

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 1259 Education

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

TIED BILLS: IDEN./SIM. **BILLS:** CS/CS/SB 1328

FINAL HOUSE FLOOR ACTION: 82 Y's

31 N's

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

CS/CS/HB 1259 passed the House on April 26, 2023, and subsequently passed the Senate on May 4, 2023.

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 s. 1011.71(2), F. S., with charter schools. The funding threshold is defined as the average charter school capital outlay funds per unweighted full-time equivalent (FTE) student for Fiscal Year 2018-2019, multiplied by the estimated number of charter school students for the applicable fiscal year, and adjusted by changes in the Consumer Price Index.

The bill:

- 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 enrollment.
- 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 in s. 1011.71(2), F.S.
- Revises the calculation methodology for the Department of Education (DOE) to use to allocate appropriated state funds to eligible charter schools.
- Requires charter schools to attest in writing to the DOE that, if the charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with public funds will revert to the state.
- Disallows a charter school from receiving capital outlay funds if:
 - The charter school is a developmental research (lab) school that receives state funding for capital improvements.
 - A member of the charter school's governing board, or his or her family member, has an interest in or is an employee of the lessor; however, a charter school operating as a charter school-in-the-workplace or charter school-in-a-municipality is exempt from this requirement.
- Removes the state funding threshold in the determination of the amount of the discretionary 1.5 millage revenue a school district must distribute to each eligible charter school and prescribes the percentage of such funds a school district must distribute to each eligible charter school beginning in Fiscal Year 2023-2024 through Fiscal Year 2027-2028.
- Requires any purchase, lease-purchase, or lease made by a charter school must be at the appraised value and provides a definition of "appraised value".

The conference report for the Fiscal Year 2023-2024 GAA provides an appropriation of \$213,453,885 in nonrecurring funds from the Public Education Capital Outlay and Debt Service Trust Fund to the DOE for charter school capital outlay funding. See Fiscal Comments.

The bill was approved by the Governor on May 11, 2023, ch. 2023-69, L.O.F., and will become effective on July 1, 2023.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1259z1.DOCX

DATE: 5/17/2023

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Funding for charter school capital outlay is primarily provided by state funds when such funds are appropriated in the 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), Florida Statutes. A conversion charter school, i.e., a charter school created by the conversion of an existing public school to charter school status, is not eligible for capital outlay funding if it operates in a facility provided by its sponsor at no charge or for a nominal fee or if it is directly or indirectly operated by the school district. See section 1013.62(1)(d), Florida Statutes.

² A charter school may be considered a part of an expanded feeder chain 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. See section 1013.62, Florida Statutes and Rule 6A-2.0020(1), Florida Administrative Law.

³ State Board of Education rule allows "satisfactory student achievement" to be determined in accordance with a charter contract; however, a charter school that earns a school grade of "F" is not eligible for capital outlay funding for the school year immediately following the designation. See Rule 6A-2.0020(4), Florida Administrative Code.

⁴ Section 1013.62(4)(a)-(i), Florida Statutes.

- 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 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 charter 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

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

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 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 average charter school capital outlay funds per unweighted full-time equivalent (FTE) student for Fiscal Year 2018-2019, multiplied by the estimated number of charter school students for the applicable fiscal year, and adjusted by changes in the Consumer Price Index.¹¹

The amount to be shared by a school district is determined by using the following calculation methodology:¹²

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." See Section 1013.62(4)(h), Florida Statutes.

⁶ Section 1013.62(5), Florida Statutes.

⁷ Section 1013.62(2)(a), Florida Statutes.

⁸ Section 1013.62(2)(b), Florida Statutes.

⁹ Section 1013.62(2)(c), Florida Statutes.

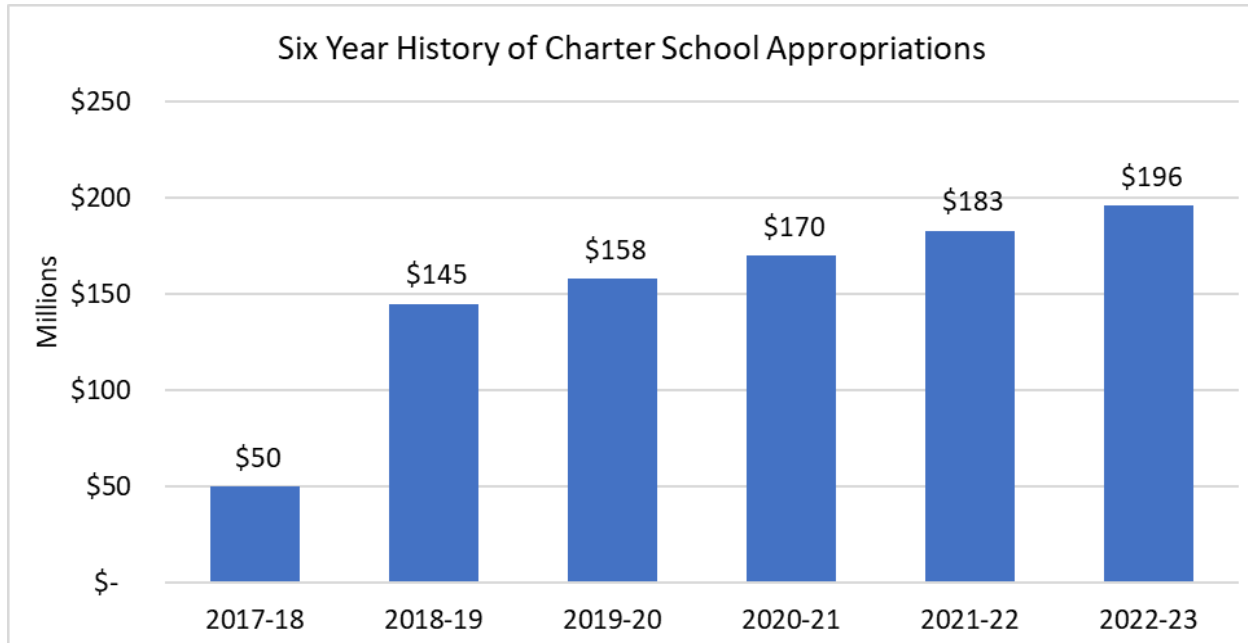
¹⁰ Section 1011.71(2), Florida Statutes. See also section 1013.62(1), Florida Statutes.

¹¹ Section 1013.62(1), Florida Statutes.

¹² Section 1013.62(3)(a)-(d), Florida Statutes.

- Deduct the school district’s eligible debt service and special facilities required participation from the total 1.5 millage revenue.
- Divide the result by the total school district capital outlay FTE plus charter school FTE to get a funds per FTE amount.
- Multiply the funds per FTE amount by the number of eligible charter school FTE.
- Subtract from this amount the state funds appropriated to the charter school.

The Legislature has fully funded charter school capital outlay with state funds in Fiscal Years 2018-2019 through 2022-2023.¹³



Effect of Proposed Changes

The bill 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 also 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 revises the calculation methodology used by the DOE 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 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:

¹³ Specific Appropriation 19, s. 2, ch. 2017-70, Laws of Florida; Specific Appropriation 21, s.2, ch. 2018-2019, Laws of Florida; Specific Appropriation 18, s. 2, ch. 2019-115, Laws of Florida; Specific Appropriation 21, s. 2, ch. 2020-111, Laws of Florida; Specific Appropriation 19, s. 2, ch. 2021-36, Laws of Florida; and Specific Appropriation 15, s. 2, ch. 2022-156, Laws of Florida.

- For fiscal year 2023-2024, 20 percent.
- 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 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.¹⁴
- Prohibits charter schools from being eligible to receive charter school capital outlay funds when a member of the governing board or his or her family member has an interest in or is an employee of the lessor of the charter school property, a charter school-in-the-workplace or a charter school-in-a-municipality is exempt from this requirement.
- 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.

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:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

¹⁴ 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 conference report for SB 2500 appropriates \$10,038,597 for this discretionary millage “equivalent” for lab schools, including charter lab schools. See Specific Appropriation 16 of the conference report for SB 2500.

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.

The conference report for SB 2500 provides an appropriation of \$213.4 million from the Public Education Capital Outlay and Debt Service (PECO) Trust Fund for charter school capital outlay.¹⁵ 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.

¹⁵ See Specific Appropriation 15 of the conference report for SB 2500.