for the assessments, and whether data from the assessments will be available and sufficiently reliable to inform instruction.
- Technology concerns regarding capacity to facilitate teaching and learning with technology, assessing students with next-generation assessments, time required to test students, and the volume of students who will be tested at a given time. Availability of required infrastructure, devices, and professional development are critical to successful implementation of the standards.
- Timeline and alignment of reform efforts and policy expectations concerns regarding teacher evaluations based on current state assessments which are not aligned to the standards.

Based on a self-reported annual survey of public schools and school district technology needs,²² the State Board of Education submitted a legislative budget request for \$441.8 million for a “K-12 Technology Modernization Initiative.”²³ Governor Scott’s proposed budget recommendations for Fiscal Year 2013-2014 reflect a similar \$100 million technology initiative.²⁴

Some states are handling technology needs by joining together to purchase a comprehensive set of educational-technology devices and services, in a compact that lays the foundation for cooperative efforts by state and local governments to turn the digital-procurement process to such states’ advantage.²⁵ The initial partners of the multi-state venture, known as the Multi-State Learning Technology Initiative, include Hawaii and Vermont in addition to Maine which has taken the lead. Additional states have indicated interest in joining the multi-state venture. The multi-state venture is structured to allow individual districts and other government entities, such as charter schools, to participate in the digital-procurement process with the approval of state procurement officials.²⁶

III. Effect of Proposed Changes:

Charter School Financial and Performance Accountability

Application and Contract Process

The bill would reduce existing timeframes so that a sponsor would provide a proposed charter agreement within 30 days, and the parties would have 40 days to negotiate the agreement.

²² The Florida Department of Education collects information from schools annually in the Florida Innovates Technology Resource Survey, which solicits responses from K-12 principals on the use of technology in their respective schools. The data collected includes the number and location of each school’s computers meeting certain specifications. However, this survey does not provide detailed information on how schools are using computers and provides limited information on the use of digital instructional materials. See *Use of Instructional Technology and Digital Instructional Materials in Fifteen Florida Schools*, OPPAGA, September 28, 2012.

²³ 2013-2014 SBE LBR, readable at:

<http://www.flsenate.gov/UserContent/Topics/IntensiveBudgetReview/AED/DOEAgencyLBR.pdf>. See also http://www.fldoe.org/board/meetings/2012_10_09/lbr.pdf. (Page 7: K-12 Education Technology Modernization Initiative)

²⁴ 2013-2014 Governor’s Budget Recommendations, readable at:

<http://letsgettowork.state.fl.us/content/current/reports/Budget-Presentation-FY-14.pdf>. (Slide 28: Technology Initiative).

²⁵ Education Week, *Maine Leading Initiative for Multistate Tech Buys*,

<http://www.edweek.org/ew/articles/2013/03/13/24maine.h32.html> (last visited March 15, 2013).

²⁶ *Id.*

The bill would require the DOE to create a standard charter agreement by September 1, 2014. The charter school and sponsor would be required to use the agreement; however, the parties would be able to attach an addendum to make changes to the agreement. The addendum would have a page limit set by State Board of Education (SBE) rule.

Operations

The bill would require a charter school to provide a uniform monthly financial statement. The bill would also require a charter school to provide to the public information regarding the school, including programs, management company, the school's annual budget, annual independent fiscal audit, school grade, and the school's governing board meeting minutes.

Starting August 31, 2013, a sponsor would be required to submit an annual report to the DOE. The report would identify: the number of draft and final applications received; the date the applications were approved, denied, or withdrawn; and the date each contract was executed. The DOE would compile this information from each district into an annual report and post the report on its website by November 1 of each year.

A member of a charter school board (or spouse) would be prohibited from being an employee of the charter school, or its educational service provider or management organization. The bill would amend certain requirements relating to at-will employees and evaluation procedures.

Unless otherwise agreed, a sponsor would reimburse a charter school on a monthly basis for all invoices submitted by the charter school for available federal funds.

The bill would comply with federal grant requirements by requiring student academic achievement for all students to be the most important factor in determining whether to renew or terminate a charter agreement.

The bill would prohibit a sponsor from requiring a certificate of occupancy, or temporary certificate of occupancy, before the first day of school.

A school district would be authorized to enter into an interlocal agreement to inspect and issue a permit or license to a charter school. The charter school would have the ability to choose between using the school district or permitting agency.

Consequences

Upon notification of nonrenewal or termination of a charter, a charter school would be prohibited from spending more than \$35,000 without prior written approval from the sponsor, unless the expenditure was included in the annual budget or is for attorney fees and costs for an appeal.

A charter agreement would immediately terminate when a charter school closes.

A service contract would not be able to extend beyond the term of a charter agreement, and payments would only be able to be made for services provided before the closure, nonrenewal termination, or immediate termination of the charter school.

High-Performing Charter Schools

A high-performing charter school would be able to increase enrollment once per school year, up to current facility capacity. A sponsor would be required to modify the charter agreement within 90 days of notification of the new enrollment. A sponsor would deny the request if the charter school no longer qualified as a high-performing charter school.

If a high-performing charter school requests consolidation of a charter agreement, the sponsor would have to provide an initial draft of the charter agreement to the charter school within 40 days. The parties would have 50 days to negotiate a charter agreement.

Next Generation Sunshine State Standards

Under the bill, the technology infrastructure, connectivity, and capacity of all public schools and school districts that administer statewide standardized assessments, including online assessments, would be load tested and independently verified as appropriate, adequate, efficient, and sustainable. The independent verification will supplement the self-reported data collected by the DOE.

Additionally, the full implementation of online (i.e., computer-based) Next Generation Sunshine State Standards in English/Language Arts and Mathematics assessments for all kindergarten through grade 12 public school students would be contingent upon an independent third party determination that the technology infrastructure, connectivity, and capacity of all public schools and school districts are verified as ready for successful deployment and implementation.

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:

This bill has no fiscal impact on appropriations.

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 Appropriations on April 23, 2013:

The committee substitute:

- Reduces existing timeframes so that a sponsor would provide a proposed charter agreement within 30 days.
 - The parties would have 40 days to negotiate the agreement.
- Requires the DOE to create a standard charter agreement by September 1, 2014.
 - The charter school and sponsor would be required to use the agreement.
 - The parties would be able to attach an addendum to make changes to the agreement.
 - The addendum would have a page limit set by SBE rule.
- Requires a charter school to provide a uniform monthly financial statement.
- Requires a charter school to provide to the public information regarding the school, including programs, management company, the school's annual budget, annual independent fiscal audit, school grade, and the school's governing board meeting minutes.
- Requires a sponsor to submit an annual report to the DOE, starting August 31, 2013.
- Prohibits a member of a charter school board (or spouse) from being an employee of the charter school or its educational service provider or management organization.
- Revises the requirements relating to at-will employees and performance evaluation procedures.

- Requires a sponsor to reimburse a charter school on a monthly basis for all invoices submitted by the charter school for available federal funds, unless otherwise agreed by the sponsor and charter school.
- Complies with federal grant requirements by requiring student academic achievement for all students to be the most important factor in determining whether to renew or terminate a charter agreement.
- Prohibits a sponsor from requiring a certificate of occupancy, including a temporary certificate of occupancy, before the first day of school.
- Authorizes a school district to enter into an interlocal agreement to inspect and issue a permit or license to a charter school.
- Prohibits, upon notification of nonrenewal or termination of a charter, a charter school from spending more than \$35,000 without prior written approval from the sponsor, with two exceptions.
- Requires a charter agreement to immediately terminate when a charter school closes.
- Prohibits a service contract from extending beyond the term of a charter agreement.
 - Prohibits payments for services provided after the closure, nonrenewal termination, or immediate termination of the charter school.
- Authorizes a high-performing charter school to increase enrollment once per school year, up to facility capacity.
 - Requires a sponsor to modify the charter agreement within 90 days of notification of the new enrollment.
 - Authorizes a sponsor to deny the request if the charter school no longer qualifies as a high-performing charter school.
- Requires a sponsor to provide an initial draft of the charter agreement to the charter school within 40 days of a request by a high-performing charter school to consolidate charter agreements.
 - The parties would have 50 days to negotiate a charter agreement.

B. Amendments:

None.