

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1061 Schools of Hope

**SPONSOR(S):** Secondary Education & Career Development Subcommittee, Smith, D. and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1622

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Early Learning & Elementary Education Subcommittee	15 Y, 1 N	Sleap	Brink
2) Secondary Education & Career Development Subcommittee	14 Y, 0 N, As CS	Sleap	Sanchez
3) PreK-12 Appropriations Subcommittee	11 Y, 2 N	Bailey	Potvin
4) Education & Employment Committee	19 Y, 0 N	Sleap	Hassell

### SUMMARY ANALYSIS

To provide high quality educational options for students in persistently low-performing schools, Florida law authorizes charter school operators meeting certain criteria, known as hope operators, to operate charter schools called schools of hope. The Schools of Hope program provides schools of hope with additional funding for certain expenses such as initial school facility leasing, hiring instructional support personnel, or acquiring supplies and educational materials, along with other expenses specified in law.

The bill makes the following changes to hope operators and schools of hope:

- Authorizes a nonprofit entity that operates more than one school of hope, which has been designated as a local education agency (LEA), to report its students to the Department of Education (DOE) directly, rather than through a school district.
- Authorizes a nonprofit entity which is designated as a LEA as the entity responsible for providing quarterly financial statements to the school district and meeting annual financial audit requirements and allows unrestricted current and capital assets identified in the annual financial audit to be used by any school operated by the LEA within the state.
- Revises facility reporting requirements for identifying educational facilities that may be used by a school of hope by requiring the DOE to provide to school districts a list of all underused, vacant, or surplus facilities.
- Authorizes schools of hope to provide for background screening for their employees, rather than coordinating screening through a school district.
- Revises the definition of a persistently low-performing school to account for school years in which a school grade is not issued.
- Extends the authorization for undispersed Schools of Hope Program funds to be carried forward from 5 years to 7 years.
- Authorizes a charter school operated as a school of hope to be eligible to receive charter school capital outlay funding.

The bill does not appear to have a fiscal impact. See Fiscal Comments

The bill provides an effective date of July 1, 2021.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### *Schools of Hope*

In 2017, the Legislature established the Schools of Hope Program to provide students in areas of persistently low-performing schools the opportunity to access a high-quality education designed to close the opportunity gap and increase student achievement.<sup>1</sup> A school of hope is defined as a charter school operated by a hope operator to serve students from one or more persistently low-performing schools; is located within the attendance zone of the persistently low-performing school or within a five mile radius of the school, whichever is greater; and is a Title I eligible school.<sup>2</sup>

A hope operator may also open a school of hope in a “Florida Opportunity Zone,” which is a population census tract that has been designated by the Treasury as a Qualified Opportunity Zone pursuant to the federal Tax Cuts and Jobs Act of 2017.<sup>3</sup> In 2018, Governor Rick Scott nominated Florida’s 427 opportunity zone sites located throughout Florida’s 67 counties.<sup>4</sup> The zones were certified by the Treasury and will retain the designation for 10 years.<sup>5</sup>

Under the Schools of Hope Program administered by the Florida Department of Education (DOE), a school of hope may receive additional funding for certain expenses such as funds for initial school facility leasing, hiring instructional support personnel, or acquiring supplies and educational materials, along with other expenses specified in law.<sup>6</sup> Funds allocated which are not disbursed by June 30 of the fiscal year in which the funds are allocated may be carried forward for up to 5 years.<sup>7</sup>

A school of hope may request that the State Board of Education (SBE) designate the school as a local education agency (LEA) for the purposes of receiving federal funds. As a LEA, the school accepts the full responsibility for all LEA requirements and the schools for which it will perform local education agency responsibilities.<sup>8</sup> Students enrolled in a school established by a hope operator designated as a LEA are not eligible students for purposes of calculating a district’s school grade.<sup>9</sup>

A school of hope must report its students to the school district for purposes of determining the school district’s full-time equivalent FTE membership in calculating the Florida Education Finance Program FEFP.<sup>10</sup>

##### *Persistently Low Performing Schools*

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<sup>1</sup> Section 43, ch. 2017-116, L.O.F., codified at s.1002.333, F.S.

<sup>2</sup> Section 1002.333(1)(c)1., F.S.

<sup>3</sup> Tax Cuts and Jobs Act of 2017, Pub. L. No.115-97, H.R. 1, 115th Cong. (Dec. 22, 2017)

<sup>4</sup> Florida Department of Economic Opportunity, Florida’s Certified Opportunity Zones (2018), *available at* <http://www.floridajobs.org/docs/default-source/communicationsfiles/fl-opportunity-zones-county-summary.pdf>; *See also* Florida Department of Economic Opportunity, Bureau of Workforce Statistics and Economic Research, *Opportunity Zones by Media Markets*, *available at* <https://deolmsgis.maps.arcgis.com/apps/webappviewer/index.html?id=4e768ad410c84a32ac9aa91035cc2375> (providing a map of each identified opportunity zone (FOZ)).

<sup>5</sup> U.S. Department of Treasury, Press Releases: Treasury, *IRS Announce Final Round of Opportunity Zone Designations* (June 14, 2018), <https://home.treasury.gov/news/press-releases/sm0414> (last visited April 15, 2021).

<sup>6</sup> Section 1002.333(10), F.S.

<sup>7</sup> Section 1002.333(10)(b), F.S.

<sup>8</sup> Section 1002.333(6)(a), F.S.

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

<sup>10</sup> *Id.* at (6)(g).

A persistently low-performing school is a school that has earned three grades lower than a “C” in at least 3 of the previous 5 school years and has not earned a grade of “B” or higher in the most recent 2 school years. A school is also a persistently low-performing school if it was closed pursuant to the school’s turnaround option plan within 2 years after the submission of a notice of intent.<sup>11</sup> The State Board of Education (SBE) must publish annually a list of persistently low-performing schools and must provide students in persistently low-performing schools with a public school that meets accountability standards.<sup>12</sup> For school year 2018-2019, the SBE’s published list include 183 persistently low-performing schools.<sup>13</sup>

Pursuant to the DOE Emergency Order No. 2020-EO-1, the spring administration of K-12 statewide, standardized assessments for the 2019-2020 school year was canceled and accountability measures reliant on the assessment data, such as school grades, were not calculated for the 2019-2020 school year.<sup>14</sup>

### *Hope Operators*

A hope operator is a tax-exempt, nonprofit organization that operates three or more charter schools that serve students in grades K-12 in Florida or other states with a record of serving students from low-income families and is designated by the SBE as a hope operator.<sup>15</sup> State board rule designates an entity as a hope operator if it submits a complete application and meets at least one of the following criteria:

- the entity was awarded a United States Department of Education Charter School Program grant for the Replication and Expansion of High-Quality Charter Schools pursuant to Title IV, Part C of the Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds Act (20 U.S.C. 7221-7221j) within the preceding 3 years from the date the entity submits an application to the Department;
- the entity has a current and active grant award for funding through the National Fund of the Charter School Growth Fund; or
- the entity is a non-profit charter school that is selected by a district school board to turnaround the performance of a low-performing public school.<sup>16</sup>

Designation as a hope operator is valid for 5 years from the opening of a school of hope.<sup>17</sup> Presently, Florida has designated five hope operators: Democracy Prep Public Schools, Inc., Individuals Dedicated to Excellence and Achievement (IDEA) Public Schools, the Knowledge is Power Program (KIPP) New Jersey, Mater Academy, and Somerset Academy, Inc.<sup>18</sup> Somerset Academy, Inc. currently operates the K-12 school in Jefferson County, KIPP New Jersey currently operates KIPP Miami Liberty Academy, and IDEA Public Schools will open two K-12 schools in the Fall of 2021 in Hillsborough County.<sup>19</sup>

### *Facilities*

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<sup>11</sup> Section 1002.333(1)(c), F.S.

<sup>12</sup> Section 1002.333(1)(d), F.S.

<sup>13</sup> Florida Department of Education, Florida School Accountability Reports, *Persistently Low-Performing Schools* (2019), available at <http://fldoe.org/core/fileparse.php/18534/urlt/PLPSchools19.xls>.

<sup>14</sup> Florida Department of Education, *Emergency Order No. 2020-EO-1*, at 3-4, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>.

<sup>15</sup> Section 1002.333(2), F.S.

<sup>16</sup> Rule 6A-1.0998271(2)(b), F.A.C.

<sup>17</sup> Section 1002.333(3), F.S.

<sup>18</sup> Florida Department of Education, *Schools of Hope*, <http://www.fldoe.org/schools/school-choice/other-school-choice-options/schools-of-hope/> (last visited April 15, 2021).

<sup>19</sup> Email from Alexis Calatayud, Legislative Affairs, Florida Department of Education, RE: Hope Operators (March 15, 2021).

A school of hope must use facilities that comply with the Florida Building Code, except for the State Requirements for Educational Facilities (SREF).<sup>20</sup> A school of hope that uses school district facilities must comply with SREF only if the school district and the hope operator have entered into a mutual management plan for the reasonable maintenance of such facilities, as specified in law.<sup>21</sup>

Each school district must provide to the DOE, no later than October 1, a list of all underused, vacant, or surplus facilities owned or operated by the school district.<sup>22</sup> A hope operator establishing a school of hope may use an educational facility identified by a school district at no cost or at a mutually agreeable cost not to exceed \$600 per student.<sup>23</sup> A hope operator that uses a facility owned or operated by a school district may not sell or dispose of the facility without the written permission of the school district.<sup>24</sup>

### *Personnel Background Screening*

Each person who seeks educator certification in Florida must be fingerprinted and undergo a state and national criminal history background screening by a district school board or the DOE.<sup>25</sup> If a background screening reveals a criminal history, or if an applicant for certification acknowledges a criminal history, the applicant's records must be assigned to DOE's Office of Professional Practices Services (OPPS) for review and determination of eligibility for certification.<sup>26</sup>

Instructional and non-instructional personnel hired or contracted to fill positions that require direct contact with students in any charter school are required to undergo background screening<sup>27</sup> by filing with the district school board for the school district in which the charter school is located a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school or school district who is trained to take fingerprints.<sup>28</sup> Current law provides a list of disqualifying criminal offenses for educator certification or employment in any position that requires direct contact with students in a charter school.<sup>29</sup> Instructional and non-instructional personnel who are hired must be rescreened every 5 years.<sup>30</sup>

### *Charter School Capital Outlay Funding*

Capital outlay funds may be used by a charter school's governing board for the:

- purchase of real property;
- construction of school facilities;
- purchase, lease-purchase or lease of permanent or relocatable school facilities;
- purchase of vehicles to transport students to and from the charter school;
- renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of five years or longer;
- purchase, lease-purchase, or lease of computer and device hardware and operating system software necessary for gaining access to or enhancing the use of electronic and digital instructional content and resources;
- payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities;

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<sup>20</sup> Section 1002.333(7)(a), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> Section 1002.333(7)(d), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Section 1012.56(10)(a), F.S.

<sup>26</sup> Section 1012.56(2)(d), F.S. The OPPS administers a state-level grievance process. The OPPS investigates alleged misconduct by educators in Florida who hold an educator's certificate and pursues disciplinary actions against the certificates of educators found to have committed acts of misconduct. See Florida Department of Education, *Professional Practices*, <http://www.fldoe.org/teaching/professional-practices/> (last visited April 15, 2021).

<sup>27</sup> Section 1002.33(12)(g)1.

<sup>28</sup> Section 1012.32(2)(b), F.S.

<sup>29</sup> Section 1012.315, F.S.

<sup>30</sup> Section 1012.56(10)(b), F.S.

- purchase, lease-purchase or lease of driver’s education vehicles, motor vehicles used for the maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment; and
- payment of the cost of the opening day collection for the library media center of a new school.

To be eligible for charter school capital outlay funding, a charter school must:

- be in operation for at least 2 years;
- be governed by a governing board established in Florida for 2 or more years which operates both charter schools and conversion charter schools within the state;
- be part of an expanded feeder chain<sup>31</sup> with an existing charter school in the district that is currently receiving charter school capital outlay funds;
- be accredited by a regional accrediting association as defined by state board rule; or
- serve students in facilities that are provided by a business partner for a charter school-in-the-workplace.<sup>32</sup>

In addition, a charter school must:

- have an annual audit that does not reveal a financial emergency for the most recent fiscal year for which such audit results are available;<sup>33</sup>
- have satisfactory student achievement based upon the state accountability standards applicable to charter schools;<sup>34</sup>
- have received final approval from its sponsor for operation during that fiscal year; and
- serve students in facilities that are not provided by the charter school sponsor.<sup>35</sup>

Capital outlay funds appropriated by the Legislature in the General Appropriations Act are allocated to eligible charter schools by the DOE based on a methodology specified in law.<sup>36</sup> For fiscal year 2020-2021, the Legislature appropriated \$169.6 million for charter school capital outlay funding.<sup>37</sup> As of March 2021, 610 charter schools received capital outlay disbursements from the DOE.<sup>38</sup>

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<sup>31</sup> A charter school may be considered a part of an expanded feeder chain under s. 1013.62, F.S., if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding pursuant to s. 1013.62, F.S. Rule 6A-2.0020 (1), F.A.C.

<sup>32</sup> Section 1013.62(1)(a).1.a.-e., F.S.

<sup>33</sup> The definition of financial emergency is provided in s. 218.503(1), F.S.

<sup>34</sup> Section 1013.62(1)(a)3., F.S.; rule 6A-2.0020, F.A.C. A charter school that receives a grade of “F,” two consecutive grades lower than a “C” or a school improvement rating of “Unsatisfactory” is not eligible for capital outlay funding. *See also, Florida Assoc. of Independent Charter Schools vs. Florida Dept. of Education, Case No. 17-1986RP, available at <https://www.doah.state.fl.us/ROS/2017/17001986.pdf>.*

<sup>35</sup> Section 1013.62(1)(a), F.S. A conversion charter school, i.e., a charter school created by the conversion of an existing public school to charter status, is not eligible for capital outlay funding if it operates in facilities provided by its sponsor at no charge or for a nominal fee or if it is directly or indirectly operated by the school district. Section 1013.62(1)(b), F.S.

<sup>36</sup> Section 1013.62(2)(a)-(e), F.S.

<sup>37</sup> Specific appropriation 21, s. 2, ch. 2020-21, L.O.F.

<sup>38</sup> Florida Department of Education, *Charter School Capital Outlay 2020-21*, available at <http://www.fldoe.org/finance/fco/charter-school-capital-outlay/index.stml> (last visited April 15, 2021).

Like other charter schools, a school of hope must provide for an annual audit.<sup>39</sup> The Auditor General may choose to conduct the audit. If not, the school must arrange for an audit by an independent certified public accountant.<sup>40</sup> The audit must:

- examine the school's financial statements to determine if its financial position and any changes in financial position comply with generally accepted accounting principles;
- examine the school's operations to determine compliance with legal and regulatory requirements; and
- examine any additional financial information necessary to comply with generally accepted accounting principles.<sup>41</sup>

Each school of hope must file a copy of its audit report with the sponsor, the district school board, if not the sponsor, the Auditor General and the DOE.<sup>42</sup>

Generally, each charter school must also submit a monthly financial statement summary sheet to the charter's sponsor.<sup>43</sup> The monthly summary sheet must include a balance sheet and a statement of revenue, expenditures, and changes in fund balance in a governmental funds format prescribed by the Governmental Accounting Standards Board.<sup>44</sup> The sponsor must review the financial statement summary to determine if the school exhibits a deteriorating financial condition.<sup>45</sup> The law allows a school of hope to submit its financial statement summary sheet on a quarterly basis, rather than monthly.<sup>46</sup>

### Effect of Proposed Changes

The bill revises the definition of a persistently low-performing school to be a school that has earned three grades lower than a "C" in at least 3 of the previous 5 years in which the school received a grade. This change would allow a school to be designated as persistently low performing even if it does not receive a school grade for one or more of the school years during a 5-year period.

The bill authorizes a nonprofit entity that operates more than one school of hope through a performance-based agreement with a school district to be designated as a LEA by the DOE. A nonprofit entity designated as a LEA is authorized to report its students to the DOE according to procedures and timelines established by the DOE. A school of hope which has not been designated as a LEA must continue to report its students to the school district.

The bill allows a school of hope operated by a nonprofit entity designated as a LEA to meet the financial requirements provided in law by having the school's operator submit to each school district in which the operator operates a school of hope the following:

- a concise, uniform, quarterly financial statement summary sheet that contains a balance sheet summarizing the revenue, expenditures, and changes in fund balances for the entity and for its schools of hope within the school district; and

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<sup>39</sup> Sections 218.39(1)(e) & (f) and 1002.33(9)(j)1. & 2., F.S.

<sup>40</sup> Sections 11.45(3)(c) and 218.39(1)(e) & (f), F.S.

<sup>41</sup> Chapter 10.850 Audits of Charter Schools and Charter Technical Career Centers, *The Florida Virtual Schools, and Virtual Instruction Program Providers* (effective June 30, 2020), Rule 10.855(2), Rules of the Auditor General, available at [https://flauditor.gov/pages/pdf\\_files/10\\_850.pdf](https://flauditor.gov/pages/pdf_files/10_850.pdf).

<sup>42</sup> Section 218.39(10), F.S.

<sup>43</sup> Section 1002.33(9)(g)3., F.S. A high-performing charter school may submit quarterly rather than monthly financial statements. Section 1002.331(2)(c), F.S. Pursuant to Rule 6A-1.0081, F.A.C., DOE adopted two monthly financial statement forms for use by charter schools. Florida Department of Education, *Government Accountability and Standards Board (GASB) Monthly Financial Form (Form IEPC-F1) and Non-Profit Monthly Financial Form (Form IEPC-F2)*, available at <http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-reference> (last visited April 15, 2021)

<sup>44</sup> *Id.*

<sup>45</sup> Section 1002.33(9)(g)3., F.S.

<sup>46</sup> Section 1002.333(6)(h), F.S.

- an annual financial audit of the nonprofit that includes all schools of hope the LEA operates within the state and complies with the requirements provided in law regarding audits of a school board.

The bill authorizes a school of hope operated by a nonprofit entity designated by the DOE as an LEA to use unrestricted current and capital assets identified in the required annual financial audit at any school of hope operated by the LEA within the state.

The bill revises facility reporting requirements for identifying educational facilities that may be used by a school of hope. The bill requires the DOE to provide to school districts a list of all underused, vacant, or surplus facilities owned or operated by the school district, as reported in the Florida Inventory of School Houses by January 1 each year. A school district may provide evidence of any errors or omissions to the DOE within 30 days after the list is provided. By April 1 of each year, the DOE must update and publish a final list of all underused, vacant, or surplus facilities owned or operated by each school district, based on the updated information provided.

The bill authorizes instructional personnel and non-instructional personnel who are hired or contracted to fill positions in any school of hope to complete background screening requirements by filing with the school a set of fingerprints taken by an authorized law enforcement agency, an employee of the charter school or school district who is trained to take fingerprints, or by a private vendor who maintains an agreement with the Florida Department of Law Enforcement.

The bill also extends the authorization for undispersed Schools of Hope Program funds to be carried forward from 5 years to 7 years and authorizes a charter school operated as a school of hope to be eligible to receive charter school state capital outlay funding.

## B. SECTION DIRECTORY:

- Section 1.** Amends s. 1002.333, F.S.; revising the definition of "persistently low-performing school" to specify that a certain provision only applies to years in which the school received a grade; providing that certain nonprofit entities may be designated a local education agency; providing that certain entities report students to the department in a specified manner; specifying reporting provisions that only apply to certain schools of hope; providing schools of hope may comply with certain financial reporting in a specified manner; revising provisions related to the list of specified facilities; revising the date such list is due; revising the entities that provides and receive such list; providing how errors on the list may be corrected; authorizing certain unrestricted assets to be used in a specified manner; revising the length of time certain funds may be carried forward.
- Section 2.** Amends s. 1012.32, F.S.; requiring certain school of hope personnel to undergo background screening; providing how such screening may be completed.
- Section 3.** Amends s. 1013.62, F.S.; providing that schools of hope are eligible to receive certain funds.
- Section 4.** Provides an effective date of July 1, 2021.

## 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.

### D. FISCAL COMMENTS:

The bill authorizes a school operated by a statutorily-defined school of hope operator to be eligible to receive state capital outlay funds. This may increase the number of charter schools that are eligible to receive such funds which may potentially impact the amount of state capital outlay funds received by each eligible charter school.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None. This bill does not appear to affect county or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.



#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 23, 2021 the Secondary Education & Career Development Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

Authorizes a nonprofit entity that operates more than one school of hope through a performance-based agreement with a school district to be designated as a local education agency (LEA) by the Department of Education (DOE). With the LEA designation, the bill authorizes the entity to:

- Report its students to the DOE according to procedures and timelines established by the DOE.
- Meet the financial requirements provided in law by submitting to each school district in which it operates a school of hope the following:
  - a concise, uniform, quarterly financial statement summary sheet that contains a balance sheet summarizing the revenue, expenditures, and changes in fund balances for the entity and for its schools of hope within the school district; and
  - an annual financial audit of the nonprofit that includes all schools of hope the LEA operates within the state and complies with the requirements provided in law regarding audits of a school board.
- Use unrestricted current and capital assets identified in the required annual financial audit at any school of hope operated by the LEA within the state.

The bill analysis is drafted to the committee substitute adopted by the Secondary Education & Career Development Subcommittee.