

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 1362

INTRODUCER: Appropriations Committee; Education Committee; and Senators Broxson and Stargel

SUBJECT: K-12 Education

DATE: May 3, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Androff</u>	<u>Graf</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	<b>Fav/CS</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1362 includes provisions related to traditional and high-performing charter schools, and high-performing charter school systems, as well as other general provisions. Specifically, the bill:

- Adds the following provisions related to charter schools:
  - Revises the charter school application process and review for traditional charter schools and high-performing charter schools;
  - Authorizes an exemption from controlled open enrollment requirements for a charter school if such school is open to any student covered in an interdistrict agreement and any student residing in the school district in which the charter school is located;
  - Specifies that the waiver of sovereign immunity in cases of tort liability does not include any for-profit entity contracted by a charter school or its governing body;
  - Expands the purposes for forming charter school cooperative organizations to specify that such cooperatives may provide services to further education, operational, and administrative initiatives;
  - Modifies the criteria for designating a charter school system's governing board as a local educational agency;
  - Specifies that certain facilities may provide space to high-impact schools within their facilities under their preexisting zoning and land use designations without obtaining a special exception, rezoning, land use charter, or any other form of approval;
  - Requires every charter school to annually complete and submit a survey to rate the timeliness and quality of services provided by the district and requires the Department of Education to compile the results; and

- Grants certain flexibilities to high-performing charter school systems, including a streamlined replication application and process
- Eliminates the requirement for the Department of Education to compare student performance data of charter schools within a school district with public schools within that district, and with the other charter schools in Florida as well as the posting of such information on each charter school's Internet website.
- Modifies the designation of school grades and school improvement ratings
- Requires school districts to provide Title I funds directly to all eligible schools
- Revises eligibility criteria for a private postsecondary institution to participate in dual enrollment
- Removes the requirement that online instruction portion of a blended learning course be in a classroom setting
- Replaces statutory references to the ACT Aspire test with the preliminary ACT.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2017.

## **II. Present Situation:**

The present situation for the relevant portions of the bill is discussed in the Effect of Proposed Changes section of the bill analysis.

## **III. Effect of Proposed Changes:**

The Florida Legislature has enacted legislation to promote school choice and strengthen education accountability.

### **Charter Schools**

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor, called a charter.<sup>1</sup> A guiding principle of charter schools is to meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system.<sup>2</sup>

#### ***Charter School Application Process (Section 1)***

##### ***Present Situation***

Florida law establishes an application process for establishing a new charter school.<sup>3</sup> An applicant must submit a charter school application to the sponsor.<sup>4</sup> The sponsor must review the application to approve or deny such application.<sup>5</sup> An applicant must use a model charter school

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<sup>1</sup> Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

<sup>2</sup> *Id.* at (2)(a)1., F.S.

<sup>3</sup> Section 1002.33(6)(a), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

application form and application evaluation instrument.<sup>6</sup> The model application is designed to enable the sponsor to evaluate the applicant's educational plan, organizational plan, financial viability, and business plan.<sup>7</sup>

In order to facilitate greater collaboration in the application process, an applicant may submit a draft charter school application by May 1 with an application fee of \$500.<sup>8</sup> Otherwise, a sponsor is prohibited from charging an applicant any fee for the processing or consideration of an application.<sup>9</sup>

Charter school sponsors evaluate a variety of factors when considering an application to open a charter school.<sup>10</sup> The model application requires the applicant to:<sup>11</sup>

- List each proposed member of the charter school's governing board and his or her background and qualifications.
- Indicate to what extent the governing board will contract with a management company, summarize the management company's history of operating charter schools, and list other charter schools managed by the company along with student achievement and financial performance data of such schools.

### ***Effect of Proposed Changes***

Section 1 amends s. 1002.33, F.S., to revise the date a sponsor must receive all charter school applications from August 1, to February 1, beginning in 2018, for a charter school to open 18 months later or at a time to which the applicant and the sponsor agree. This may accelerate the charter school application process.

This section removes the provision allowing a charter school applicant to submit a draft application to the sponsor for review.<sup>12</sup> Additionally, this section increases the amount of time the sponsor has to approve or deny an application from 60 to 90 days. This may provide the sponsor with additional time to review the application.

### ***Charter School Accountability (Section 1)***

#### ***Present Situation***

After a charter school application is approved, the major issues involving the operator of a charter school, which are outlined in current law, must be considered in advance and written into the charter.<sup>13</sup> The Florida Department of Education (DOE) created, through State Board of

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<sup>6</sup> Section 1002.33(6)(a), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 1002.33(6)(b), F.S. The deadline for submitting applications is August 1, although a sponsor may receive applications later if the sponsor so chooses. *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at (6)(a), (7), (8), (9).

<sup>11</sup> *Id.* at (6).

<sup>12</sup> The number of draft charter school applications submitted declined from 43 in 2014 to 22 in 2015, *see* Annual Authorizer Reports, *available at*

<sup>13</sup> Section 1002.33(7), F.S.

Education (SBE) rule,<sup>14</sup> a standard charter contract in consultation with both school districts and charter schools, and sponsors are required to use the standard contract.<sup>15</sup> The charter contract is used as the basis for the initial draft contract as a result of negotiations with stakeholders. The charter contract may be amended upon the recommendation of the sponsor or the charter school's governing board, and the approval of both parties.

### ***Effect of Proposed Changes***

Section 1 requires the sponsor and the charter school governing board to use the standard charter contract which incorporates the approved application and any addenda approved with the application. This section provides that any term or condition of a proposed charter contract that differs from the standard contract must be presumed a limitation on charter school flexibility. This will likely facilitate uniformity in application requirements and limit a sponsor's ability to add conditions beyond the application requirements specified in law.

### ***Charter School Data Reporting Requirements (Section 1)***

#### ***Present Situation***

The Florida Department of Education (DOE) is required to report student assessment data to each school, including charter schools, that receives a school grade or school improvement rating.<sup>16</sup> In 2009, the charter school statute was amended to require the DOE to report student assessment data for any charter school that was too small to receive a school grade, but had at least 10 students with assessment scores.<sup>17</sup> The DOE is also required to compare the performance data for each of these charter schools with student performance data in traditional public schools in the district in which the charter school was located and other charter schools in the state.<sup>18</sup> The information must be provided on each charter school's Internet website.<sup>19</sup> When the law was changed to require the DOE to issue a school grade to any school that had at least 10 students with assessment scores, the provision requiring a comparative report for charter schools that did not receive a school grade was not eliminated.<sup>20</sup> The DOE is required to develop an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the statewide assessment program versus similar public schools in the district.<sup>21</sup>

### ***Effect of Proposed Changes***

Section 1 deletes the requirement for the DOE to compare the student performance data of each charter school to traditional public schools within the district and other charter schools across the state. This section also eliminates the posting of such information on the Internet website of each

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<sup>14</sup> Section 1002.33(28), F.S.

<sup>15</sup> Section 1002.33(21)(a), F.S.

<sup>16</sup> Section 1008.34, F.S.

<sup>17</sup> Section 7, ch. 2009-214, L.O.F.; Florida Department of Education, *SB 1362 Analysis* (2017), at 2.

<sup>18</sup> *Id.*

<sup>19</sup> Section 1002.33(21)(b)3., F.S.

<sup>20</sup> Florida Department of Education, *SB 1362 Analysis* (2017), at 2; s. 1, ch. 2014-23, L.O.F.

<sup>21</sup> Section 1002.33(21)(b)3., F.S.; Florida Department of Education, *SB 1362 Analysis* (2017), at 2.

charter school. However, the DOE annually posts school grades data by school and district on the DOE's website.<sup>22</sup>

### ***High Performing Charter Schools (Section 3)***

#### ***Present Situation***

Florida law defines a high-performing charter school as a charter school that during each of the three prior years meets the following three requirements:<sup>23</sup>

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

A high-performing charter school may, in any school district in the state, submit an application to establish a new charter school that replicates its educational program.<sup>24</sup> The application must indicate that the charter school is high-performing and include a letter from the Commissioner of Education verifying that the charter school meets the high-performing criteria.<sup>25</sup> Such applications may only be denied under certain circumstances.<sup>26</sup> A high-performing charter school may only establish one school in a year and a subsequent application to establish a charter school may only be submitted when each charter school established through replication achieves high-performing charter school status.<sup>27</sup>

If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons supporting the denial and must provide a copy of the letter of denial and supporting documentation to the applicant and to the DOE.<sup>28</sup> The applicant may appeal the sponsor's denial of the application directly to the SBE.<sup>29</sup>

#### ***Effect of Proposed Changes***

Section 3 amends s. 1002.331, F.S., to allow a high-performing charter school to establish more than one charter school a year if the school operates in the area of a persistently low-performing school and serves students from that school.<sup>30</sup>

This section also provides a high-performing charter school whose application has been denied a hearing by requiring that an appeal of such denial be brought before the Charter School Appeals Commission. The Commission must make a recommendation to the SBE in accordance with current law.

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<sup>22</sup> Florida Department of Education, *Florida School Grades*, <http://schoolgrades.fldoe.org/> (last visited May 2, 2017).

<sup>23</sup> Section 1002.331(1), F.S.

<sup>24</sup> Section 1002.331(3)(a), F.S.

<sup>25</sup> Section 1002.331(3)(a), F.S.

<sup>26</sup> Section 1002.33(6)(b)3.b., F.S.

<sup>27</sup> Section 1002.331(3)(b), F.S.

<sup>28</sup> Section 1002.33(6)(b)3.c., F.S.

<sup>29</sup> Section 1002.33(6)(b)3.c., F.S.

<sup>30</sup> See s. 1008.33, F.S.

## ***High Performing Charter School System (Section 4)***

### ***Present Situation***

A high-performing charter school system is an entity that:<sup>31</sup>

- Has operated at least three high-performing charter schools in the state during each of the previous 3 school years;
- Has operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools and no charter school earned a grade of “D” or “F” in any of the previous 3 school years, regardless of whether the entity currently operates the charter school, with specified exceptions; and
- Did not receive a financial audit that revealed one or more of the financial emergency conditions for any charter school assumed or established by the entity in the most recent 3 fiscal years for which such audits are available.

Current law outlines an application process by which a high-performing charter school system may replicate its high-performing charter schools.<sup>32</sup>

### ***Effect of Proposed Changes***

Section 4 amends s. 1002.332, F.S., to provide that a high-performing charter system may replicate a school in any district in the state and establishes a streamlined application for replicating a high-performing charter school.

Section 4 requires that the high-performing standard application form:

- Contain goals and objectives for improving student learning and a process for measuring student improvement. These goals and objectives must indicate how much academic improvement students are expected to demonstrate each year, how success will be evaluated, and the specific results to be attained through instruction.
- Contain an annual financial plan for each year requested by the charter for the operation of the school for up to five years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenue and expenses, and a description of controls that will safeguard finances and projected enrollment trends.
- Disclose the name of each applicant, governing board member, and all proposed education services providers; the name and sponsor of any charter school operated by each applicant, each governing board member, and each proposed education services provider that has closed and the reasons for the closure; and the academic and financial history of such charter schools, which the sponsor shall consider when deciding whether to approve or deny the application.

Section 4 also specifies that an application submitted by a high-performing charter school system must state that the application is being submitted for the purpose of replicating a high-performing charter school and must include the letter provided by the Commissioner of Education verifying that the applicant meets the high-performing charter school system criteria. This section provides that if the sponsor takes no action on the application within 90 days after receipt, the application

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<sup>31</sup> Section 1002.332(1)(b), F.S.

<sup>32</sup> Section 1002.332(2), F.S.

is automatically deemed approved. This streamlined application may lead to the replication of high-performing charter schools in Florida.

***Charter School Cooperatives (Section 1)***

***Present Situation***

Current law authorizes charter schools to enter into cooperative agreements with other charter schools to provide the following services: planning and development, direct institutional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.<sup>33</sup>

***Effect of Proposed Changes***

Section 1 deletes the list of specified services that charter school cooperative agreements may provide. Instead, the bill authorizes charter schools to enter into cooperative agreements to further any educational, operational, or administrative purposes in which participating charter schools share common interests. Such purposes are broader in scope than the purposes currently specified in law. This may expand the ability of charter schools to collaborate and pool resources for shared objectives.

***Charter School Funding (Section 1)***

***Present Situation***

Charter schools are funded through the Florida Education Finance Program (FEFP) the same as traditional public schools based on the number of students.<sup>34</sup> Each charter school reports student enrollment to its sponsor for inclusion in the district’s report of student enrollment.<sup>35</sup> The following chart summarizes the calculation of a charter school’s FEFP share:<sup>36</sup>

<b>Calculating a Charter School’s Share of FEFP Funds</b>
Sum of the school district’s operating funds from the FEFP <sup>37</sup> and the General Appropriations Act, including the district’s gross state and local funds, discretionary lottery funds, and funds from the district’s current operating discretionary tax levies.
÷ The total funded weighted full-time equivalent (FTE) students in the school district.
x The weighted FTE students for the charter school.

<sup>33</sup> Section 1002.33(13), F.S.

<sup>34</sup> Section 1002.33(17), F.S.

<sup>35</sup> Section 1002.33(17)(a)-(b), F.S. To reflect any changes in enrollment, the charter school’s funding is recalculated during the school year, based on the October and February full-time equivalent enrollment surveys.

<sup>36</sup> Section 1002.33(17)(b), F.S.

<sup>37</sup> As provided in s. 1011.62, F.S.

A charter school is also entitled to receive a proportionate share of categorical funds included in the FEFP for students who qualify for the categorical funds.<sup>38</sup> Categorical funds must be spent for specified purposes, which include student transportation, safe schools, supplemental academic instruction, research-based reading, instructional materials, digital classrooms, classroom supplies, and class-size reduction operating funds.<sup>39</sup> Current law prohibits sponsors from requiring charter schools to adopt the school district's reading curriculum as a condition of receiving the research-based reading allocation.<sup>40</sup>

### ***Effect of Proposed Changes***

Section 1 authorizes a not-for-profit or municipal entity that operates a charter school to use any unrestricted surplus operating funds, unrestricted surplus capital outlay funds, or unrestricted net assets identified in the charter school's annual audit for other charter schools in the district operated by the not-for-profit or municipal entity. This section specifies that unrestricted surplus operating funds and unrestricted capital outlay funds must be used in accordance with current law. This will likely grant charter schools that are operated by not-for-profit or municipal entities greater flexibility with respect to spending authority.

### ***Charter School Sponsor Services and Fees (Section 1)***

#### ***Present Situation***

Current law requires a charter school sponsor to provide various administrative services to a charter schools in the district including, contract management; full-time equivalent (FTE) and student achievement data reporting; exceptional student education program administration; eligibility and reporting for federal school lunch programs; test administration, including payment of the costs of state- or school district-required assessments; the processing of teacher certification data; and student information services.<sup>41</sup> As compensation for services provided, a sponsor may withhold an administrative fee of up to five percent of each charter school's total operating funds, based upon weighted FTE students.<sup>42</sup> A sponsor may only withhold the administrative fee for the first 250 students enrolled in each charter school.<sup>43</sup> A sponsor may withhold a five percent administrative fee for the first 500 students enrolled within a system of charter schools if the system:<sup>44</sup>

- Includes both conversion charter schools and nonconversion charter schools;
- Has all schools located in the same county;

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<sup>38</sup> Section 1002.33(17)(b), F.S.

<sup>39</sup> Section 1002.33(17)(b), F.S.

<sup>40</sup> Section 1002.33(17)(b), F.S.

<sup>41</sup> Section 1002.33(20)(a)1., F.S. *See also* Florida Attorney General Opinion, AGO 2013-04, stating that the administrative fee includes costs to administer state district assessments, *available at* <http://www.myfloridalegal.com/ago.nsf/Opinions/D20AD30420BB793B85257B3C0052B3A6>.

<sup>42</sup> Section 1002.33(20)(a)2., F.S.

<sup>43</sup> Section 1002.33(20)(a)2., F.S. When a charter school's enrollment exceeds 250 students, it must reserve an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld for capital outlay purposes. *Id.*

<sup>44</sup> Section 1002.33(20)(a)4., F.S. When the enrollment within a system of charter schools exceeds 500 students, an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld may only be used for instructional, administrative, or capital outlay purposes. Section 1002.33(20)(a)5., F.S.



- Has a total enrollment exceeding the total enrollment of at least one school district in the state;
- Has the same governing board; and
- Does not contract with a for-profit service provider for the management of school operations.

If the charter school system meets the above criteria and also qualifies as a high-performing charter school system, the system may receive a reduction in the administrative fees from five percent to two percent for enrollments up to and including 500 students per system.<sup>45</sup> The total administrative fee for high-performing charter schools is up to two percent for enrollment up to and including 250 students per school.<sup>46</sup>

If 75 percent or more of the students enrolled in the charter school are exceptional students, including gifted students, the five percent administrative fee is calculated based upon unweighted FTE students.<sup>47</sup> For virtual charter schools, the sponsor may withhold a fee of up to five percent of the school's total operating funds; however, the fee must be used to cover the cost of sponsor-provided services and for implementation of the school district's digital classrooms plan.<sup>48</sup> Sponsors are prohibited from imposing additional fees or surcharges for services provided.<sup>49</sup>

### ***Effect of Proposed Changes***

Section 1 specifies that a traditional charter school sponsor may withhold administrative fees based on weighted FTE students and that if the charter serves 75 percent or more exceptional students, the sponsor may withhold administrative fees based on unweighted FTE students. Additionally, this section revises the calculation of the sponsor's administrative fee as follows:

- Up to five percent for:
  - Enrollment of up to and including 250 students in a charter school or a charter virtual school.
  - Enrollment of up to and including 500 students in a charter school system that meets all of the following:
    - Includes conversion and nonconversion charter schools;
    - Has all of its schools located in the same county;
    - Has a total enrollment that exceeds total enrollment of at least one Florida school district;
    - Has the same governing board for all of its schools; and
    - Does not contract with for-profit service provider.
- Up to two percent for enrollment of up to and including 250 students in a high-performing charter school.

Additionally, section 1 provides that a charter school sponsor may not charge charter schools additional fees or surcharges for administrative and educational services. This section also requires each charter school to annually complete and submit a survey, in a format to be specified by the DOE, the rate the timeliness and quality of services provided by the district, and

<sup>45</sup> Section 1002.33(20)(a)4. and 6., F.S.

<sup>46</sup> Section 1002.33(20)(a)3., F.S.

<sup>47</sup> Section 1002.33(20)(a)2., F.S.

<sup>48</sup> Section 1002.33(20)(a)8., F.S.

<sup>49</sup> Section 1002.33(20)(a)7., F.S.

directs that the DOE must compile the results, by district, and include the results in the annual report that must be published on the DOE's website before November 1. This may provide additional information to the public regarding the quality of services provided by school districts to charter schools.

### ***Local Educational Agency Status for Certain Charter School Systems (Section 1)***

#### ***Present Situation***

Current law authorizes a system of charter schools to serve as a local education agency (LEA), for the purposes of receiving federal funds, if the governing board adopts and files a resolution with its sponsor and the DOE in which the governing board accepts the full responsibility for all LEA requirements. The system of charter schools must also meet the following requirements:<sup>50</sup>

- Includes both conversion charter schools and nonconversion charter schools;
- Has all schools located in the same county;
- Has a total enrollment exceeding the total enrollment of at least one school district in the state;
- Has the same governing board; and
- Does not contract with a for-profit service provider for the management of school operations.

#### ***Effect of Proposed Changes***

Section 1 revises LEA eligibility criteria by removing the requirements that a system of charter schools include both conversion charter schools and nonconversion charter schools and that the system does not contract with a for-profit service provider for the management of school operations. This section also allows a charter school system's governing board to be designated as an LEA for purposes of receiving federal funds for all schools within a school district that are established under the turnaround option and are under the jurisdiction of the governing board. As a result, additional charter school system governing boards may qualify for the LEA designation for the purposes of receiving federal funds.

### ***Facilities (Section 1)***

#### ***Present Situation***

Current law exempts any facility or portion of a facility that is used to house a charter school from ad valorem taxes. Specified entities, including a library, community service, museum, performing arts, theatre, cinema, church, Florida College System institution, college and university may provide space to charter schools within their facilities under preexisting zoning and land use designations.<sup>51</sup>

#### ***Effect of Proposed Changes***

Section 1 provides that the entities listed above may provide space to charter schools under their preexisting zoning and land use designation without obtaining a special exception, rezoning, a land use charter, or any other form of approval. This may grant additional flexibility to certain entities with respect to facilities that are used to house a charter school.

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<sup>50</sup> Section 1002.33(25), F.S.

<sup>51</sup> Section 1002.33(18)(c), F.S.

Additionally, section 1 provides that for purposes of tort liability, the charter school, including its governing body and employees, are subject to the same waiver of sovereign immunity as the state, state agencies, and or subdivisions. The bill specifies that the waiver does not extend to any for-profit entity contracted by the charter school or its governing body.

This section also permits a charter school to be exempt from the requirements of controlled open enrollment if the school is open to any student covered in an interdistrict agreement and any student residing in the school district in which the charter school is located.

## **Blended Learning (Section 5)**

### ***Present Situation***

Florida school districts and brick-and-mortar charter schools are authorized to provide blended learning courses.<sup>52</sup> Blended learning courses are provided at the school's physical location and consist of both traditional classroom and online instruction.<sup>53</sup> Blended learning courses may be provided by part-time or full-time employees of the charter school or by contracted instructional providers.<sup>54</sup> Instructors must be certified in the subject area of the course.<sup>55</sup> The online portion of a blended learning course may be provided from a remote location.<sup>56</sup> Students in a blended learning course must be full-time students and receive the online instruction in a classroom setting.<sup>57</sup>

### ***Effect of Proposed Changes***

Section 5 amends s. 1003.498, F.S., to remove the requirement that students at both traditional public schools and charter schools receive online instruction in a classroom setting in a blended learning course.

### ***Education Accountability***

Florida's K-12 accountability system was created to provide for a uniform, efficient, safe, secure and high quality system of free public schools that allows students to obtain a high-quality education.<sup>58</sup>

## **School Grades (Section 7)**

### ***Present Situation***

Florida assigns each public school, including charter schools, a school grade in order to help parents and the public measure the performance of a school.<sup>59</sup>

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<sup>52</sup> Sections 1003.498(1) and 1002.33(7)(a)2.b., F.S.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*; see s. 1012.55, F.S.

<sup>56</sup> Section 1002.33(7)(a)2.b., F.S.

<sup>57</sup> Sections 1003.498(1) and 1002.33(7)(a)2.b., F.S.

<sup>58</sup> See s. 1008.345(1), F.S. The Commissioner of Education is responsible for implementing and maintaining a system of intensive school improvement and stringent education accountability. *Id.*

<sup>59</sup> Florida Department of Education, *2016 Preliminary School Grades Overview*, available at <http://schoolgrades.fldoe.org/pdf/1516/SchoolGradesOverview16.pdf>.

Schools are graded using one of the following grades:<sup>60</sup>

- “A,” for schools making excellent progress – 62% or higher of total points.
- “B,” for schools making above average progress – 54% to 61% of total points.
- “C,” for schools making satisfactory progress – 41% to 53% of total points.
- “D,” for schools making less than satisfactory progress – 32% to 40% of total points.
- “F,” for schools failing to make adequate progress – 31% or less of total points.

In Florida, the lowest performing schools receive more comprehensive, state-provided intervention and support than schools that are closer to meeting state determined student achievement goals.<sup>61</sup> A school district must select a turnaround option when a traditional public school earns a grade of “F,” two consecutive grades of “D,” or a single grade of “F.” immediately followed by a grade of “D” in the most recent grade release.<sup>62</sup> The first full school year after such grade is a planning year during which the school district must implement intervention and support strategies, select a school turnaround option, and submit a plan for implementing the turnaround option to the DOE for approval.<sup>63</sup> If the school does not improve by at least one letter grade at the end of the planning year, the turnaround option must be implemented the following school year.<sup>64</sup> Florida law specifies the turnaround options that a school district may select.<sup>65</sup>

### ***Effect of Proposed Changes***

Section 7 amends s. 1008.34, F.S., to require a high school to include, in its graduation rate, a student who transfers from the high school to a private school with which the school district has a contractual relationship.

### ***School Improvement Ratings (Section 8)***

#### ***Present Situation***

An alternative school or exceptional student education center may choose a school improvement rating instead of a school grade.<sup>66</sup> The school improvement rating is calculated using student learning gains on statewide, standardized English Language Arts and Mathematics assessments for all eligible students who are enrolled in the school and who have assessment scores or comparable scores for the preceding school year.<sup>67</sup> Schools that improve their ratings by at least one level or maintain a commendable rating are eligible for school recognition awards.<sup>68</sup>

<sup>60</sup> Section 1008.34(2), F.S.; rule 6A-1.09981, F.A.C.

<sup>61</sup> Section 1008.33(2)(b) and (4), F.S.; see rule 6A-2.09981(2)(h), F.A.C. School improvement requirements were originally established under the federal 2002 reauthorization of Every Student Succeeds Act, otherwise known as the No Child Left Behind Act of 2001. Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002).

<sup>62</sup> Section 1008.33(4); rule 6A-1.099811(4)(b), F.A.C.

<sup>63</sup> Section 1008.33(4); rule 6A-1.099811(4)(b), F.A.C.

<sup>64</sup> Section 1008.33(4)(c)-(e); rule 6A-1099811(4)(c) and (5)(b), F.A.C.

<sup>65</sup> Section 1008.33(4)(b).

<sup>66</sup> Section 1008.341(2), F.S.

<sup>67</sup> *Id.* at (3).

<sup>68</sup> *Id.* at (2).

### *Effect of Proposed Changes*

Section 8 amends s. 1008.341, F.S., to allow the use of concordant scores, in addition to assessment scores or comparable scores, in determining an alternative school's school improvement rating. This may provide flexibility with respect to including scores on tests such as SAT and ACT in school improvement ratings.

### **Equity in School Level Funding (Section 10)**

#### *Present Situation*

Title I, Part A of the Elementary and Secondary Education Act, provides financial assistance to LEAs and schools with high numbers or high percentages of children from low-income families to help ensure that all children meet challenging state academic standards.<sup>69</sup> Federal funds are currently allocated through four statutory formulas that are based primarily on census poverty estimates and the cost of education in each state.<sup>70</sup> Current law requires district school boards to allocate to schools within the district an average of 90 percent of the funds generated by all schools and guarantees that each school receives at least 80 percent, except schools participating in the Principal Autonomy Pilot Program Initiative are guaranteed at least 90 percent, of the funds generated by that school based on the FEFP and General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy.<sup>71</sup> Total funding for each school must be recalculated during the year to reflect the revised calculation under the FEFP and the actual weighted full-time equivalent students reported by the school during the full-time equivalent student survey periods designated by the Commissioner of Education. If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in the schools in the district must be provided federal funds.<sup>72</sup>

#### *Effect of Proposed Changes*

Section 10 amends s. 1011.69, F.S., to require school districts to provide Title I funds directly to all eligible schools and defines eligible school to mean a school, including a charter school, that is eligible to receive Title I funds. The threshold for identifying eligible schools must not exceed the statewide percentage of economically disadvantaged students. This section also limits the amount of Title I funds that a district may withhold as follows:

- One percent for parent involvement.
- A necessary and reasonable amount for administration not to exceed eight percent.
- A reasonable and necessary amount to provide: homeless programs; delinquent and neglected programs; and private school equitable services.

Section 10 provides that all remaining Title I funds must be distributed to all eligible schools in accordance with federal law and regulation. An eligible school may use Title I funds to

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<sup>69</sup> U.S. Department of Education, *Improving Basic Programs Operated by Local Educational Agencies (Title I, Part A)*, available at <https://www2.ed.gov/programs/titleiparta/index.html?exp=0>.

<sup>70</sup> *Id.*

<sup>71</sup> Section 1011.69(2), F.S.

<sup>72</sup> *Id.*

participate in discretionary educational services provided by the school district. This may limit the discretion of the school district with respect to the distribution of Title I funds.

### ***Other Provisions***

The bill also:

- **Dual Enrollment:** Section 9 amends s. 1011.62, F.S., to revise eligibility criteria for postsecondary institutions to participate in dual enrollment. Specifically, section 9 deletes the requirement that to be eligible to provide a dual enrollment program, an independent college or university must be located and chartered in Florida, and revises eligibility requirements for private postsecondary institutions to participate in dual enrollment by requiring that the institution be accredited by any regional or national accrediting agency recognized by the U.S. Department of Education rather than by only the Commission of Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools. This section maintains the current eligibility requirement pertaining to not-for-profit status of such institutions. This will allow a private, not-for-profit postsecondary education institution that is accredited by any regional or national accrediting agency, recognized by the U.S. Department of Education, and that is located in another state, to participate in dual enrollment. This may expand the number of postsecondary institutions eligible to participate in dual enrollment.
- **College-Preparatory Boarding Academy Pilot Program:** Section 2 amends s. 1002.3305, F.S., to expand the definition of eligible student for purposes of the College-Preparatory Boarding Academy Pilot Program to include a student currently enrolled in grades 5-12, if it is determined by the operator that a seat is available. Currently, an eligible student must be enrolled in grade 5 or 6. In 2011, the Legislature created the College-Preparatory Boarding Academy Pilot Program for the purpose of providing unique educational opportunities to dependent or at-risk children who are academic underperformers but who have the potential to progress from at-risk to college-bound. This modification may increase the number of students eligible for the program.
- **ACT Aspire test:** Section 6 amends s. 1007.35, F.S., to replace the statutory reference to the ACT Aspire test with the preliminary ACT.

The bill takes effect July 1, 2017.

## **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:**

The bill has no impact on state revenues or expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1002.33, 1002.3305, 1002.331, 1002.332, 1003.498, 1007.35, 1008.34, 1008.341, 1011.62, and 1011.69.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

**CS/CS by Appropriations on May 1, 2017:**

The committee substitute:

- Adds the following provisions related to charter schools:
  - Revises the charter school application process and review for traditional charter schools and high-performing charter schools.
  - Authorizes an exemption from controlled open enrollment requirements for a charter school if such school is open to any student covered in an interdistrict agreement and any student residing in the school district in which the charter school is located.
  - Specifies that the waiver of sovereign immunity in cases of tort liability does not include any for-profit entity contracted by a charter school or its governing body.
  - Expands the purposes for forming charter school cooperative organizations to specify that such cooperatives may provide services to further educational, operational, and administrative initiatives.
  - Modifies the criteria for designating a charter school system's governing board as a local educational agency.

- Specifies that certain entities may provide space to high-impact schools within their facilities under their preexisting zoning and land use designations without obtaining a special exception, rezoning, land use charter, or any other form of approval.
- Requires each charter school to annually complete and submit a survey to rate the timeliness and quality of services provided by the district and requires the Department of Education to compile the results.
- Grants certain flexibilities to high-performing charter school systems, including a streamlined replication application and process.
- Deletes the High-Impact Charter Network provisions from the bill.
- Maintains the provisions in the bill that eliminate the requirement for the Department of Education to compare student performance data of charter schools within a school district with public schools within that district, and with the other charter schools in Florida; as well as the posting of such information on each charter school's Internet website.
- Modifies the designation of school grades and school improvement ratings.
- Requires school districts to provide Title I funds directly to all eligible schools.
- Broadens eligibility criteria for a private postsecondary institution to participate in dual enrollment.
- Removes the requirement that online instruction portion of a blended learning course be in a classroom setting.
- Modifies the statutory reference to the ACT Aspire test in the bill to rename the test as preliminary ACT.<sup>73</sup>

**CS by Education on April 17, 2017:**

The committee substitute assigns a new section of law to the High-Impact Charter Network provisions in the bill and replaces the statutory references to the ACT Aspire test with the PreACT, which was referenced as the Preliminary ACT in SB 1362.

**B. Amendments:**

None.

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

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<sup>73</sup> The bill renamed as the test as the PreACT.