

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 Rules

BILL: SB 892

INTRODUCER: Senator Burgess

SUBJECT: Charter School Charters

DATE: February 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jahnke</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3.	<u>Jahnke</u>	<u>Phelps</u>	<u>RC</u>	Pre-meeting

I. Summary:

SB 892 revises provisions related to consolidating two or more charter schools, and modifying the procedures and notification timeframe for terminating or nonrenewing a charter. Specifically the bill:

- Provides that a charter may be modified at any time rather than only during its initial or renewal term.
- Requires that a request for the consolidation of multiple charters be approved or denied within 60 days after submission of the request.
- Requires that any sponsor who denies a request for consolidation must provide the charter school's governing board with the specific reasons for the denial within 10 days.
- Specifies 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.
- Provides for the automatic renewal of a charter if a vote proposed on the action 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 July 1, 2022.

II. Present Situation:

Charter Schools

Charter schools are tuition-free public schools created through an agreement or "charter" that provides flexibility relative to regulations created for traditional public schools.¹ Forty-five states

¹ Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida's Charter Schools* (September 2021), available at <https://www.fldoe.org/core/fileparse.php/7778/urlt/Charter-Sept-2021.pdf>.

and the District of Columbia have enacted charter school laws as of January 2020.² Nationally, between the 2009-2010 and 2018-2019 school years, the percentage of all public schools that were charter schools increased from five to eight percent, and the total number of charter schools increased from 5,000 to 7,400. The percentage of public school students nationwide attending public charter schools increased from three to seven percent between fall 2009 and fall 2018.³

All charter schools in Florida are public schools and are part of the state's public education system.⁴ During the 2020-2021 school year, 341,926 students were enrolled in 687 charter schools in Florida.⁵ Seventy percent of the students attending charter schools in the 2020-2021 school year were minorities. Hispanic students comprised 45 percent of Florida's charter school enrollment, and 19 percent were African-American students.⁶

Charter School Sponsors

A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.⁷ A state university may sponsor a charter developmental research school (charter lab school)⁸ and upon the approval by the State Board of Education (SBE), may sponsor a charter school to meet regional education or workforce demands by serving students from multiple school districts.⁹ Additionally, Florida College System (FCS) institutions, upon the approval of the SBE, may sponsor a charter school in any county within its service area to meet workforce demands and may offer postsecondary programs leading to industry certification to eligible charter school students.¹⁰

A charter school sponsor has several responsibilities, including:¹¹

- Approving or denying charter school applications.
- Overseeing each sponsored school's progress toward the goals established in the charter.
- Monitoring the revenues and expenditures of the school.
- Ensuring that the school participates in the state's education accountability system.
- Intervening when a sponsored school demonstrates deficient student performance or financial instability.

² Education Commission of the States, *50-State Comparison: Charter School Policies* <https://www.ecs.org/charter-school-policies/> (last visited January 20, 2022).

³ National Center for Education Statistics, *Public Charter School Enrollment*, <https://nces.ed.gov/programs/coe/indicator/cgb> (last visited January 20, 2022).

⁴ Section 1002.33(1), F.S.

⁵ Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida's Charter Schools* (September 2021), available at <https://www.fldoe.org/core/fileparse.php/7778/urlt/Charter-Sept-2021.pdf>.

⁶ *Id.*

⁷ Section 1002.33(5)(a)1., F.S.

⁸ Section 1002.33(5)(a)2., F.S.

⁹ Section 1002.33(5)(a)3., F.S.

¹⁰ A charter school currently operated by an FCS institution is not eligible to be sponsored by an FCS institution until its existing charter with the school district expires. Section 1002.33(5)(a)3.b., F.S. and Section 1002.34(3)(b), F.S.

¹¹ Section 1002.33(5)(b), F.S.

A sponsor must provide administrative and educational services¹² and may withhold a fee of up to five percent of each charter school's total operating funds.¹³

Charter School Applications

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 the laws of this state.¹⁴ A sponsor receives and reviews all charter school applications using the evaluation instrument developed by the Department of Education and, within 90 calendar days of receipt, must by majority vote approve or deny the application. A sponsor must receive and consider charter school applications received for charter schools to be opened at a time determined by the applicant.¹⁵

If an application is denied, the sponsor must within ten calendar days provide specific written reasons, based upon good cause, for its denial to the applicant and the DOE.¹⁶ 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.¹⁷

Charter Agreement

The terms and conditions for the operation of a charter school are set forth by the sponsor and the charter school applicant in a contractual agreement called the charter.¹⁸ The initial term of the charter is for 5 years, excluding two planning years.¹⁹ The charter may be renewed under a 15-year charter if the charter school has been operating for a minimum of 3 years and is demonstrating exemplary academic programming and fiscal management.²⁰ The 15-year charter must be granted to a charter school that has received a school grade of "A" or "B" in 3 of the past 4 years and is not in a state of financial emergency.²¹

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.²² Changes to curriculum which are consistent with state standards are

¹² Administrative and educational services include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the National School Lunch Program; test administration services; processing of teacher certificate data services; and information services. Section 1002.33(20)(a)1., F.S.

¹³ Section 1002.33(20)(a)2., F.S.

¹⁴ Section 1002.33(3)(a), F.S.

¹⁵ Section 1002.33(6)(b), F.S.

¹⁶ Section 1002.33(6)(b)3.a., F.S.

¹⁷ Section 1002.33(6)(c)-(d), F.S.; *see also* s. 120.68, F.S.

¹⁸ Section 1002.33(7), F.S. The standard charter school contract is incorporated into SBE Rule 6A-6.0786, F.A.C.

¹⁹ Section 1002.33(7)(a)12., F.S. Charter schools that are operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the sponsor. A charter lab school is eligible for a charter for a term of up to 15 years. In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year charter, subject to approval by the sponsor.

²⁰ Section 1002.33(7)(c)1., F.S.

²¹ Section 1002.33(7)(c)2., F.S.

²² Section 1002.33(7)(d), F.S.

deemed approved unless the sponsor and the DOE determine in writing that the curriculum is inconsistent with state standards.²³ 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.²⁴ The charter may be renewed at the end of its term if a program review conducted by the sponsor demonstrates that the goals and criteria stated in the charter have been met and that no grounds for nonrenewal have occurred.²⁵

Sponsor 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, but may terminate or not renew a charter for any of the following reasons:²⁶

- 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 90-days written notice to the charter school prior to termination or nonrenewal of the charter. The notice must state in reasonable detail the grounds for the proposed action and stipulate that the school’s governing board may, within 14 calendar days after receiving the notice, request an administrative hearing.

A charter may be terminated immediately if the sponsor sets forth particular facts and circumstances indicating an immediate and serious danger to the health, safety or welfare of the students.²⁷ The sponsor must notify in writing the charter school’s governing board, the charter school principal, and the DOE of an immediate termination. The sponsor must clearly identify the specific issues that resulted in the immediate termination and provide evidence of prior notification of issues resulting in the immediate termination, if applicable. The decision by the sponsor to immediately terminate a charter is subject to an administrative hearing.²⁸

III. Effect of Proposed Changes:

SB 892 modifies s. 1002.33, F.S., to provide that a charter may be modified at any time rather than only during its initial or renewal term as currently provided for in law. The bill requires that a request for the consolidation of multiple charters be approved or denied within 60 days after submission of the request. Additionally, 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 for the denial.

²³ *Id.*

²⁴ *Id.*

²⁵ Section 1002.33(7)(c)1., F.S.

²⁶ Section 1002.33(8)(a)1.-4., F.S.

²⁷ Section 1002.33(8)(b) and (c), F.S.

²⁸ Section 1002.33(8)(c), F.S. The sponsor must assume operation of the charter school, unless the continued operation of the charter school would materially threaten the health, safety, or welfare of the students.

The bill modifies the 90-day notification requirement to renew, terminate, or not renew a charter. The bill requires a sponsor to notify a charter school's governing board, in writing, of any proposed action to renew, terminate, 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 the automatic renewal of a charter, under the existing terms and conditions, if a vote on the proposed action does not occur at least 90 days before the end of the school year. Specifying the 90-day notification deadline before the end of the school year may provide additional time for the charter school and sponsor to resolve issues without impacting students.

The bill takes effect 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1002.33 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.