

By the Committee on Education Pre-K -12; and Senator Hutson

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1 A bill to be entitled
2 An act relating to charter school capital outlay
3 funding; amending s. 212.055, F.S.; revising the form
4 of a resolution proposing a school capital outlay
5 surtax regarding the sharing of surtax revenues with
6 charter schools; conforming a cross-reference;
7 reenacting and amending s. 1013.62, F.S.; revising the
8 manner of determining charter school capital outlay
9 funding; requiring district school boards to share
10 certain funds with eligible charter schools if certain
11 conditions are met; providing a calculation
12 methodology for the Department of Education to
13 determine the amount of funds the district school
14 board must distribute; requiring the school district
15 to distribute the funds by a specified date; requiring
16 each school district to annually certify certain
17 information to the department by a specified date;
18 requiring the Auditor General to verify compliance
19 during audits; providing applicability; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraphs (b) and (c) of subsection (6) of
25 section 212.055, Florida Statutes, are amended to read:

26 212.055 Discretionary sales surtaxes; legislative intent;
27 authorization and use of proceeds.—It is the legislative intent
28 that any authorization for imposition of a discretionary sales
29 surtax shall be published in the Florida Statutes as a

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30 subsection of this section, irrespective of the duration of the
 31 levy. Each enactment shall specify the types of counties
 32 authorized to levy; the rate or rates which may be imposed; the
 33 maximum length of time the surtax may be imposed, if any; the
 34 procedure which must be followed to secure voter approval, if
 35 required; the purpose for which the proceeds may be expended;
 36 and such other requirements as the Legislature may provide.
 37 Taxable transactions and administrative procedures shall be as
 38 provided in s. 212.054.

39 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

40 (b) The resolution must include a statement that provides a
 41 brief and general description of the school capital outlay
 42 projects to be funded by the surtax. The resolution must include
 43 a statement that the revenues collected must be shared with
 44 eligible charter schools based on their proportionate share of
 45 the total school district capital outlay full-time equivalent
 46 enrollment as adopted by the Education Estimating Conference
 47 established in s. 216.136 enrollment. The statement must conform
 48 to the requirements of s. 101.161 and ~~shall~~ be placed on the
 49 ballot by the governing body of the county. The following
 50 question must ~~shall~~ be placed on the ballot:

51 FOR THE CENTS TAX

52 AGAINST THE CENTS TAX

53
 54
 55 (c) The resolution providing for the imposition of the
 56 surtax must set forth a plan for use of the surtax proceeds for

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57 fixed capital expenditures or fixed capital costs associated
58 with the construction, reconstruction, or improvement of school
59 facilities and campuses which have a useful life expectancy of 5
60 or more years, and any land acquisition, land improvement,
61 design, and engineering costs related thereto, or any purchase,
62 lease-purchase, lease, or maintenance of school buses, as
63 defined in s. 1006.25, which have a life expectancy of 5 years
64 or more. Additionally, the plan shall include the costs of
65 retrofitting and providing for technology implementation,
66 including hardware and software, for the various sites within
67 the school district. Surtax revenues may be used to service bond
68 indebtedness to finance projects authorized by this subsection,
69 and any interest accrued thereto may be held in trust to finance
70 such projects. Neither the proceeds of the surtax nor any
71 interest accrued thereto shall be used for operational expenses.
72 Surtax revenues shared with charter schools shall be expended by
73 the charter school in a manner consistent with the allowable
74 uses set forth in s. 1013.62(5) ~~s. 1013.62(4)~~. All revenues and
75 expenditures shall be accounted for in a charter school's
76 monthly or quarterly financial statement pursuant to s.
77 1002.33(9). The eligibility of a charter school to receive funds
78 under this subsection shall be determined in accordance with s.
79 1013.62(1). If a school's charter is not renewed or is
80 terminated and the school is dissolved under the provisions of
81 law under which the school was organized, any unencumbered funds
82 received under this subsection shall revert to the sponsor.

83 Section 2. Notwithstanding the expiration date in section 5
84 of chapter 2022-157, Laws of Florida, present subsections (4)
85 through (7) of section 1013.62, Florida Statutes, are

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86 redesignated as subsections (5) through (8), respectively, a new
87 subsection (4) is added to that section, subsection (1) of that
88 section is amended, and subsections (2) and (3) of that section
89 are reenacted, to read:

90 1013.62 Charter schools capital outlay funding.—

91 (1) ~~For the 2022-2023 fiscal year, charter school capital~~
92 ~~outlay funding shall consist of state funds appropriated in the~~
93 ~~2022-2023 General Appropriations Act. Beginning in fiscal year~~
94 ~~2023-2024,~~ Charter school capital outlay funding shall consist
95 of state funds when such funds are appropriated in the General
96 Appropriations Act and revenue resulting from the discretionary
97 millage authorized in s. 1011.71(2) if, except as provided in
98 subsection (4), the amount of state funds appropriated for
99 charter school capital outlay in any fiscal year is less than
100 the average charter school capital outlay funds per unweighted
101 full-time equivalent student for the 2018-2019 fiscal year,
102 multiplied by the estimated number of charter school students
103 for the applicable fiscal year, and adjusted by changes in the
104 Consumer Price Index issued by the United States Department of
105 Labor from the previous fiscal year. Nothing in this subsection
106 prohibits a school district from distributing to charter schools
107 funds resulting from the discretionary millage authorized in s.
108 1011.71(2).

109 (a) To be eligible to receive capital outlay funds, a
110 charter school must:

- 111 1.a. Have been in operation for 2 or more years;
112 b. Be governed by a governing board established in the
113 state for 2 or more years which operates both charter schools
114 and conversion charter schools within the state;

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115 c. Be an expanded feeder chain of a charter school within
116 the same school district that is currently receiving charter
117 school capital outlay funds;

118 d. Have been accredited by a regional accrediting
119 association as defined by State Board of Education rule;

120 e. Serve students in facilities that are provided by a
121 business partner for a charter school-in-the-workplace pursuant
122 to s. 1002.33(15) (b); or

123 f. Be operated by a hope operator pursuant to s. 1002.333.

124 2. Have an annual audit that does not reveal any of the
125 financial emergency conditions provided in s. 218.503(1) for the
126 most recent fiscal year for which such audit results are
127 available.

128 3. Have satisfactory student achievement based on state
129 accountability standards applicable to the charter school.

130 4. Have received final approval from its sponsor pursuant
131 to s. 1002.33 for operation during that fiscal year.

132 5. Serve students in facilities that are not provided by
133 the charter school's sponsor.

134 (b) A charter school is not eligible to receive capital
135 outlay funds if it was created by the conversion of a public
136 school and operates in facilities provided by the charter
137 school's sponsor for a nominal fee, or at no charge, or if it is
138 directly or indirectly operated by the school district.

139 (2) The department shall use the following calculation
140 methodology to allocate state funds appropriated in the General
141 Appropriations Act to eligible charter schools:

142 (a) Eligible charter schools shall be grouped into
143 categories based on their student populations according to the

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144 following criteria:

145 1. Seventy-five percent or greater who are eligible for
146 free or reduced-price school meals under the National School
147 Lunch Program or, for schools operating programs under the
148 Community Eligibility Provision of the Healthy, Hunger-Free Kids
149 Act of 2010, an equivalent percentage of the student population
150 eligible for free and reduced-price meals as determined by
151 applying the multiplier authorized under the National School
152 Lunch Act, 42 U.S.C. s. 1759a(a)(1)(F)(vii), to the number of
153 students reported for direct certification.

154 2. Twenty-five percent or greater with disabilities as
155 defined in state board rule and consistent with the requirements
156 of the Individuals with Disabilities Education Act.

157 (b) If an eligible charter school does not meet the
158 criteria for either category under paragraph (a), its FTE shall
159 be provided as the base amount of funding and shall be assigned
160 a weight of 1.0. An eligible charter school that meets the
161 criteria under subparagraph (a)1. or subparagraph (a)2. shall be
162 provided an additional 25 percent above the base funding amount,
163 and the total FTE shall be multiplied by a weight of 1.25. An
164 eligible charter school that meets the criteria under both
165 subparagraphs (a)1. and (a)2. shall be provided an additional 50
166 percent above the base funding amount, and the FTE for that
167 school shall be multiplied by a weight of 1.5.

168 (c) The state appropriation for charter school capital
169 outlay shall be divided by the total weighted FTE for all
170 eligible charter schools to determine the base charter school
171 per weighted FTE allocation amount. The per weighted FTE
172 allocation amount shall be multiplied by the weighted FTE to

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173 determine each charter school's capital outlay allocation.

174 (d) The department shall calculate the eligible charter
175 school funding allocations. Funds shall be allocated using full-
176 time equivalent membership from the second and third enrollment
177 surveys and free and reduced-price school lunch data. The
178 department shall recalculate the allocations periodically based
179 on the receipt of revised information, on a schedule established
180 by the Commissioner of Education.

181 (e) The department shall distribute capital outlay funds
182 monthly, beginning in the first quarter of the fiscal year,
183 based on one-twelfth of the amount the department reasonably
184 expects the charter school to receive during that fiscal year.
185 The commissioner shall adjust subsequent distributions as
186 necessary to reflect each charter school's recalculated
187 allocation.

188 (3) If the school board levies the discretionary millage
189 authorized in s. 1011.71(2), and the state funds appropriated
190 for charter school capital outlay in any fiscal year are less
191 than the average charter school capital outlay funds per
192 unweighted full-time equivalent student for the 2018-2019 fiscal
193 year, multiplied by the estimated number of charter school
194 students for the applicable fiscal year, and adjusted by changes
195 in the Consumer Price Index issued by the United States
196 Department of Labor from the previous fiscal year, the
197 department shall use the following calculation methodology to
198 determine the amount of revenue that a school district must
199 distribute to each eligible charter school:

200 (a) Reduce the total discretionary millage revenue by the
201 school district's annual debt service obligation incurred as of

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202 March 1, 2017, which has not been subsequently retired, and any
203 amount of participation requirement pursuant to s.
204 1013.64(2)(a)8. that is being satisfied by revenues raised by
205 the discretionary millage.

206 (b) Divide the school district's adjusted discretionary
207 millage revenue by the district's total capital outlay full-time
208 equivalent membership and the total number of unweighted full-
209 time equivalent students of each eligible charter school to
210 determine a capital outlay allocation per full-time equivalent
211 student.

212 (c) Multiply the capital outlay allocation per full-time
213 equivalent student by the total number of full-time equivalent
214 students of each eligible charter school to determine the
215 capital outlay allocation for each charter school.

216 (d) If applicable, reduce the capital outlay allocation
217 identified in paragraph (c) by the total amount of state funds
218 allocated to each eligible charter school in subsection (2) to
219 determine the maximum calculated capital outlay allocation.

220 (e) School districts shall distribute capital outlay funds
221 to charter schools no later than February 1 of each year, as
222 required by this subsection, based on the amount of funds
223 received by the district school board. School districts shall
224 distribute any remaining capital outlay funds, as required by
225 this subsection, upon the receipt of such funds until the total
226 amount calculated pursuant to this subsection is distributed.

227
228 By October 1 of each year, each school district shall certify to
229 the department the amount of debt service and participation
230 requirement that complies with the requirement of paragraph (a)

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231 and can be reduced from the total discretionary millage revenue.
232 The Auditor General shall verify compliance with the
233 requirements of paragraph (a) and s. 1011.71(2)(e) during
234 scheduled operational audits of school districts.

235 (4) Beginning in the 2023-2024 fiscal year, if the state
236 funds appropriated for charter school capital outlay in any
237 fiscal year are equal to or greater than the average charter
238 school capital outlay funds per unweighted full-time equivalent
239 student for the 2018-2019 fiscal year, multiplied by the
240 estimated number of charter school students for the applicable
241 fiscal year, and adjusted by changes in the Consumer Price Index
242 issued by the United States Department of Labor from the
243 previous fiscal year, district school boards that levy the
244 discretionary millage authorized in s. 1011.71(2) and have a
245 combined total of all capital outlay full-time equivalent
246 membership and total unweighted full-time equivalent students of
247 eligible charter schools which exceeds 100,000 must share an
248 amount of their eligible local funds with eligible charter
249 schools that are operated by a not-for-profit entity. The
250 department shall use the following calculation methodology to
251 determine the amount of revenue that a school district must
252 distribute pursuant to this subsection to each eligible charter
253 school:

254 (a)1. Reduce the school district's total discretionary
255 millage revenue by the school district's annual debt service
256 obligation incurred as of March 1, 2017, which has not been
257 subsequently retired, and any amount of participation
258 requirement pursuant to s. 1013.64(2)(a)8. which is being
259 satisfied by revenues raised by the discretionary millage.

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260 a. For fiscal year 2023-2024, the amount is 20 percent of
261 the amount calculated under this paragraph.

262 b. For fiscal year 2024-2025, the amount is 40 percent of
263 the amount calculated under this paragraph.

264 c. For fiscal year 2025-2026, the amount is 60 percent of
265 the amount calculated under this paragraph.

266 d. For fiscal year 2026-2027, the amount is 80 percent of
267 the amount calculated under this paragraph.

268 e. For fiscal year 2027-2028, and thereafter, the amount is
269 100 percent of the amount calculated under this paragraph.

270 2. Divide the school district's adjusted discretionary
271 millage revenue by the district's total capital outlay full-time
272 equivalent membership and the total number of unweighted full-
273 time equivalent students of each eligible charter school to
274 determine a capital outlay allocation per full-time equivalent
275 student.

276 3. Multiply the result of the calculation made under
277 paragraph (a) for the applicable fiscal year by the total number
278 of full-time equivalent students of each eligible charter school
279 in the district pursuant to paragraph (1)(a) to determine the
280 capital outlay allocation pursuant to this subsection for each
281 charter school pursuant to this subsection.

282 4. In any fiscal year, if the combined amount of state
283 funds allocated pursuant to subsection (1) and the funds
284 allocated pursuant to this subsection are greater than the total
285 capital outlay millage per full-time equivalent student, the
286 department must reduce the school district's sharing amount by
287 the difference of the total funds and the calculated amount for
288 the total capital outlay full-time equivalent membership.

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289 (b) School districts shall distribute capital outlay funds
290 to charter schools no later than February 1 of each year, as
291 required by this subsection, based on the amount of funds
292 received by the district school board. School districts shall
293 distribute any remaining capital outlay funds, as required by
294 this subsection, upon the receipt of such funds until the total
295 amount calculated pursuant to this subsection is distributed.

296

297 By October 1 of each year, each school district shall certify to
298 the department the amount of debt service and participation
299 requirement that complies with the requirements of paragraph (a)
300 and can be reduced from the total discretionary millage revenue.
301 The Auditor General shall verify compliance with the
302 requirements of paragraph (a) and s. 1011.71(2)(e) during
303 scheduled operational audits of school districts.

304 Section 3. The amendments made by this act to s.
305 212.055(6)(b), Florida Statutes, do not apply to a resolution
306 for a school capital outlay surtax adopted before July 1, 2023,
307 pursuant to s. 212.055(6)(c), Florida Statutes, until such
308 resolution is amended, renewed, or repealed in the manner
309 provided for by law.

310 Section 4. This act shall take effect July 1, 2023.