

1 A bill to be entitled
2 An act relating to capital outlay funding; amending s.
3 1002.33, F.S.; conforming provisions to changes made
4 by the act; amending s. 1011.71, F.S.; providing that
5 charter schools are eligible for school districts
6 discretionary millage for specified purposes; revising
7 the approved uses of the discretionary millage;
8 authorizing the acquisition of enterprise resource
9 software through specified means; amending s. 1013.62,
10 F.S.; providing that charter school capital outlay
11 funds shall consist of specified funds; revising
12 charter school eligibility criteria for capital outlay
13 funds; providing a definition; revising the
14 calculation methodology for state funds appropriated
15 for charter school capital outlay; providing the
16 calculation methodology for the distribution of
17 specified revenue to eligible charter schools;
18 revising the authorized uses of charter school capital
19 outlay funds; amending s. 1013.64, F.S.; revising the
20 calculation of capital outlay membership for
21 allocations to school districts from the Public
22 Education Capital Outlay and Debt Service Trust Fund;
23 providing for the expenditure of funds; providing
24 effective dates.
25

26 | Be It Enacted by the Legislature of the State of Florida:

27 |
 28 | Section 1. Subsection (19) and paragraph (a) of subsection
 29 | (20) of section 1002.33, Florida Statutes, are amended to read:

30 | 1002.33 Charter schools.—

31 | (19) CAPITAL OUTLAY FUNDING.—Charter schools are eligible
 32 | for capital outlay funds pursuant to ss. 1011.71(2) and ~~ss.~~
 33 | 1013.62. Capital outlay funds authorized in ss. 1011.71(2) and
 34 | 1013.62 which have been shared with a charter school-in-the-
 35 | workplace prior to July 1, 2010, are deemed to have met the
 36 | authorized expenditure requirements for such funds.

37 | (20) SERVICES.—

38 | (a)1. A sponsor shall provide certain administrative and
 39 | educational services to charter schools. These services shall
 40 | include contract management services; full-time equivalent and
 41 | data reporting services; exceptional student education
 42 | administration services; services related to eligibility and
 43 | reporting duties required to ensure that school lunch services
 44 | under the National School ~~federal~~ Lunch Program, consistent with
 45 | the needs of the charter school, are provided by the school
 46 | district at the request of the charter school, that any funds
 47 | due to the charter school under the National School ~~federal~~
 48 | Lunch Program be paid to the charter school as soon as the
 49 | charter school begins serving food under the National School
 50 | ~~federal~~ Lunch Program, and that the charter school is paid at

51 | the same time and in the same manner under the National School
52 | ~~federal~~ Lunch Program as other public schools serviced by the
53 | sponsor or the school district; test administration services,
54 | including payment of the costs of state-required or district-
55 | required student assessments; processing of teacher certificate
56 | data services; and information services, including equal access
57 | to student information systems that are used by public schools
58 | in the district in which the charter school is located. Student
59 | performance data for each student in a charter school,
60 | including, but not limited to, FCAT scores, standardized test
61 | scores, previous public school student report cards, and student
62 | performance measures, shall be provided by the sponsor to a
63 | charter school in the same manner provided to other public
64 | schools in the district.

65 | 2. A total administrative fee for the provision of such
66 | services shall be calculated based upon up to 5 percent of the
67 | available funds defined in paragraph (17)(b) for all students,
68 | except that when 75 percent or more of the students enrolled in
69 | the charter school are exceptional students as defined in s.
70 | 1003.01(3), the 5 percent of those available funds shall be
71 | calculated based on unweighted full-time equivalent students.
72 | However, a sponsor may only withhold up to a 5-percent
73 | administrative fee for enrollment for up to and including 250
74 | students. For charter schools with a population of 251 or more
75 | students, the difference between the total administrative fee

76 calculation and the amount of the administrative fee withheld
77 may only be used for capital outlay purposes specified in s.
78 1013.62(4) ~~1013.62(3)~~.

79 3. For high-performing charter schools, as defined in s.
80 1002.331, a sponsor may withhold a total administrative fee of
81 up to 2 percent for enrollment up to and including 250 students
82 per school.

83 4. In addition, a sponsor may withhold only up to a 5-
84 percent administrative fee for enrollment for up to and
85 including 500 students within a system of charter schools which
86 meets all of the following:

87 a. Includes both conversion charter schools and
88 nonconversion charter schools;

89 b. Has all schools located in the same county;

90 c. Has a total enrollment exceeding the total enrollment
91 of at least one school district in the state;

92 d. Has the same governing board; and

93 e. Does not contract with a for-profit service provider
94 for management of school operations.

95 5. The difference between the total administrative fee
96 calculation and the amount of the administrative fee withheld
97 pursuant to subparagraph 4. may be used for instructional and
98 administrative purposes as well as for capital outlay purposes
99 specified in s. 1013.62(4) ~~1013.62(3)~~.

100 6. For a high-performing charter school system that also

101 meets the requirements in subparagraph 4., a sponsor may
102 withhold a 2-percent administrative fee for enrollments up to
103 and including 500 students per system.

104 7. Sponsors shall not charge charter schools any
105 additional fees or surcharges for administrative and educational
106 services in addition to the maximum 5-percent administrative fee
107 withheld pursuant to this paragraph.

108 8. The sponsor of a virtual charter school may withhold a
109 fee of up to 5 percent. The funds shall be used to cover the
110 cost of services provided under subparagraph 1. and
111 implementation of the school district's digital classrooms plan
112 pursuant to s. 1011.62.

113 Section 2. Subsection (2) of section 1011.71, Florida
114 Statutes, is amended to read:

115 1011.71 District school tax.—

116 (2) In addition to the maximum millage levy as provided in
117 subsection (1), each school board may levy not more than 1.5
118 mills against the taxable value for school purposes for ~~district~~
119 ~~schools, including~~ charter schools pursuant to s. 1013.62(3) and
120 for district schools ~~at the discretion of the school board,~~ to
121 fund:

122 (a) New construction and remodeling projects, as set forth
123 in s. 1013.64(3)(b) and (6)(b) and included in the district's
124 educational plant survey pursuant to s. 1013.31, without regard
125 to prioritization, sites and site improvement or expansion to

126 new sites, existing sites, auxiliary facilities, athletic
127 facilities, or ancillary facilities.

128 (b) Maintenance, renovation, and repair of existing school
129 plants or of leased facilities to correct deficiencies pursuant
130 to s. 1013.15(2).

131 (c) The purchase, lease-purchase, or lease of school
132 buses.

133 (d) The purchase, lease-purchase, or lease of computer and
134 device ~~new and replacement equipment; computer hardware and~~
135 operating system software, including electronic hardware and
136 ~~other hardware devices~~ necessary for gaining access to or
137 enhancing the use of electronic and digital instructional
138 content and resources ~~or to facilitate the access to and the use~~
139 ~~of a school district's digital classrooms plan pursuant to s.~~
140 ~~1011.62, excluding software other than the operating system~~
141 ~~necessary to operate the hardware or device; and enterprise~~
142 resource software applications that are classified as capital
143 assets in accordance with definitions of the Governmental
144 Accounting Standards Board, have a useful life of at least 5
145 years, and are used to support districtwide administration or
146 state-mandated reporting requirements. Enterprise resource
147 software may be acquired by annual license fees, maintenance
148 fees, or lease agreements.

149 (e) Payments for educational facilities and sites due
150 under a lease-purchase agreement entered into by a district

151 school board pursuant to s. 1003.02(1)(f) or s. 1013.15(2), not
152 exceeding, in the aggregate, an amount equal to three-fourths of
153 the proceeds from the millage levied by a district school board
154 pursuant to this subsection. The three-fourths limit is waived
155 for lease-purchase agreements entered into before June 30, 2009,
156 by a district school board pursuant to this paragraph.

157 (f) Payment of loans approved pursuant to ss. 1011.14 and
158 1011.15.

159 (g) Payment of costs directly related to complying with
160 state and federal environmental statutes, rules, and regulations
161 governing school facilities.

162 (h) Payment of costs of leasing relocatable educational
163 facilities, of renting or leasing educational facilities and
164 sites pursuant to s. 1013.15(2), or of renting or leasing
165 buildings or space within existing buildings pursuant to s.
166 1013.15(4).

167 (i) Payment of the cost of school buses when a school
168 district contracts with a private entity to provide student
169 transportation services if the district meets the requirements
170 of this paragraph.

171 1. The district's contract must require that the private
172 entity purchase, lease-purchase, or lease, and operate and
173 maintain, one or more school buses of a specific type and size
174 that meet the requirements of s. 1006.25.

175 2. Each such school bus must be used for the daily

176 transportation of public school students in the manner required
 177 by the school district.

178 3. Annual payment for each such school bus may not exceed
 179 10 percent of the purchase price of the state pool bid.

180 4. The proposed expenditure of the funds for this purpose
 181 must have been included in the district school board's notice of
 182 proposed tax for school capital outlay as provided in s.
 183 200.065(10).

184 (j) Payment of the cost of the opening day collection for
 185 the library media center of a new school.

186 Section 3. Section 1013.62, Florida Statutes, is amended
 187 to read:

188 1013.62 Charter schools capital outlay funding.-

189 (1) Charter school capital outlay funding shall consist of
 190 revenue resulting from the discretionary millage authorized in
 191 s. 1011.71(2) and state funds when such funds are appropriated
 192 in the General Appropriations Act ~~In each year in which funds~~
 193 ~~are appropriated for charter school capital outlay purposes, the~~
 194 ~~Commissioner of Education shall allocate the funds among~~
 195 ~~eligible charter schools as specified in this section.~~

196 (a) To be eligible to receive capital outlay funds ~~for a~~
 197 ~~funding allocation~~, a charter school must:

198 1. Use facilities that are:

199 a. Owned by a school district, political subdivision of
 200 the state, municipality, Florida College System institution, or

201 state university;
202 b. Owned by an organization, qualified as an exempt
203 organization under s. 501(c)(3) of the Internal Revenue Code; or
204 c. Owned by and leased, at a fair market value in the
205 school district in which the charter school is located, from a
206 person or entity that is not an affiliated party of the charter
207 school. For purposes of this sub-subparagraph, the term
208 "affiliated party of the charter school" means the applicant for
209 the charter school pursuant to s. 1002.33; the governing board
210 of the charter school or a member of the governing board; the
211 charter school owner; the charter school principal; an employee
212 of the charter school; an independent contractor of the charter
213 school or the governing board of the charter school; a relative,
214 as defined in s. 1002.33(24)(a)2., of a charter school governing
215 board member, a charter school owner, a charter school
216 principal, a charter school employee, or an independent
217 contractor of a charter school or charter school governing
218 board; a subsidiary corporation, a service corporation, an
219 affiliated corporation, a parent corporation, a limited
220 liability company, a limited partnership, a trust, a
221 partnership, or a related party, individually or through one or
222 more entities that share common ownership or control, that
223 directly or indirectly manages, administers, controls, or
224 oversees the operation of the charter school; or any person or
225 entity, individually or through one or more entities that share

226 common ownership, that directly or indirectly manages,
227 administers, controls, or oversees the operation of any of the
228 foregoing.

229 2. Have been in operation for 2 or more years.

230 3. Have earned no more than two consecutive school grades
231 lower than "B" unless the school serves a student population at
232 least 50 percent of which is eligible for free or reduced-price
233 school lunch under the National School Lunch Program or, for
234 schools operating programs under the Community Eligibility
235 Provision of the Health, Hunger-Free Kids Act of 2010, an
236 equivalent percentage of the student population eligible for
237 free and reduced-price meals as determined by applying the
238 multiplier authorized under the National School Lunch Act, 42
239 U.S.C. s. 1759a(a) (1) (F) (vii), to the number of students
240 reported for direct certification.

241 ~~1.a. Have been in operation for 2 or more years;~~

242 ~~b. Be governed by a governing board established in the~~
243 ~~state for 3 or more years which operates both charter schools~~
244 ~~and conversion charter schools within the state;~~

245 ~~c. Be an expanded feeder chain of a charter school within~~
246 ~~the same school district that is currently receiving charter~~
247 ~~school capital outlay funds;~~

248 ~~d. Have been accredited by the Commission on Schools of~~
249 ~~the Southern Association of Colleges and Schools; or~~

250 ~~e. Serve students in facilities that are provided by a~~

251 ~~business partner for a charter school in the workplace pursuant~~
252 ~~to s. 1002.33(15)(b).~~

253 ~~4.2.~~ Have an annual audit that does not reveal any of the
254 financial emergency conditions provided in s. 218.503(1) for the
255 most recent fiscal year for which such audit results are
256 available.

257 ~~3.~~ ~~Have satisfactory student achievement based on state~~
258 ~~accountability standards applicable to the charter school.~~

259 ~~5.4.~~ Have received final approval from its sponsor
260 pursuant to s. 1002.33 for operation during that fiscal year.

261 ~~6.5.~~ Serve students in facilities that are not provided by
262 the charter school's sponsor.

263 (b) A charter school is not eligible to receive capital
264 outlay funds ~~for a funding allocation~~ if it was created by the
265 conversion of a public school and operates in facilities
266 provided by the charter school's sponsor for a nominal fee, or
267 at no charge, or if it is directly or indirectly operated by the
268 school district.

269 ~~(2)(e)~~ The department shall use the following calculation
270 methodology to allocate state funds appropriated in the General
271 Appropriations Act to eligible charter schools ~~The funding~~
272 ~~allocation for eligible charter schools shall be calculated as~~
273 ~~follows:~~

274 ~~(a)1.~~ Eligible charter schools shall be grouped into
275 categories based on their student populations according to the

276 following criteria:

277 1.a. Seventy-five percent or greater who are eligible for
278 free or reduced-price school meals under the National School
279 Lunch Program or, for schools operating programs under the
280 Community Eligibility Provision of the Healthy, Hunger-Free Kids
281 Act of 2010, an equivalent percentage of the student population
282 eligible for free and reduced-price meals as determined by
283 applying the multiplier authorized under the National School
284 Lunch Act, 42 U.S.C. s. 1759a(a) (1) (F) (vii), to the number of
285 students reported for direct certification ~~lunch.~~

286 ~~2.b.~~ Twenty-five percent or greater with disabilities as
287 defined in state board rule and consistent with the requirements
288 of the Individuals with Disabilities Education Act.

289 (b)2. If an eligible charter school does not meet the
290 criteria for either category under paragraph (a) ~~subparagraph~~
291 ~~1.~~, its FTE shall be provided as the base amount of funding and
292 shall be assigned a weight of 1.0. An eligible charter school
293 that meets the criteria under subparagraph (a)1. or subparagraph
294 (a)2. sub-subparagraph 1.a. or sub-subparagraph 1.b. shall be
295 provided an additional 25 percent above the base funding amount,
296 and the total FTE shall be multiplied by a weight of 1.25. An
297 eligible charter school that meets the criteria under both
298 subparagraphs (a)1. and (a)2. sub-subparagraphs 1.a. and b.
299 shall be provided an additional 50 percent above the base
300 funding amount, and the FTE for that school shall be multiplied

301 by a weight of 1.5.

302 (c)~~3-~~ The state appropriation for charter school capital
303 outlay shall be divided by the total weighted FTE for all
304 eligible charter schools to determine the base charter school
305 per weighted FTE allocation amount. The per weighted FTE
306 allocation amount shall be multiplied by the weighted FTE to
307 determine each charter school's capital outlay allocation.

308 (d)~~(2)~~~~(a)~~ The department shall calculate the eligible
309 charter school funding allocations. Funds shall be allocated
310 using full-time equivalent membership from the second and third
311 enrollment surveys and free and reduced-price school meals under
312 the National School Lunch Program data. The department shall
313 recalculate the allocations periodically based on the receipt of
314 revised information, on a schedule established by the
315 Commissioner of Education.

316 (e)~~(b)~~ The department shall distribute capital outlay
317 funds monthly, beginning in the first quarter of the fiscal
318 year, based on one-twelfth of the amount the department
319 reasonably expects the charter school to receive during that
320 fiscal year. The commissioner shall adjust subsequent
321 distributions as necessary to reflect each charter school's
322 recalculated allocation.

323 (3) If the school board levies the discretionary millage
324 authorized in s. 1011.71(2), the department shall use the
325 following calculation methodology to determine the amount of

326 revenue that a school district must distribute to each eligible
327 charter school:

328 (a) Reduce the total discretionary millage revenue by the
329 school district's annual debt service obligation incurred as of
330 March 1, 2017.

331 (b) Divide the school district's adjusted discretionary
332 millage revenue by the district's total capital outlay full-time
333 equivalent membership and the total number of unweighted full-
334 time equivalent students of each eligible charter school to
335 determine a capital outlay allocation per full-time equivalent
336 student.

337 (c) Multiply the capital outlay allocation per full-time
338 equivalent student by the total number of full-time equivalent
339 students of each eligible charter school to determine the
340 capital outlay allocation for each charter school.

341 (d) If applicable, reduce the capital outlay allocation
342 identified in paragraph (c) by the total amount of state funds
343 allocated to each eligible charter school in subsection (2) to
344 determine the maximum calculated capital outlay allocation.

345 (e) School districts shall distribute capital outlay funds
346 to charter schools no later than February 1 of each year,
347 beginning on February 1, 2018, for the 2017-2018 fiscal year.

348 (4)~~(3)~~ A charter school's governing body may use charter
349 school capital outlay funds for the following purposes:

350 (a) Purchase of real property.

351 (b) Construction of school facilities.

352 (c) Purchase, lease-purchase, or lease of permanent or
353 relocatable school facilities.

354 (d) Purchase of vehicles to transport students to and from
355 the charter school.

356 (e) Renovation, repair, and maintenance of school
357 facilities that the charter school owns or is purchasing through
358 a lease-purchase or long-term lease of 5 years or longer.

359 ~~(f) Effective July 1, 2008, purchase, lease-purchase, or~~
360 ~~lease of new and replacement equipment, and enterprise resource~~
361 ~~software applications that are classified as capital assets in~~
362 ~~accordance with definitions of the Governmental Accounting~~
363 ~~Standards Board, have a useful life of at least 5 years, and are~~
364 ~~used to support schoolwide administration or state-mandated~~
365 ~~reporting requirements.~~

366 (f) ~~(g)~~ Payment of the cost of premiums for property and
367 casualty insurance necessary to insure the school facilities.

368 (g) ~~(h)~~ Purchase, lease-purchase, or lease of driver's
369 education vehicles; motor vehicles used for the maintenance or
370 operation of plants and equipment; security vehicles; or
371 vehicles used in storing or distributing materials and
372 equipment.

373 (h) Purchase, lease-purchase, or lease of computer and
374 device hardware and operating system software necessary for
375 gaining access to or enhancing the use of electronic and digital

376 instructional content and resources; and enterprise resource
377 software applications that are classified as capital assets in
378 accordance with definitions of the Governmental Accounting
379 Standards Board, have a useful life of at least 5 years, and are
380 used to support schoolwide administration or state-mandated
381 reporting requirements. Enterprise resource software may be
382 acquired by annual license fees, maintenance fees, or lease
383 agreement.

384 (i) Payment of the cost of the opening day collection for
385 the library media center of a new school.

386

387 Conversion charter schools may use capital outlay funds received
388 through the reduction in the administrative fee provided in s.
389 1002.33(20) for renovation, repair, and maintenance of school
390 facilities that are owned by the sponsor.

391 (5)~~(4)~~ If a charter school is nonrenewed or terminated,
392 any unencumbered funds and all equipment and property purchased
393 with district public funds shall revert to the ownership of the
394 district school board, as provided for in s. 1002.33(8)(e) and
395 (f). In the case of a charter lab school, any unencumbered funds
396 and all equipment and property purchased with university public
397 funds shall revert to the ownership of the state university that
398 issued the charter. The reversion of such equipment, property,
399 and furnishings shall focus on recoverable assets, but not on
400 intangible or irrecoverable costs such as rental or leasing

401 fees, normal maintenance, and limited renovations. The reversion
402 of all property secured with public funds is subject to the
403 complete satisfaction of all lawful liens or encumbrances. If
404 there are additional local issues such as the shared use of
405 facilities or partial ownership of facilities or property, these
406 issues shall be agreed to in the charter contract prior to the
407 expenditure of funds.

408 (6)~~(5)~~ The Commissioner of Education shall specify
409 procedures for submitting and approving requests for funding
410 under this section and procedures for documenting expenditures.

411 (7)~~(6)~~ The annual legislative budget request of the
412 Department of Education shall include a request for capital
413 outlay funding for charter schools. The request shall be based
414 on the projected number of students to be served in charter
415 schools who meet the eligibility requirements of this section.

416 Section 4. Effective upon this act becoming a law,
417 paragraphs (a), (b), and (c) of subsection (3) of section
418 1013.64, Florida Statutes, are amended to read:

419 1013.64 Funds for comprehensive educational plant needs;
420 construction cost maximums for school district capital
421 projects.—Allocations from the Public Education Capital Outlay
422 and Debt Service Trust Fund to the various boards for capital
423 outlay projects shall be determined as follows:

424 (3) (a) Each district school board shall receive an amount
425 from the Public Education Capital Outlay and Debt Service Trust

426 Fund to be calculated by computing the capital outlay membership
427 as determined by the department. Such membership must include,
428 but is not limited to, prekindergarten through grade 12:

429 ~~1. K-12 students~~ whose instruction is funded by the
430 Florida Education Finance Program and prekindergarten
431 ~~exceptional students~~ for whom the school district provides the
432 educational facility, ~~except hospital- and homebound part-time~~
433 ~~students; and~~

434 ~~2. Students who are career education students, and adult~~
435 ~~disabled students and who are enrolled in school district career~~
436 ~~centers.~~

437 (b) The capital outlay full-time equivalent membership
438 shall be determined ~~for prekindergarten exceptional education~~
439 ~~students, kindergarten through the 12th grade, and for career~~
440 ~~centers~~ by counting the reported unweighted full-time equivalent
441 student membership for the second and third surveys with each
442 survey limited to 0.5 full-time equivalent student membership
443 per student and comparing the results on a school-by-school
444 basis with the Florida Inventory of School Houses. Funds
445 accruing to a district school board from the provisions of this
446 section shall be expended on needed projects as shown by survey
447 or surveys under the rules of the State Board of Education. ~~If~~
448 ~~the prior academic year's third survey count is higher than the~~
449 ~~current year's second survey count when comparing the results on~~
450 ~~a school-by-school basis with the Florida Inventory of School~~

451 ~~Houses, the prior year's third survey count shall be used on a~~
452 ~~school by school basis for determining the current capital~~
453 ~~outlay membership. The Florida Inventory of School Houses shall~~
454 ~~be updated with the current capital outlay membership count as~~
455 ~~soon as practicable after verification of the capital outlay~~
456 ~~membership.~~

457 (c) The capital outlay full-time equivalent membership by
458 grade level organization shall be used in making calculations.
459 The capital outlay full-time equivalent membership by grade
460 level organization for the 4th prior year must be used to
461 compute the base-year allocation. The capital outlay full-time
462 equivalent membership by grade-level organization for the prior
463 year must be used to compute the growth over the highest of the
464 3 years preceding the prior year. From the total amount
465 appropriated by the Legislature pursuant to this subsection, 40
466 percent shall be allocated among the base capital outlay full-
467 time equivalent membership and 60 percent among the growth
468 capital outlay full-time equivalent membership. The allocation
469 within each of these groups shall be prorated to the districts
470 based upon each district's percentage of base and growth capital
471 outlay full-time equivalent membership. The most recent 4-year
472 capital outlay full-time equivalent membership data shall be
473 used in each subsequent year's calculation for the allocation of
474 funds pursuant to this subsection. If a change, correction, or
475 recomputation of data during any year results in a reduction or

476 | increase of the calculated amount previously allocated to a
477 | district, the allocation to that district shall be adjusted
478 | accordingly. If such recomputation results in an increase or
479 | decrease of the calculated amount, such additional or reduced
480 | amounts shall be added to or reduced from the district's future
481 | appropriations. However, no change, correction, or recomputation
482 | of data shall be made subsequent to 2 years following the
483 | initial annual allocation.

484 | Section 5. Except as otherwise expressly provided in this
485 | act and except for this section, which shall take effect upon
486 | this act becoming a law, this act shall take effect July 1,
487 | 2017.