

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 1690

INTRODUCER: Senator Diaz

SUBJECT: Charter School Revolving Loan Program

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Palazesi</u>	<u>Bouck</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AED</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1690 creates the Charter School Revolving Loan Program (loan program) to provide assistance to charter school operators to meet school building financing needs for charter schools. The bill requires the loan program to consist of funds appropriated by the Legislature, philanthropic contributions, money received from the repayment of loans made from the program, and interest earned.

The bill requires the Department of Education (DOE) to contract with a third-party administrator to administer the loan program, under specified requirements. The bill requires the DOE to report on certain components of the loan program.

The bill provides an appropriation of \$10 million in nonrecurring general revenue funds. See Section V.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Charter Schools

Charter schools are public schools that operate under a performance contract, or a “charter” which frees them from many regulations created for traditional public schools while holding them accountable for academic and financial results. The charter contract between the charter school governing board and the sponsor details the school’s mission, program, goals, students served, methods of assessment and ways to measure success.¹ As of the 2018-2019 school year,

¹ Florida Department of Education, *FAQ, What are charter schools?* <http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml> (last visited Jan. 28, 2022).

over 3.3 million students attend charter schools in over 44 states, representing 6.5 percent of all public school students in the United States.²

National Charter School Facilities Funding

Credit Enhancement for Charter School Facilities Program

The Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015 (ESSA) reauthorized the Credit Enhancement for Charter School Facilities Program.³ The purpose of the Credit Enhancement program is to award grants to eligible entities that demonstrate innovative methods of helping charter schools address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans and bond financing.⁴ An eligible entity receiving a grant must use the funds deposited in the reserve account to assist one or more charter schools to access private-sector capital to accomplish one or more of the following objectives:⁵

- The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.
- The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.
- The pre-development costs required to assess sites and to commence or continue the operation of a charter school.

In Fiscal Year 2021-2022, \$42,000,000 was allocated for the Charter School Facilities Program.⁶ Four entities were awarded funding through the program: California School Finance Authority, Massachusetts Development Finance Agency, BlueHub Loan Fund, Inc., Equitable Facilities Fund, Inc.⁷

Charter Schools in Florida

All charter schools in Florida are public schools and are part of the state's program of public education. In the 2020-2021 school year, 341,926 students were enrolled in 687 charter schools

² National Alliance for Public Charter Schools, *FAQ, How many charter schools and students are there?* <https://data.publiccharters.org/digest/charter-school-data-digest/how-many-charter-schools-and-students-are-there/> (last visited Nov. 23, 2021).

³ 20 U.S.C.7721.

⁴ United States Department of Education, *Credit Enhancement for Charter School Facilities*, <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/charter-school-programs/credit-enhancement-for-charter-school-facilities-program/> (last visited January 28, 2022). Eligible entities are: a public entity such as a state or local entity; a private nonprofit entity; a consortium of state/local agencies and/or a private nonprofit entity.

⁵ *Id.*

⁶ United States Department of Education, *Credit Enhancement for Charter School Facilities, Funding and Legislation*, <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/charter-school-programs/credit-enhancement-for-charter-school-facilities-program/funding-and-legislation/> (last visited Jan. 28, 2022).

⁷ United States Department of Education, *Credit Enhancement for Charter School Facilities, Awards*, <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/charter-school-programs/credit-enhancement-for-charter-school-facilities-program/awards/> (last visited Jan. 28, 2022).

in 47 school districts.⁸ Approximately 70 percent of the students served by charter schools were minorities. Hispanic students comprised 45 percent of Florida's charter school enrollment and 19 percent were African-American students.⁹

Charter School Funding for Operations

Charter school operations, like other public schools, are funded through the Florida Education Finance Program (FEFP). Each charter school reports student enrollment to its sponsor for inclusion in the district's report of student enrollment for FEFP funding. Operating funds from the FEFP are distributed to the charter school by the sponsor. A charter school is entitled to receive its proportionate share of categorical funds included in the FEFP for qualifying students.¹⁰ Categorical funds must be spent for specified purposes, such as student transportation, safe schools, and supplemental academic instruction.

Charter School Funding for Capital Expenditures

Capital outlay funding for charter schools consists of state funds when appropriated in the General Appropriations Act (GAA) and revenue resulting from discretionary millage authorized in law.¹¹ In 2021-2022, the legislature appropriated \$182,864,353 for the Charter School Capital Outlay Allocation.¹² To be eligible to receive capital outlay funds, a charter school must:

- Have operated for two or more years and meet specified requirements.¹³
- Have an annual audit that does not reveal any financial emergency conditions.
- Have satisfactory student achievement based on state accountability standards.
- Have received final approval from its sponsor for operation during that fiscal year.
- Serve students in facilities that are not provided by the charter school's sponsor.¹⁴

Charter Schools may use charter school capital outlay funding for the:¹⁵

- 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 5 years or longer;
- Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities;

⁸ Florida Department of Education, Office of Independent Education & Parental Choice, *Fact Sheet, Florida's Charter Schools*, (2021) available at <https://www.fldoe.org/core/fileparse.php/7778/urlt/Charter-Sept-2021.pdf>.

⁹ *Id.*

¹⁰ Section 1002.33(17)(a) and (b), F.S.

¹¹ Section 10013.62, F.S.

¹² Specific Appropriation 19, s. 2, ch. 2021-36 L.O.F.

¹³ Specified requirements include being governed by a governing board established in the state for two or more years which operates both charter schools and conversion charter schools within the state; being an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds; having been accredited by a regional accrediting association as defined by State Board of Education rule; or serving students in facilities that are provided by a business partner for a charter school-in-the-workplace pursuant to s.1002.33(15)(b). Section 1013.62(1)(a), F.S.

¹⁴ Section 1013.62(1)(a), F.S.

¹⁵ Section 1013.62(4)(a)-(h), 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;
- 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; and
- Payment of the cost of the opening day collection for the library media center of a new school.

Charter School Facilities

Charter schools, with the exception of conversion charter schools, are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities of the Florida Building Code adopted pursuant to s. 1013.37, F.S.¹⁶ A library, community service, museum, performing arts, theatre, cinema, church, FCS institution, college, and university facilities may provide space to charter schools within their facilities under their preexisting zoning and land use designations without obtaining a special exception, rezoning, or a land use change.¹⁷ In the 2019-2020 school year, 477 charter schools reported to the Department of Education that they lease their facility and 179 charter schools reported that they own their facility.¹⁸

III. Effect of Proposed Changes:

SB 1690 creates the Charter School Revolving Loan Program (loan program) to provide assistance to charter school operators to meet school building financing needs for charter schools. The bill requires the program to consist of funds appropriated by the Legislature, philanthropic contributions, money received from the repayment of loans made from the loan program, and interest earned.

The bill requires the Department of Education (DOE) to contract with a third-party administrator to administer the program for the purpose of financing charter school facilities projects. The bill provides requirements for the third-party administrator that include:

- Earned a rating of “A” or higher from a major credit rating agency;
- The infrastructure and expertise necessary to underwrite, source, and close charter school loans; and
- Be able to leverage funds appropriated by the Legislature to support the fund.

The bill specifies that loans made through the loan program do not imply the full faith and credit of the state and do not imply any consideration of credit worthiness, project viability, construction quality, ability to repay, or any other guarantee by the state. All loan documents are required to include that the loan program does not imply the full faith and credit of the state. The bill provides that the loans granted by the third-party administrator under this program are at the

¹⁶ Section 1002.33(18)(a), F.S.. Section 1013.37, F.S., delineates the uniform statewide building code for the planning and construction of public educational and ancillary plants by district school boards.

¹⁷ Section 1002.33(18)(c), F.S.

¹⁸ Email, Jessica Fowler, Deputy Legislative Affairs Director, Florida Department of Education (Jan. 28, 2022) (on file with the Senate Committee on Education). Of the 477 charter schools that reported they lease their facility, 23 charter schools reported they lease their facility from the school district where the school resides.

discretion of the third-party administrator and that repayments of principal and interest must be returned to the loan fund to be available for other applicants. The bill allows that interest on the loans can be used to cover administration costs of the loan program.

In addition, the bill the DOE to post on its website:

- The projects that have received loans;
- The geographic distribution of the projects;
- The status of the projects;
- The costs of the program; and
- The student outcomes for students enrolled in the schools receiving funds.

The bill provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

The bill requires that for the 2022-2023 fiscal year, the sum of \$10 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Education to create the Charter School Revolving Loan Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the section 1002.336 of the Florida Statutes.

IX. Additional Information:

A. **Committee Substitute – Statement of Changes:**

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

None.

B. **Amendments:**

None.