

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1029 Charter Schools

SPONSOR(S): PreK-12 Innovation Subcommittee, Rodriguez, A.

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1420

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|------------------|---------|--|
| 1) PreK-12 Innovation Subcommittee | 14 Y, 4 N, As CS | Fudge | Brink |
| 2) PreK-12 Appropriations Subcommittee | | | |
| 3) Education Committee | | | |

SUMMARY ANALYSIS

All charter schools in Florida are tuition-free public schools and part of the state's public education system. Charter schools are created through an agreement or "charter" that provides expanded freedom relative to regulations created for traditional public schools in return for a commitment to higher standards of accountability.

The bill requires a charter school's sponsor to receive and consider a charter school application submitted at any time during the calendar year and revises the charter school enrollment preference for students living in certain housing developments.

The bill clarifies that a high-performing charter school may determine, in its application, when new charter schools will be opened and removes the limitation on when subsequent applications may be submitted by a high-performing charter school.

The bill authorizes a virtual charter school to provide part-time virtual instruction and contract with any public or charter school to provide any course the virtual school cannot otherwise provide.

The bill is effective July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter Schools

Present Situation

All charter schools in Florida are tuition-free public schools and are a part of the state's public education system.¹ Charter schools are created through an agreement or "charter" that provides expanded freedom relative to regulations created for traditional public schools in return for a commitment to higher standards of accountability.²

Several types of entities may sponsor charter schools:

- School districts may sponsor charter schools.³
- State universities may sponsor charter lab schools.⁴
- School districts, Florida College System (FCS) institutions or a consortium of school districts or FCS institutions may sponsor a charter technical career center.⁵

In addition, FCS institutions with a teacher preparation program may operate one charter school for students in kindergarten through grade 12, sponsored by the school district.⁶

A sponsor's responsibilities include:

- approving or denying charter school applications;
- overseeing each sponsored charter school's progress toward the goals established in the charter;
- monitoring the revenues and expenditures of the charter school;
- ensuring that the charter school participates in the state's education accountability system; and
- intervening when a sponsored charter school demonstrates deficient student performance or financial instability.⁷

Establishing a Charter School

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under Florida law.⁸ While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.⁹

An applicant must submit a charter school application on a standard application form developed by the Department of Education (DOE). All charter school applications must be submitted to the sponsor by February 1 for a charter school to open 18 months later or at a time determined by the applicant. A sponsor may not refuse to receive a charter school application submitted before February 1 and may receive an application submitted later than February 1 if it chooses.¹⁰

¹ Section 1002.33(1), F.S.

² Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida's Charter Schools* (2018), available at <http://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2018.pdf>.

³ Section 1002.33(5)(a)1., F.S.

⁴ Sections 1002.32(2) and 1002.33(5)(a)2., F.S.

⁵ Section 1002.34(3)(b), F.S.

⁶ Section 1002.33(5)(b)4., F.S.

⁷ Section 1002.33(5)(b), F.S.

⁸ Section 1002.33(3)(a), F.S.

⁹ Section 1002.33(12)(i), F.S.

¹⁰ Section 1002.33(6)(b), F.S.

Student Eligibility

Charter schools are open to all students residing within a school district and students who are covered by an inter-district enrollment agreement.¹¹ In addition, controlled open enrollment requirements allow a parent whose child is not subject to a current expulsion or suspension order to seek enrollment in, and transport his or her child to any public school in the state, including a charter school, which has not reached capacity.¹² The charter school governing board determines its capacity based upon its contract.¹³

Prospective students must apply for enrollment in a charter school and, if the number of applications exceeds the school's capacity, a random lottery must be used to determine which students are enrolled.¹⁴ Enrollment preference may be given to student populations such as siblings of current charter school students, children of charter school employees and members of the governing board, students who attend or are assigned to a failing school, and others.¹⁵

A charter school may limit the enrollment process in order to target the following student populations:

- students within specific age groups or grade levels;
- students considered at risk of dropping out of school or academic failure, to include exceptional education students;
- children of the business partner who seek to enroll in a charter school-in-the-workplace or children of municipal residents who seek to enroll in a charter school-in-a-municipality;
- students residing within a reasonable distance of the charter school;
- students who meet reasonable academic, artistic or other eligibility standards established by the charter school;
- students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor; or
- students living in a development in which a business entity provides the school facility and related property having an appraised value of at least \$5 million to be used as a charter school to mitigate the educational impact created by the development of new residential dwelling units; such students are entitled to no more than 50 percent of the student stations at the school¹⁶

Effect of Proposed Changes

The bill repeals the date by which charter school applications must be submitted and received each calendar year and prohibits a sponsor from refusing to receive a charter school application submitted any time during the calendar year. The bill also allows a charter school to be opened at a time determined by the applicant.

The bill revises the enrollment preferences that a charter school provided by a developer may give to students within the development by:

- allowing preference if a developer or an affiliated business entity or charitable foundation contributes to the formation, acquisition, construction, or operation of one or more charter schools or charter school facilities and related property in an amount equal to or having a total appraised value of \$5 million; and
- providing students living in the development 50 percent of the student stations.

¹¹ Section 1002.33(10)(a), F.S. A charter school receiving federal Charter School Program grant funds must use a lottery if more students apply for admission to the charter school than can be admitted, but may use a weighted lottery under certain circumstances. See U.S. Department of Education, *Charter Schools Program Title V, Part B of the ESEA, Non-Regulatory Guidance*, (January 2014), available at <http://www2.ed.gov/programs/charter/fy14cspnonregguidance.doc>.

¹² Section 1002.31(2)(a), F.S.

¹³ Section 1002.31(2)(b), F.S.

¹⁴ Section 1002.33(10)(b), F.S.

¹⁵ Section 1002.33(10)(d), F.S.

¹⁶ Section 1002.33(10)(e), F.S. (2018).

High-Performing Charter Schools

Present Situation

Charter schools and operators of systems of charter schools with a track record of academic excellence and financial stability may earn “high-performing” status.¹⁷ A high-performing charter school is a charter school that during each of the three previous years:

- received at least two school grades of “A” and no school grade below “B;”
- has received an unqualified opinion¹⁸ on each annual financial audit; and
- has not received an annual financial audit that reveals a financial emergency condition.¹⁹

Initial eligibility for “high-performing” status is verified by the Commissioner of Education, upon request by a charter school. Thereafter, the commissioner must annually verify continued eligibility.²⁰

High-performing charter schools may take advantage of various benefits. Among other benefits, the operator of a high-performing charter school may submit an application in any Florida school district to establish and operate a new charter school that substantially replicates one of its high-performing charter schools. The application process for such applications is streamlined to expedite approval.²¹ A high-performing charter school may not be replicated more than once in any given year and may not replicate again until the new charter school achieves “high-performing” status.²² Systems may replicate their high-performing charter schools using the same process applicable to high-performing charter schools.²³ Additionally, a high-performing charter school may have the term of its charter extended to up to 15 years.²⁴

A high-performing charter school may increase the school’s enrollment once per year to more than the capacity identified in the charter and expand grade levels within kindergarten through grade 12 to add grade levels not already served as long as the increase in enrollment in either case does not exceed the current facility capacity.²⁵

Effect of Proposed Changes

The bill removes a provision that prohibits a high-performing charter school from submitting subsequent applications until previously established charter schools achieve high-performing status. A high-performing charter school will be allowed to submit subsequent applications so long as each previous charter school application is withdrawn or has commenced operation.

Virtual Instruction Program

Present Situation

Florida law establishes a variety of options to make virtual instruction accessible to K-12 students. These options include:

¹⁷ Section 1002.331(1), F.S.; *see* s. 218.503(1), F.S. (financial emergency conditions).

¹⁸An unqualified audit opinion means that the charter school’s financial statements are materially correct. Telephone interview with Florida Auditor General staff (Mar. 24, 2011).

¹⁹ Section 1002.331(1), F.S.; *see* s. 218.503(1), F.S. (financial emergency conditions).

²⁰ Sections 1002.331(5) and 1002.332(2)(a), F.S.

²¹ Section 1002.331(2), F.S.

²² Section 1002.331(3)(b), F.S.

²³ Section 1002.332(2), F.S.

²⁴ Section 1002.331(4), F.S.

²⁵ Section 1002.331(2)(a) and (b), F.S.

- full-time or part-time enrollment in a school district virtual instruction program;²⁶
- full-time enrollment in a virtual charter school;²⁷
- enrollment in individual virtual courses offered by school districts and approved by the Florida Department of Education;²⁸ and
- full-time or part-time enrollment in the Florida Virtual School (FLVS) or school district FLVS franchises.²⁹

Effect of Proposed Changes

The bill allows a virtual charter school to offer part-time instruction and allows the virtual charter school to contract with any public or charter school to provide any course it does not provide.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.33, F.S., prohibiting sponsors from refusing to accept charter school applications submitted during the calendar year and revising enrollment preferences.

Section 2. Amends s. 1002.331, F.S., revising requirements for high-performing charter school applications.

Section 3. Amends s. 1002.45, F.S., revising virtual instruction program requirements.

Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

²⁶ Section 1002.45, F.S.

²⁷ Sections 1002.33(1) and 1002.45(1)(d), F.S.

²⁸ Section 1003.498, F.S.

²⁹ Sections 1002.37 and 1002.45(1)(a)1 and (c)1., F.S.

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 February 4, 2020, the PreK-12 Innovation Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably. The PCS differs from HB 1029 in the following ways:

- Removes revisions to background screening requirements for charter school employees and governing board members.
- Removes the provision allowing charter school networks to share unused assets from one school district with their charter schools in other school districts.
- Revises student enrollment preferences for certain charter schools provided for by a developer.

The bill analysis is drafted to the committee substitute adopted by the PreK-12 Innovation Subcommittee.