

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1259 Education Funding

SPONSOR(S): Appropriations Committee, Education & Employment Committee, Canady

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Appropriations Subcommittee	14 Y, 0 N	Bailey	Potvin
2) Education & Employment Committee	16 Y, 4 N, As CS	Wolff	Hassell
3) Appropriations Committee	20 Y, 7 N, As CS	Trexler	Pridgeon

SUMMARY ANALYSIS

Funding for charter school capital outlay is primarily provided by state funds when such funds are appropriated in the General Appropriations Act (GAA). However, if the state appropriation for charter school capital outlay does not meet the funding threshold specified in law, school districts are required to share local capital outlay revenue from the discretionary 1.5 millage levy authorized in section 1011.71(2), F.S., with charter schools. The funding threshold is defined as the Fiscal Year 2018-2019 per full-time equivalent (FTE) level of \$145.3 million adjusted by changes in the Consumer Price Index and the estimated number of charter school students for the applicable fiscal year.

The bill:

- Clarifies that charter school capital outlay funding shall consist of state funds, when such funds are appropriated in the GAA, and revenue resulting from the discretionary 1.5 millage.
- Removes the state funding threshold and revises the calculation methodology for the Department of Education (DOE) to use to allocate state funds to eligible charter schools.
- Removes the state funding threshold from the calculation methodology used by the DOE to determine the amount of the discretionary 1.5 millage revenue a school district must distribute to each eligible charter school and establishes a 5-year glide path for implementation.
- Clarifies that the calculation of school district enrollment for purposes of calculating proportionate share of school capital outlay surtax shall be based on capital outlay full-time equivalent (FTE) enrollment.
- Requires charter schools to attest in writing that unencumbered funds and all equipment and property purchased with district public funds will revert to the school district if the charter school is nonrenewed or terminated.
- Clarifies that a charter lab school is ineligible to receive charter school capital outlay funds because such a school currently receives state funding for capital improvement purposes.
- Renders ineligible a charter school to receive charter school capital outlay funds when a member of the governing board or his or her spouse has an interest in or is an employee of the lessor of the charter school property, unless the charter school is a charter school-in-the-workplace or a charter school-in-a-municipality.
- Requires purchases, lease-purchases or leases by a charter school using charter school capital outlay funds be at the "appraised value," which is defined as the fair market value determined by an independent, Florida-licensed, qualified appraiser.

The bill has a fiscal impact on school districts. See Fiscal Comments.

The bill has an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Funding for charter school capital outlay is primarily provided by state funds when such funds are appropriated in the General Appropriations Act (GAA). Section 1013.62, F.S., describes charter school eligibility for capital outlay funding, how such funds must be allocated, and allowable capital outlay funding uses.

To be eligible for charter school capital outlay funding, a charter school must:¹

- Meet one of the following criteria:
 - have been in operation for two or more years;
 - be governed by a governing board established in Florida for two or more years which operates both charter schools and conversion charter schools within the state;
 - be part of an expanded feeder chain² 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 of Education rule;
 - serve students in facilities that are provided by a business partner for a charter school-in-the-workplace; or
 - be operated by a hope operator pursuant to s. 1002.333, F.S.

and

- Meet all of the following criteria:
 - have an annual audit that does not reveal any of the financial emergency conditions provided in s. 218.503(1), F.S., for the most recent fiscal year for which such audit results are available;
 - have satisfactory student achievement based upon the state accountability standards applicable to charter schools;³
 - have received final approval from its sponsor pursuant to s. 1002.33, F.S., for operation during that fiscal year; and
 - serve students in facilities that are not provided by the charter school sponsor.

Capital outlay funds may be used by a charter school's governing board for the:⁴

- 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.

¹ 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)(d), F.S.

² 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.

³ State board rule provides that "satisfactory student achievement" is determined by the school's most recent grade designation or school improvement rating. However, a school that does not receive a school grade or a school improvement rating shall rely on student performance metrics in the charter agreement. A charter school that earns a school grade of "F", two consecutive school grades of "D," or a school improvement rating of "Unsatisfactory" is not eligible for capital outlay funding for the school year immediately following the designation. Rule 6A-2.0020(4), F.A.C.

⁴ Section 1013.62(4)(a)-(i), F.S.

- Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.
- 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 certain enterprise resource software applications that are classified as capital assets.⁵
- Payment of the cost of the opening day collection for the library media center of a new school.

If a charter school or charter lab school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with public funds, including charter school capital outlay funds, revert to the ownership of the district school board or the state university, as appropriate. Any reversions focus on recoverable assets (equipment, property, etc.) but not on intangible or irrecoverable costs (e.g., rental or leasing fees, normal maintenance, and limited renovations).⁶

State funds for charter school capital outlay are allocated to eligible charter schools based on each school's weighted full-time equivalent (FTE) enrollment. Charter schools receive a weight of 1.0 per FTE student, with an additional weight for schools that meet one or both of the following criteria:⁷

- 75 percent or more of the school's students are eligible for free or reduced-price lunch; and
- 25 percent or more of the school's students are students with disabilities.

Schools that meet only one of the above criteria receive capital outlay funding weighted at 1.25. Schools that meet both criteria receive capital outlay funding weighted at 1.5. Eligible schools that do not meet either of the criteria receive capital outlay funding weighted at 1.0.⁸ The amount of the award for each eligible charter school is calculated in the following manner:⁹

$$\begin{array}{rcccl} \text{State Funds} & & & & \text{Weighted FTE for} \\ \text{Appropriated in} & & \text{Total Statewide} & & \text{the individual} \\ \text{GAA} & \div & \text{Weighted Eligible} & \times & \text{Eligible Charter} \\ & & \text{Charter school} & & \text{School} \\ & & \text{FTE} & & \end{array}$$

In addition to the appropriated state funds for charter school capital outlay, the law authorizes, but does not require, school districts to share the discretionary 1.5 mills revenue with charter schools.¹⁰ It is unknown the extent school districts currently share such revenue as the Department of Education (DOE) does not collect this data.

If the state appropriation for charter school capital outlay does not meet the funding threshold specified in law, school districts are required to share the local capital outlay revenue from the discretionary 1.5 millage levy authorized in s. 1011.71(2), F.S., with charter schools. The funding threshold is defined as the Fiscal Year 2018-2019 per FTE level of \$145.3 million¹¹ adjusted by changes in the Consumer Price Index (CPI) and the estimated number of charter school students for the applicable fiscal year.¹² The amount to be shared by a school district is calculated in the following manner:¹³

⁵ Qualifying enterprise resource software applications are "classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements." Section 1013.62(4)(h), F.S.

⁶ Section 1013.62(5), F.S.

⁷ Section 1013.62(2)(a), F.S.

⁸ Section 1013.62(2)(b), F.S.

⁹ Section 1013.62(2)(c), F.S.

¹⁰ Section 1011.71(2), F.S. *See also* s. 1013.62(1), F.S.

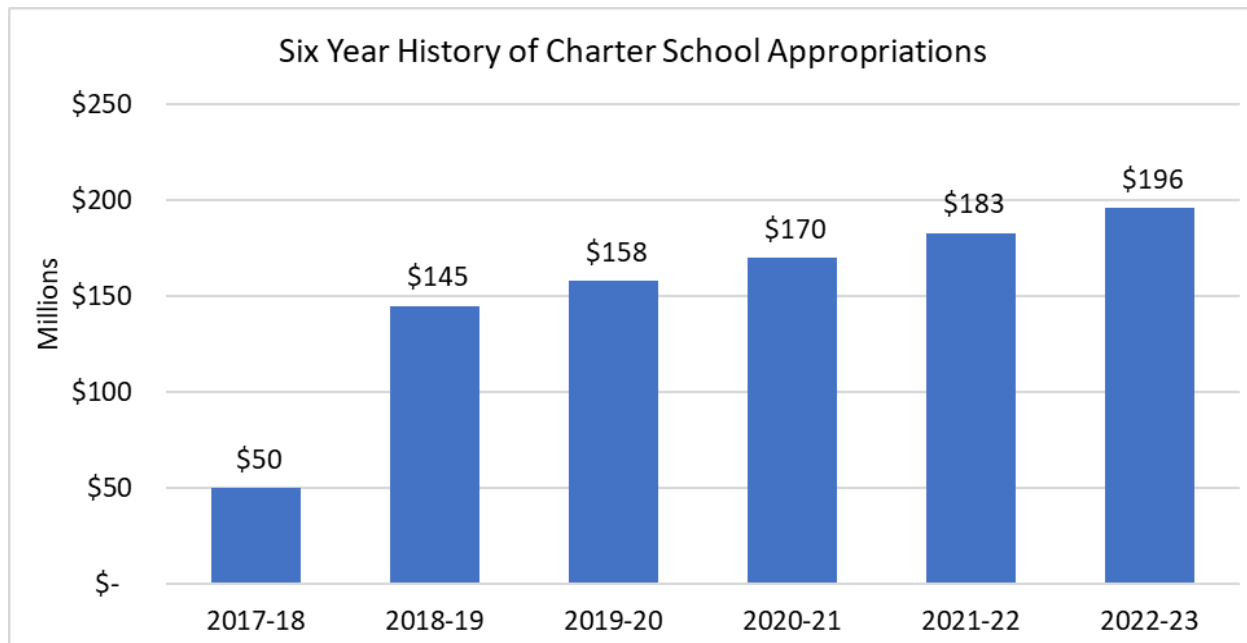
¹¹ Chapter 2018-9, L.O.F.

¹² Section 1013.62(1), F.S.

¹³ Section 1013.62(3)(a)-(d), F.S.

$$\begin{array}{cccccc}
 \text{[(1.5 Millage Revenue} & - & \text{School District Annual Debt Service and Required Participation)} & \div & \text{(Total School District Capital Outlay FTE + Charter FTE)]} & \times & \text{Eligible Charter School FTE} & - & \text{State Funds Awarded to Charter Schools}
 \end{array}$$

The Legislature has fully funded charter school capital outlay with state funds in Fiscal Years 2018-2019 through 2022-2023.¹⁴ Based on the funding threshold calculation, the estimated amount of funding required for Fiscal Year 2023-2024 is \$213.4 million.



Effect of Proposed Changes

The bill clarifies that charter school capital outlay funding shall consist of state funds, when such funds are appropriated in the GAA, and revenue resulting from the discretionary 1.5 millage authorized by statute.

The bill removes the state funding threshold and revises the calculation methodology for the DOE to use to allocate state funds appropriated in the GAA for charter school capital outlay to eligible charter schools. The bill specifies that state funds will be allocated on the basis of unweighted FTE and removes the additional weight for FTE based on students that are eligible for free and reduced lunch and students with disabilities. The only changes to the calculation for allocating state funds appropriated in the GAA are to conform with the removal of weighted FTE.

The bill removes the state funding threshold from the calculation methodology used by the DOE to determine the amount of the discretionary 1.5 millage revenue a school district must distribute to each eligible charter school. The bill does not change the formula used to determine the amount school districts are required to share. To reduce the initial burden on school districts and provide for a transition to the required sharing of the 1.5 millage revenue, the bill provides a 5-year glide path whereby school districts share the following percentages of the calculated amount:

- For fiscal year 2023-2024, 20 percent.

¹⁴ Specific Appropriation 19, s. 2, ch. 2017-70, L.O.F.; Specific Appropriation 21, s. 2, ch. 2018-9, L.O.F.; Specific Appropriation 18, s. 2, ch. 2019-115, L.O.F.; Specific Appropriation 21, s. 2, ch. 2020-111, L.O.F.; Specific Appropriation 19, s. 2, ch. 2021-36, L.O.F.; Specific Appropriation 15, s. 2, ch. 2022-156, L.O.F.

- For fiscal year 2024-2025, 40 percent.
- For fiscal year 2025-2026, 60 percent.
- For fiscal year 2026-2027, 80 percent.
- For fiscal year 2027-2028, and each fiscal year thereafter, 100 percent.

The bill also clarifies that the calculation of each school district’s enrollment for purposes of calculating the proportionate share of school capital outlay surtax shall be based on capital outlay full-time equivalent enrollment.

The bill revises eligibility and allowable expenditures for charter school capital outlay funds in the following ways:

- Provides that charter lab schools are not eligible for charter school capital outlay funds.¹⁵
- Prohibits charter schools from being eligible to receive charter school capital outlay funds when a member of the governing board or his or her spouse has an interest in or is an employee of the lessor of the charter school property, unless the charter school is a charter school-in-the-workplace or a charter school-in-a-municipality.
- Requires a charter school to attest in writing to the DOE that if the school is renewed or terminated, any and all equipment and property purchased with district public funds shall revert to the district school board. Unencumbered state funds shall revert to the DOE to be redistributed among eligible charter schools.
- Requires purchases, lease-purchases or leases by a charter school using charter school capital outlay funds be at the “appraised value,” defined as the fair market value to be determined by an independent, Florida-licensed, qualified appraiser selected by the charter school governing board. Appraisal documentation must be provided to the DOE upon request.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.055, F.S.; clarifying the types of students that are counted for the proportionate share of school capital outlay surtax.

Section 2: Amends s. 1013.62, F.S.; deleting obsolete language; making technical changes; revising charter school eligibility and ineligibility criteria to receive capital outlay funds; revising the calculation methodologies for the distribution of specified funds to eligible charter schools; providing school district requirements for the distribution of capital outlay funds to eligible charter schools; providing requirements for the use of capital outlay funds.

Section 3: Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

¹⁵ Section 1002.33(9)(e), F.S., provides a calculation methodology for state funding of capital improvements at developmental research (lab) schools. The calculation is based on the discretionary 1.5 millage of the district in which the lab school is located. The House’s proposed GAA includes \$8.6 million for this discretionary millage “equivalent” for lab schools, including charter lab schools. See Specific Appropriation 16 of HB 5001, as Introduced.

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

School districts are estimated to collect \$4.4 billion from the discretionary 1.5 millage in Fiscal Year 2023-2024. After deducting debt service and special facilities participation requirements, the adjusted millage revenue is estimated to be \$3.5 billion. For Fiscal Year 2023-2024, charter school capital outlay enrollment is expected to total 371,253 FTE or 13.6 percent of total capital outlay FTE enrollment in public schools. Based on these enrollment estimates, \$490.2 million would be shared with eligible public charter schools, absent any appropriation of state funds or the 5-year glide path.

The House proposed GAA for Fiscal Year 2023-2024 provides an appropriation of \$213.4 million from the Public Education Capital Outlay and Debt Service (PECO) Trust Fund for charter school capital outlay.¹⁶ After deducting the state appropriation and implementing the 5-year glide path, it is estimated the school districts would be required to distribute \$55.9 million to eligible charter schools in the upcoming fiscal year. This equates to 1.6 percent of the adjusted statewide millage revenue.

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 April 11, 2023, the Education & Employment Committee adopted a Proposed Committee Substitute (PCS) and one amendment and reported the PCS favorably as a committee substitute. The PCS, as amended, differed from HB 1259 in the following ways:

- establishes a 5-year glide path for implementation of the revised calculation methodology used to determine the amount of the discretionary 1.5 millage revenue a school district must distribute to eligible charter schools;

¹⁶ See Specific Appropriation 15 of HB 5001, as Introduced.

- removes restrictions on certain uses of state university and Florida College System (FCS) carry forward fund balances, including caps on maintenance and remodeling projects and the requirement that funds only be used for nonrecurring operating expenditures;
- removes the requirement that state universities comply with certain procurement processes and authorizes the Board of Governors (BOG) to establish regulations for universities to follow;
- increases the limitation on the annual compensation of state university employees paid from public funds and for FCS administrative employees paid from state funds;
- requires each university board of trustees to submit an annual report to the BOG related to bonus programs and requires the BOG to develop a regulation governing such programs;
- authorizes state universities and FCS institutions to waive out-of-state fees for student athletes receiving an athletic scholarship; and
- establishes the Institute for Risk Management & Insurance Education at the University of Central Florida.

On April 17, 2023, the Appropriations Committee adopted a strike-all amendment and reported CS/HB 1259 favorably as a committee substitute. As amended, the bill differed from CS/HB 1259 in the following ways:

The bill adds requirements for charter schools receiving and using charter school capital outlay funds to:

- clarify that charter lab schools are ineligible to receive charter school capital outlay funds;
- render ineligible a charter school to receive charter school capital outlay funds when a member of the governing board or his or her spouse has an interest in or is an employee of the lessor of the charter school property, unless the charter school is a charter school-in-the-workplace or a charter school-in-a-municipality;
- add an attestation requirement to receive charter school capital outlay funds; and
- require all purchases, lease-purchases and leases using charter school capital outlay funds be at "appraised value."

The bill removes:

- provisions relating to state university and FCS institution use-of-funds flexibilities;
- state university procurement flexibilities;
- provisions relating to the limitation on annual compensation of state university and FCS administrative employees;
- accountability provisions for SUS institutions' employee bonus programs;
- authorization for state universities and FCS institutions to waive out-of-state fees for student athletes receiving an athletic scholarship; and
- authorization to establish the Institute for Risk Management & Insurance Education at the University of Central Florida.

The bill analysis is drafted to the committee substitute adopted by the Appropriations Committee.