

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 953 Charter Schools

**SPONSOR(S):** McClain & others

**TIED BILLS:** none **IDEN./SIM. BILLS:** none

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	12 Y, 4 N	Satterly	Brink
2) Appropriations Committee	20 Y, 10 N	Potvin	Pridgeon
3) Education Committee			

### SUMMARY ANALYSIS

To address the needs of educational capacity, workforce qualifications, and career education opportunities that may extend beyond a school district's boundaries, the bill authorizes state universities and Florida College System (FCS) institutions to solicit applications and sponsor charter schools upon approval by the Department of Education (DOE). The bill also revises requirements for charter schools operated by a FCS institution with a teacher preparation program.

The bill provides that the board of trustees of a sponsoring state university or FCS institution is a local educational agency for the purpose of receiving federal funds and accepting responsibility for all requirements in that role.

The bill requires the DOE, in collaboration with charter school sponsors and operators, to develop a sponsor evaluation framework and report results in its annual charter school application report. In addition, the bill revises charter school application reporting requirements and submission dates for both sponsors and the DOE.

The bill establishes operational funding and capital outlay funding formulas for charter schools sponsored by a state university or FCS institution.

The bill authorizes charter schools to provide career and professional academies.

The fiscal impact of the bill is indeterminate. See Fiscal Comments, *infra*.

The bill takes effect on July 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Charter Schools

##### Present Situation

All charter schools in Florida are public schools and are a part of the state's public education system.<sup>1</sup> Charter schools are tuition-free public schools created through an agreement or "charter" that provides flexibility relative to regulations created for traditional public schools in return for a commitment to higher standards of accountability.<sup>2</sup> One of the guiding principles 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>3</sup> During the 2018-2019 school year, over 313,000 students were enrolled in 658 charter schools in Florida.<sup>4</sup>

##### *Charter School Sponsors*

Several types of entities may sponsor charter schools:

- School districts may sponsor charter schools.<sup>5</sup>
- State universities may sponsor charter lab schools.<sup>6</sup>
- District school boards, Florida College System (FCS) institution boards of trustees, or an association of one or more of each may sponsor a charter technical career center.<sup>7</sup>

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.<sup>8</sup>

A sponsor provides various administrative services to charter schools in its purview, including contract management; full-time equivalent (FTE) and student achievement data reporting; exceptional student education program administration; eligibility and reporting for the National School Lunch Program; test administration, including payment of the costs of state-or school district-required assessments; processing of teacher certification data; and student information services.<sup>9</sup> As compensation for

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<sup>1</sup> Section 1002.33(1), F.S. Florida's first charter school law was enacted in 1996. Chapter 96-186, L.O.F., *initially codified at s. 228.056, F.S., re-designated in 2002 as s. 1002.33, F.S.*

<sup>2</sup> Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida's Charter Schools* (2019), available at <http://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2019.pdf> [hereinafter *Charter School Fact Sheet*].

<sup>3</sup> Section 1002.33(2)(a)1., F.S.

<sup>4</sup> *Charter School Fact Sheet*, *supra* note 2.

<sup>5</sup> Section 1002.33(5)(a)1., F.S.

<sup>6</sup> Sections 1002.32(2) and 1002.33(5)(a)2., F.S.

<sup>7</sup> Section 1002.34(3)(b), F.S.

<sup>8</sup> Section 1002.33(5)(b), F.S.

<sup>9</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-required or district-required student assessments, available at <http://www.myfloridalegal.com/ago.nsf/Opinions/D20AD30420BB793B85257B3C0052B3A6>.

services provided, a sponsor may withhold an administrative fee of up to 5 percent of each charter school's total operating funds, based upon weighted FTE students.<sup>10</sup>

### *FCS & State University Charter Schools*

FCS institutions are statutorily authorized to operate charter schools that offer secondary education<sup>11</sup> and allow students to obtain an associate degree<sup>12</sup> upon graduation from high school. Students have full access to all college facilities, activities, and services. Such a charter school must be sponsored by the school board or boards within the FCS institution's service area.<sup>13</sup> If a FCS institution offers a teacher preparation program, it may operate one charter school for students in kindergarten through grade 12, implementing innovative blended learning instructional models for students in kindergarten through grade 8.<sup>14</sup>

There are 11 FCS institution charter schools operating in Florida:

- Florida SouthWestern State College: Florida SouthWestern Collegiate High School in Charlotte County.
- Florida SouthWestern State College: Florida SouthWestern Collegiate High School in Lee County.
- Indian River State College: Clark Advanced Learning Center in Martin County.
- Northwest Florida State College: Collegiate High School at Northwest Florida State College in Okaloosa County.
- Polk State College: Polk State Chain of Lakes Collegiate High School in Polk County.
- Polk State College: Polk State Lakeland Gateway to College Collegiate High School in Polk County.
- Polk State College: Polk State Lakeland Collegiate High School in Polk County.
- St. Petersburg College: St. Petersburg Collegiate High School in Pinellas County.
- St. Petersburg College: St. Petersburg Collegiate High School North Pinellas in Pinellas County
- State College of Florida Manatee-Sarasota: State College of Florida Collegiate School in Manatee County.
- State College of Florida Manatee-Sarasota: State College of Florida Collegiate School- Venice in Sarasota County.<sup>15</sup>

State universities are authorized to establish "charter lab schools."<sup>16</sup> Unlike lab schools,<sup>17</sup> charter lab schools operate under a charter and are not required to be established by the nearest state university. In considering an application to establish a charter lab school, a state university must consult with the district school board of the county in which the school is located. If a state university does not act on or denies the application, the applicant may appeal such decision to the State Board of Education (SBE).<sup>18</sup>

There are three charter lab schools operating in Florida:

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<sup>10</sup> Section 1002.33(20)(a)2., F.S.

<sup>11</sup> In this context, the term "secondary education" is synonymous with "middle or high school" (grades 6 through 12). Generally, elementary schools serve students in kindergarten through grade 5, middle schools serve students in grades 6 through 8, and high schools serve students in grades 9 through 12. *See* s. 1003.01(2), F.S. (definition of "school").

<sup>12</sup> Associate degrees include the associate in arts, associate in science, and associate in applied science degrees. *See* rule 6A-14.030(3)-(5), F.A.C.

<sup>13</sup> Section 1002.33(5)(b)4., F.S.

<sup>14</sup> Section 1002.33(5)(b)4., F.S.

<sup>15</sup> Email from Jared Ochs, Legislative Affairs, Florida Department of Education, RE: FCS Charter Schools & SUS Charter Lab Schools (Jan. 13, 2020) [*hereinafter* FCS Charter Schools & SUS Charter Lab Schools].

<sup>16</sup> Section 1002.33(5)(a)2., F.S.

<sup>17</sup> Section 1002.32(2), F.S.

<sup>18</sup> Section 1002.33(6)(g), F.S.

- Florida State University School in Leon County.
- FAU/SLCSD Palm Pointe Research School in St. Lucie County.
- The Pembroke Pines/FSUS Charter Elementary School in Broward County.<sup>19</sup>

### *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.<sup>20</sup> While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.<sup>21</sup>

An applicant must submit a charter school application on a standard application form developed by the Department of Education (DOE). As of 2018, 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.<sup>22</sup> The charter school application must:

- demonstrate how the school will utilize the guiding principles;<sup>23</sup>
- provide a detailed curriculum plan aligned with the Next Generation Sunshine State Standards;
- contain goals and objectives for improving student learning and measuring such improvement;
- describe the reading curricula and differentiated strategies for serving students at various levels of reading ability;
- contain an annual financial plan;
- 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 each charter school operated by the applicant;
- contain additional information required by the sponsor; and
- for a virtual charter school, document that the applicant has contracted with a provider for virtual instruction services.<sup>24</sup>

The sponsor may require the applicant to submit additional information as an addendum to the application.<sup>25</sup>

A sponsor must approve or deny a charter school application within 90 calendar days of receipt, unless an extension of the deadline is mutually agreed to by the sponsor and applicant.<sup>26</sup> If an application is denied, the sponsor must within 10 calendar days provide specific written reasons, based upon good cause, for its denial to the applicant and the DOE.<sup>27</sup> The applicant has 30 calendar days to file an appeal with the SBE after the denial of, or failure to act upon, an application. The state board's decision is a final action subject to judicial review in the District Court of Appeal.<sup>28</sup>

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<sup>19</sup> FCS Charter Schools & SUS Charter Lab Schools, *supra* note 15.

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

<sup>21</sup> Section 1002.33(12)(i), F.S.

<sup>22</sup> Section 1002.33(6)(b), F.S.

<sup>23</sup> The legislative guiding principles for charter schools provide that they are to meet high standards of student achievement while increasing parental choice; increase learning opportunities for all students, with special emphasis on low-performing students and reading and utilizing innovative learning methods. Charter schools may also serve to provide rigorous competition to stimulate improvement in traditional public schools, expand the capacity of the public school system, mitigate the educational impact created by the development of new residential dwelling units and create new professional opportunities for teachers, including ownership of the learning program at the school site. Section 1002.33(2), F.S.

<sup>24</sup> Section 1002.33(6)(a), F.S.

<sup>25</sup> *Id.*

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

<sup>27</sup> *Id.*

<sup>28</sup> Section 1002.33(6)(c)-(d), F.S.; *see also* s. 120.68, F.S.

## Charter School Sponsor Reporting

A charter school sponsor is required to submit an annual report to the DOE summarizing the following:

- the number of draft applications received on or before May 1 and each applicant's contact information;
- the number of final applications received on or before August 1 and each applicant's contact information;
- the date each application was approved, denied, or withdrawn; and
- the date each final contract was executed.<sup>29</sup>

DOE must compile the reported sponsor information into an annual report, by district, and post it on its website by November 1 each year.<sup>30</sup>

## Charter School Funding

As with traditional public schools, charter school operations are funded through the Florida Education Finance Program (FEFP) based on student enrollment. Each charter school reports student enrollment to its sponsor<sup>31</sup> for inclusion in the district's report of student enrollment.<sup>32</sup>

A charter school is also entitled to receive its proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.<sup>33</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, teacher classroom supplies, and class-size reduction operating funds.<sup>34</sup> Operating funds from the FEFP are distributed by the sponsor to the charter school. Payments must be made monthly or bi-monthly, beginning with the start of a school board's fiscal year.<sup>35</sup> A sponsor is prohibited from delaying payment of any portion of a charter school's funding based upon the timing of receipt of local funds by the school board.<sup>36</sup>

Charter schools, like traditional public schools, receive federal education funding through such programs as the Individuals with Disabilities Education Act (IDEA),<sup>37</sup> Title I programs for disadvantaged students,<sup>38</sup> and Title II programs for improving teacher quality based on student eligibility.<sup>39</sup>

## Career and Professional Academies

Each school board must operate at least one high school career and professional academy and have as part of its 3-year strategic plan the implementation of an academy or a career-themed course in at

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<sup>29</sup> Section 1002.33(5)(b)1.k.(I)-(II), F.S.

<sup>30</sup> Section 1002.33(5)(b)1.k.(III), F.S. See Florida Department of Education, *Annual Authorizer Report 2018* (2018), available at <http://www.fldoe.org/core/fileparse.php/9905/urlt/18-AuthorizerReport.pdf>.

<sup>31</sup> A sponsor can be a district school board that approves the charter and holds the contract. Section 1002.33(5)(a)1., F.S.

<sup>32</sup> Section 1002.33(17)(a) and (b), F.S. To reflect any changes in enrollment, the charter school's funding is recalculated during the school year based upon the October and February FTE enrollment surveys. See s. 1002.33(17)(b), F.S.

<sup>33</sup> Section 1002.33(17)(b), F.S.

<sup>34</sup> See, e.g., s. 1011.62(1)(f), F.S. (supplemental academic instruction); s. 1011.62(6), F.S. (general categoricals), s. 1011.67, F.S. (instructional materials), s. 1011.62(12), F.S. (digital classrooms); s. 1011.68, F.S. (student transportation), s. 1011.685, F.S. (class size reduction) and s. 1012.71, F.S. (Florida Teachers Classroom Supply Assistance Program).

<sup>35</sup> Section 1002.33(17)(e), F.S.

<sup>36</sup> *Id.*

<sup>37</sup> Section 1002.33(17)(c), F.S.; 20 U.S.C. s. 1411(e).

<sup>38</sup> 20 U.S.C. s. 6301 et. seq.

<sup>39</sup> 20 U.S.C. ss. 6601-6641; s. 1002.33(17)(c), F.S.

least one middle school in the district.<sup>40</sup> Two or more school districts may collaborate in the development of the strategic plan and jointly offer an academy or career-themed courses.<sup>41</sup>

An academy may be offered as a school-within-a-school or as part of an existing high school that provides courses in one or more occupational clusters. Students attending the school do not necessarily attend the academy. An academy may also be offered as a total school configuration providing multiple academies, each structured around an occupational cluster. In this case, each student attending the school also attends an academy.<sup>42</sup>

Each career course offered in a career and professional academy and each career-themed course offered by a secondary school must lead to industry certification or postsecondary credit. If the passage rate on an industry certification examination that is associated with an academy or a career-themed course falls below 50 percent, the 3-year strategic plan must be amended to include specific strategies to improve the passage rate of the academy or career-themed course.<sup>43</sup>

Current law does not expressly authorize charter schools to offer career and professional academies.

### Effect of Proposed Changes

To address the needs of educational capacity, workforce qualifications, and career education opportunities that may extend beyond a school district's boundaries, the bill authorizes state universities and FCS institutions to solicit applications and sponsor charter schools upon approval by the DOE. A state university or FCS institution may, at its discretion, deny an application for a charter school. The bill provides that a state university-sponsored charter school may serve students from multiple school districts to meet regional education or workforce demands. Additionally, a FCS institution-sponsored charter may exist in any county within its service area to meet workforce demands; however, a charter school currently operated by a FCS institution is not eligible to be sponsored by a FCS institution until its existing charter with the school district expires. A FCS institution-sponsored charter may offer postsecondary programs leading to industry certifications for eligible charter school students.

Since the bill authorizes state universities and FCS institutions to sponsor charter schools that serve students across multiple school districts, the bill specifies that a charter's racial/ethnic balance must reflect that of nearby public schools rather than public schools located geographically within the district.

The bill deletes the limitation that a FCS institution that operates an approved teacher preparation program operate no more than one charter school, allowing a FCS institution to operate additional charter schools that serve students in kindergarten through grade 12, and providing that the students served may be in any school district within the service area of the FCS institution. The requirement that the school implement an innovative blended learning instructional model for students in kindergarten through grade 8 is deleted.

The bill prohibits a FCS institution from reporting FTE for any students participating in FCS-sponsored charter schools who receive FTE funding through the FEFP.

The bill specifies that a board of trustees of a sponsoring state university or FCS institution is the local education agency for all charter schools it sponsors. As the local education agency, the sponsor may receive federal funds and accepts full responsibility for local education agency requirements and the schools it oversees. A student is enrolled in a charter school that is sponsored by a state university or FCS institution may not be included in the calculation of the school district's grade.

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<sup>40</sup> Sections 1003.493(3) and 1003.4935(1), F.S.

<sup>41</sup> Section 1003.491(2), F.S.

<sup>42</sup> Section 1003.493(3)(b), F.S.

<sup>43</sup> Section 1003.493(5), F.S.

To provide accountability for all charter school operators, the bill requires the DOE, in collaboration with charter school sponsors and operators, to develop a sponsor evaluation framework that must address, at a minimum:

- a sponsor's strategic vision for charter school authorizing and progress towards that vision;
- alignment of the sponsor's policies and practices to best practices for charter school authorizing;
- academic and financial performance of all operating charter schools overseen by the sponsor; and
- the status of charter schools authorized by the sponsor, including approved, operating and closed schools.

The bill requires the DOE to compile the results of the evaluation framework, by sponsor, and add them to its annual charter school sponsor report.

The bill repeals the requirement that a charter school sponsor report on draft applications it receives and revises the date by which a sponsor must annually report the number of applications it receives from August 31 to November 1. Accordingly, the bill revises the date by which the DOE annually reports the number of applications on its website from November 1 to January 15.

The bill repeals an obsolete August 1 application deadline and specifies that each sponsor's report to the DOE must reflect the applications it receives by the February 1 deadline, which became effective in 2018. Since the law allows an applicant to determine the time at which the charter school will open, the bill deletes conflicting language that requires the school's opening to coincide with the beginning of the school district's school calendar.

The bill provides that students enrolled in a charter school sponsored by a state university or FCS institution be funded as if they are in a basic program or a special program in the school district. The bill establishes funding for these students as the sum of the total operating funds from the FEFP for the school district in which the school is located and the General Appropriations Act (GAA), including gross state and local funds, discretionary lottery funds, and funds from each school district's current operating discretionary millage levy; divided by total funded weighted FTE students in the school district; and multiplied by the FTE membership of the charter school. The DOE is required to develop a tool that each state university or FCS institution sponsoring a charter school must use for purposes of calculating the funding amount for each eligible charter school student. The total obtained by the calculation must be appropriated from state funds in the GAA to the charter school.

In addition, the bill establishes a capital outlay funding formula for charter schools sponsored by a state university or FCS institution.

The bill also authorizes charter schools to provide career and professional academies.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 1002.33, F.S., authorizing state universities and Florida College System institutions to solicit applications and sponsor charter schools under certain circumstances; revising the contents of an annual report charter school sponsors must provide to the Department of Education; revising the date by which the department must post a specified annual report; revising provisions relating to Florida College System institutions operating charter schools; requiring the board of trustees of a state university or Florida College System institution that is sponsoring a charter school to serve as the local educational agency for such school; requiring the department to develop a sponsor evaluation framework; providing requirements for the framework; deleting obsolete language; providing a calculation for the operational funding for a charter school sponsored by a state university or Florida College System institution; requiring the department to develop a tool for state universities and Florida College System institutions for specified purposes; providing that such funding must be appropriated to the charter school; providing for capital outlay funding for such schools; conforming provisions to changes made by the act.

**Section 2:** Amends s. 1003.493, F.S., authorizing a career and professional academy to be offered by a charter school.

**Section 3:** Provides an effective date of July 1, 2020.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill requires that the funds for eligible university- or FCS institution-sponsored charter school students must be appropriated from state funds in the General Appropriations Act to the charter school. Currently full-time equivalent students funded in the Florida Education Finance Program (FEFP) are funded with a combination of state and local funds. Since the eligible university- or FCS institution-sponsored charter school student will only be funded from state funds appropriated in the FEFP, there may need to be additional state funds provided to offset the potential loss of local funds; however, at this time the individual amounts cannot be determined and would vary based upon the school district and its total amount of local funds.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill provides operational funding for a charter school sponsored by a state university or FCS institution based on a calculation of total operating funds appropriated in the Florida Education Finance Program using the total number of weighted full-time equivalent (FTE) students. Neither the number of charter schools sponsored by a state university or FCS institution that will be established nor the number of students who will enroll in these schools is known; therefore, the fiscal impact is indeterminate.

## 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**

None.