

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 225 Charter School Charters

**SPONSOR(S):** Early Learning & Elementary Education Subcommittee, Hawkins and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 892

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Early Learning & Elementary Education Subcommittee	17 Y, 0 N, As CS	Sleap	Brink
2) Secondary Education & Career Development Subcommittee	17 Y, 0 N	Sleap	Sanchez
3) Education & Employment Committee	21 Y, 0 N	Sleap	Hassell

### SUMMARY ANALYSIS

Charter schools are public schools created through an agreement, or "charter," with a sponsor. The charter provides the school flexibility relative to regulations created for traditional public schools in return for a commitment to higher standards of accountability.

The term of a charter is five years, excluding two planning years, and a charter may be renewed for another five-year term or a 15-year term if certain conditions are met. The law allows for a charter to be modified, including consolidating two or more charter schools, and provides procedures for terminating or nonrenewing a charter. The bill revises these provisions to:

- specify that a charter may be modified at any time, during any term;
- require that a request for the consolidation of multiple charters be approved or denied within 60 days after submission of the request;
- require that any sponsor who denies a request for consolidation to provide the charter school's governing board with the specific reasons for the denial within 10 days;
- specify that a sponsor provide notice to a charter school of a decision to renew, terminate, or not renew before a vote and at least 90 days before the end of the school year; and
- provide for the automatic renewal of a charter if notification does not occur at least 90 days before the end of the school year.

The bill does not appear to have a fiscal impact.

The bill takes effect on July 1, 2022.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Charter Schools

##### Present Situation

All charter schools in Florida are tuition-free public schools within the state's public education system.<sup>1</sup> Charter schools are created through an agreement, or "charter," between a charter governing board and a sponsor. The charter provides the school 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 2020-2021 school year, 341,926 students were enrolled in 687 charter schools in Florida.<sup>4</sup>

In Florida, several types of entities may sponsor charter schools:

- School districts, Florida College System (FCS) institutions, and state universities may sponsor charter schools.<sup>5</sup>
- State universities may sponsor charter lab schools.<sup>6</sup>
- School districts, FCS institutions, or a consortium of school districts or FCS institutions may sponsor a charter technical career center.<sup>7</sup>

##### *Establishing a Charter School*

To establish a charter school, an applicant<sup>8</sup> must submit to a sponsor a charter school application on a standard application form developed by the Department of Education (DOE).<sup>9</sup>

A charter school application must provide certain information about the school, including how the school will utilize certain guiding principles established in law,<sup>10</sup> a detailed curriculum plan aligned to the state's academic standards,<sup>11</sup> and goals and objectives for student learning.<sup>12</sup>

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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* (Sept. 2021), available at <https://www.fldoe.org/core/fileparse.php/7778/urlt/Charter-Sept-2021.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.-3., F.S.; In 2021, the Legislature authorized Florida's 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. S. 1002.33(5)(a)3.c., F.S.

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

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

<sup>8</sup> An application for a new charter school in Florida may be made by an individual, teachers, parents, a group of individuals, a municipality or a legal entity organized under Florida law. S. 1002.33(3)(a), F.S.

<sup>9</sup> Section 1002.33(6)(a), F.S. *See also* Rule 6A-6.0786, F.A.C.; A high-performing charter school and an exceptional student education center which receives specified school improvement ratings may submit an application in any school district in the state to establish a new charter school that replicates its educational program. Sections 1002.331(3)(a) and 1008.3415(3), F.S.

<sup>10</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 utilize 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. S. 1002.33(2), F.S.

<sup>11</sup> Section 1003.41, F.S.

<sup>12</sup> Section 1002.33(6)(a), F.S.

A sponsor must receive and consider charter school applications during the year for a charter school to be opened at a time determined by the applicant.<sup>13</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>14</sup>

The initial term of a charter is five years, excluding two planning years.<sup>15</sup> The charter must include:<sup>16</sup>

- the students to be served, including ages and grade levels;
- the curriculum focus and instructional methods to be used;<sup>17</sup>
- baseline standards of student academic achievement, outcomes to be achieved and methods of measurement to be used;<sup>18</sup>
- the method for determining the strengths and needs of students and whether they are meeting educational goals<sup>19</sup> and for secondary charter schools,<sup>20</sup> the method to determine a student has satisfied the requirements for high school graduation;
- the method for resolving conflicts between the governing body and the sponsor;
- admission and dismissal procedures and the school's student conduct code;
- methods for achieving a racial/ethnic balance reflective of the community served;
- the financial and administrative management of the school, including experience required for management positions and a description of internal audit controls;
- asset and liability projections;
- a description of plans to identify various risks, reduce losses and ensure student and faculty safety;
- an agreement that the charter may be cancelled if the school has made insufficient progress with student achievement;
- the facilities to be used;
- teacher qualifications, governance structure and timetables for implementing each element of the charter;
- full disclosure of all charter school employees who are relatives of charter school officials and employees who have decision making authority over charter school operations; and
- provisions for implementing high-performing charter school benefits if the charter school is designated as "high-performing."

The charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school's governing board and the approval of both parties to the agreement.<sup>21</sup> Changes to curriculum which are consistent with state standards are deemed approved unless the sponsor and the DOE determine in writing that the curriculum is inconsistent with state standards.<sup>22</sup> Modification during any term may include, but is not limited to, consolidation of multiple charters into a single charter if the charters are operated under the same governing board, regardless of the renewal cycle.<sup>23</sup> The charter may be renewed at the end of its term if a program review conducted by the

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<sup>13</sup> Section 1002.33(6)(b), F.S. (2021). Prior to this change in 2021, applications had a deadline of February 1, with a school opening date of 18 months later or at a time determined by the applicant.

<sup>14</sup> Section 1002.33(6)(b)3.a., F.S.

<sup>15</sup> Section 1002.33(7)(a)12., F.S.

<sup>16</sup> Section 1002.33(7)(a)1.-19., F.S.

<sup>17</sup> The charter must ensure that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction to students who are reading below grade level. Additionally, to provide students with access to diverse instructional delivery models, charter schools may implement blended learning courses. S. 1002.33(7)(a)2.a.-b., F.S.

<sup>18</sup> The district schoolboard is required to provide academic student performance data for students coming from the district school system to the charter, as well as rates of academic progress of comparable student populations in the district. Section 1002.33(7)(a)3., F.S. (flush-left provision at the end of the sub-subparagraph).

<sup>19</sup> Students enrolled in a charter school must, at a minimum, participate in Florida's statewide assessments. S. 1002.33(7)(a)4., F.S.

<sup>20</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>21</sup> Section 1002.33(7)(d), F.S.

<sup>22</sup> *Id.*

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

sponsor demonstrates that the goals and criteria stated in the charter have been met and that no grounds for nonrenewal have occurred.<sup>24</sup>

### *Causes for Nonrenewal or Termination of a Charter*

A charter school sponsor must make student academic achievement for all students the most important factor when determining whether to renew or terminate a charter. However, a sponsor also has the discretion to terminate or not renew a charter for any of the following reasons:<sup>25</sup>

- Failure to participate in the state's education accountability system or failure to meet the charter's requirements for student performance.
- Failure to meet generally accepted standards of fiscal management.
- Material violation of law.
- Other good cause shown.

A sponsor must provide at least 90 days written notice to the charter school prior to termination or nonrenewal.<sup>26</sup> The notice must state, in reasonable detail, the grounds for the termination or nonrenewal, and must specify that the charter school's governing board has 14 days after receiving such a notice to request a hearing.<sup>27</sup> A charter school's governing board which is notified of termination or nonrenewal is entitled to a formal hearing with an administrative law judge within 90 days after receipt of the request for a hearing.<sup>28</sup> The administrative law judge must issue a final order to the sponsor. The charter school's governing board may appeal the final order to the district court of appeal.<sup>29</sup>

A charter may be terminated immediately if the sponsor sets forth particular facts and circumstances demonstrating that an immediate and serious danger to the health, safety or welfare of the students exists and is likely to continue.<sup>30</sup> A charter may also be terminated by a charter school's governing board through a voluntary closure.<sup>31</sup>

In the 2020-2021 school year, nine charter schools closed, three of which were voluntarily closed by the sponsor.<sup>32</sup>

### Effect of the Bill

The bill provides that a charter may be modified at any time rather than only during its initial or renewal term as currently provided for in law. Additionally, the bill requires that a request for the consolidation of multiple charters be approved or denied within 60 days after submission of the request. If a consolidation request is denied by the charter school sponsor, the bill requires the sponsor to notify the charter school's governing board of the denial within 10 days, and to provide the specific reasons, in reasonable detail, for the denial.

To reduce any potential disruptions and provide educational continuity for students, the bill requires a sponsor to notify a charter school's governing board, in writing, of any proposed action to renew, terminate, except in the case of immediate termination, or not renew a charter school's charter before a vote on the proposed action and at least 90 days before the end of the school year. The bill provides for

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<sup>24</sup> Section 1002.33(7)(c)1., F.S.

<sup>25</sup> Section 1002.33(8)(a)1.-4., F.S.

<sup>26</sup> Section 1002.33(8)(b), F.S.

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

<sup>28</sup> Section 1002.33(8)(b), F.S.

<sup>29</sup> Section 1002.33(8)(b), F.S. The administrative law judge must award reasonable attorney fees and costs to the prevailing party of any injunction, administrative proceeding, or appeal. S. 1002.33(8)(b) and (c), F.S.

<sup>30</sup> Section 1002.33(8)(c), F.S. The sponsor must notify, in writing, the charter school's governing board, the charter school principal, and the DOE of the facts and circumstances supporting the immediate termination.

<sup>31</sup> Section 1002.33(7)(e), F.S.

<sup>32</sup> Email from Jessica Fowler, Deputy Director of Legislative Affairs, Florida Department of Education, RE: Request for School Choice Information (Aug. 23, 2021).

the automatic renewal of a charter, under the existing terms and conditions, if notification does not occur at least 90 days before the end of the school year.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1002.33, F.S.; requiring a request for a consolidation of multiple charters to be approved or denied within a specified timeframe; requiring a charter school sponsor to provide specified information relating to a denial of a request for a consolidation to the charter school within a specified timeframe; revising the time period for notification of specified actions relating to a charter school charter; providing for the automatic renewal of a charter under certain circumstances.

**Section 2.** Provides an effective date of July 1, 2022.

**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:**

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 December 1, 2021, the Early Learning & Elementary Education Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- requires a sponsor to provide within 10 days the specific reasons for denying a request to consolidate charter schools;
- clarifies that a charter is automatically renewed if the sponsor does not provide the required 90-day notification of a proposed action, rather than a vote; and
- clarifies that the required 90-day notification does not apply in the case of an immediate termination of the charter.

The analysis is drafted to the committee substitute as amended by the Early Learning & Elementary Education Subcommittee.