

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 759 Charter Schools
SPONSOR(S): K-12 Subcommittee, Diaz, Jr.
TIED BILLS: **IDEN./SIM. BILLS:** SJR 976

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	9 Y, 3 N, As CS	Dehmer	Fudge
2) Education Appropriations Subcommittee	9 Y, 3 N	Dobson	Heflin
3) Education Committee	10 Y, 6 N	Dehmer	Mizereck

SUMMARY ANALYSIS

Under current law, an applicant seeking to operate a charter school submits an application that is reviewed and approved by the school board in the district in which the applicant seeks to operate. Once approved, the applicant and school district enter into a contract called a charter.

The House Joint Resolution directs the State Board of Education to establish a statewide charter school authorizer to authorize, operate, control and supervise charter schools as provided by law. Additionally, it clarifies that a school board has the authority to operate, control and supervise all free public schools within its district, except charter schools under the control and supervision of the statewide charter school authorizer.

HJR 759 impacts state funds to the extent that the cost of placing the constitutional amendment on the ballot must be administered by the Department of State. The estimated printing and publication costs for advertising the joint resolution and other necessary materials would be approximately \$28,145.79, possibly greater, depending on the final wording of the joint resolution and the resulting ballot language. The estimate is based on the cost to advertise constitutional amendments for the 2014 general election which was \$135.97 per word. Specific appropriation 3045 of the 2016-2017 House General Appropriations Act provides \$28,000 to fund advertising costs associated with this bill, should it be adopted. Implementing legislation would also be required to establish an office for the statewide charter school authorizer which would result in an additional, unknown fiscal impact.

A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature.

The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Statewide Charter School Authorizer

Present Situation

In 2006, the Florida Legislature enacted s. 1002.335, F.S. (2006), which established the “Florida Schools of Excellence Commission” as an independent, state-level entity with the power to authorize charter schools throughout the state of Florida.¹ Prior to the enactment s.1002.235, F.S. (2006), only district school boards could authorize charter schools.² After the creation of the Florida Schools Excellence Commission, district school boards could only exercise that exclusive authority if the State Board of Education grants them such power within their district. Subsequently, the State Board of Education denied 28 of the 31 counties which applied for exclusive charter school authorization authority.³ Several of the denied school districts filed suit, claiming that a state-level charter school authorizer violates article IX, s. 4, of the Florida Constitution, which states, in part:

SECTION 4. School districts; school boards.—

(b) The school board shall operate, control and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein...

In 2008, The First District Court of Appeal held that section 1002.335, F.S. (2006) is unconstitutional because it presents a “total and fatal conflict with article IX, s. 4 of the Florida Constitution.”⁴ Based on this ruling, a successful attempt to create a statewide charter school authorizing authority would have to include an amendment to the Florida Constitution.

Currently, an applicant seeking to operate a charter school must submit an application that is reviewed and approved by the school board in the district in which the applicant seeks to operate.⁵ Once approved, the applicant and school district enter into a contract called a charter.⁶

Effect of Proposed Changes

The House Joint Resolution directs the State Board of Education to establish a statewide charter school authorizer to authorize, operate, control and supervise charter schools as provided by law. Additionally, it clarifies that a school board has authority to operate, control and supervise all free public schools within its district, except charter schools under the control and supervision of the statewide charter school authorizer.

B. SECTION DIRECTORY:

Section 1. Amends art. IX, Fla. Const., directing the State Board of Education to establish a statewide charter school authorizer and clarifying a school board has authority to operate, control and supervise all free public schools within its district, except for those charter schools authorized by the statewide authorizer.

Section 2. Provides an effective date of July 1, 2016.

¹ Chapter 2006-302, Laws of Florida.

² Section 1002.335, F.S. was repealed in Ch. 2010-70, Laws of Florida.

³ Duval County Sch. Bd. v. State, Bd. of Educ., 998 So. 2d 641, at 644 (Fla. 1st DCA 2008)

⁴ Duval County Sch. Bd. v. State, Bd. of Educ., 998 So. 2d 641, at 644 (Fla. 1st DCA 2008)

⁵ Section 1002.33(6), F.S.

⁶ Section 1002.33(7), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5(d) of the State Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately before the week the election is held.

According to the Department of State, the average cost per word to advertise an amendment to the State Constitution is \$135.97 for this fiscal year. The estimated publication costs for advertising the joint resolution will be approximately \$28,145.79, possibly greater, depending on the final wording of the joint resolution and the resulting ballot language. Specific appropriation 3045 of the 2016-2017 House General Appropriations Act provides \$28,000 to fund advertising costs associated with this bill, should it be adopted. Implementing legislation would also be required to establish an office for the statewide charter school authorizer which would result in an additional, unknown fiscal impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 20, 2016, the K-12 Subcommittee adopted one amendment and reported HJR 759 favorably as a committee substitute. The amendment:

- Directs the State Board of Education to establish a statewide charter school authorizer to authorize, operate, control and supervise charter schools as provided by law.
- Clarifies that a school board has authority to operate, control and supervise all free public schools within its district, except charter schools under the control and supervision of the statewide charter school authorizer.

This analysis is drafted to the committee substitute as approved by the K-12 Subcommittee.