

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 857 Charter Schools

SPONSOR(S): Education & Employment Committee, Choice & Innovation Subcommittee, Daniels and others

TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1680

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	15 Y, 2 N, As CS	McDaniel	Sleap
2) Education & Employment Committee	19 Y, 1 N, As CS	McDaniel	Hassell

SUMMARY ANALYSIS

Current law authorizes a charter school to limit the enrollment process to students who meet reasonable academic standards as established by the school. The bill clarifies that the admission and dismissal procedures specified in a school's charter may allow for dismissal based on a student's academic performance, if academic performance was identified in the school's enrollment process.

The bill prohibits a landlord of a charter school, or his or her spouse, or an officer, director, or employee of an entity that is a landlord of a charter school, or his or her spouse, from being a member of the governing board of the charter school unless the charter school is established as a charter school-in-a-municipality and the landlord is a municipal entity; or the landlord is a not-for-profit entity and a two-thirds majority vote of the charter school board, excluding the vote of the landlord-affiliated board members, approves the landlord-affiliated board member to be elected to, or remain on, the board.

The bill authorizes a charter school to assign its charter to a high-performing charter school operating in the same district.

The bill requires the State Board of Education to adopt rules to implement a standard monitoring tool for conducting annual site reviews of charter schools.

The bill amends the provision of student achievement for charter school capital outlay funding eligibility.

The bill authorizes a charter school operated by a not-for-profit entity to loan any unrestricted current or capital assets identified in the charter school's annual audit to another school operated by the same entity in another school district in this state. The loan must be unforgiveable and repaid to the originating school by the receiving school.

The bill authorizes a charter school governing board to adopt rules to allow for the issuance of an adjunct teaching certificate to any applicant who fulfills the certification requirements under the law. A charter school governing board must comply with the same requirements as a school district as it relates to certificate issuance, validity period, posting requirements, and annual reporting.

The bill does not have a fiscal impact.

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

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.¹ 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."² Charter schools operate under a performance contract with a sponsor.³ This performance contract is known as a "charter."⁴

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

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

During the 2021-2022 school year, there were 703 charter schools operating in 47 of Florida's 67 school districts serving a total of 361,939 students.⁸

Charter School Application

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 Florida law.⁹ The school must be organized as, or be operated by a municipality, a public entity authorized under the law, or a nonprofit organization.¹⁰

Each charter school must have a governing board. The board is responsible for:

- negotiating the school's charter agreement with its sponsor;
- exercising continuing oversight over the school's operations;
- adopting and maintaining an annual operating budget;
- ensuring that annual audits are conducted;
- submitting monthly financial statements to the sponsor and implementing corrective actions to remedy financial instability;
- submitting the school's annual progress report to the sponsor; and

¹ 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.*

² Section 1002.33(2)(a)1., F.S.

³ Section 1002.33(1), (7), and (9)(a), F.S.

⁴ Section 1002.33(7) and (9)(c), F.S.

⁵ 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.

⁶ Sections 1002.32(2) and 1002.33(5)(a)2., F.S.

⁷ Section 1002.34(3)(a)-(b), F.S.

⁸ Florida Department of Education, Office of Independent Education & Parental Choice Reports, *Fact Sheet, Florida's Charter Schools* (Sept. 2022), available at <https://www.fldoe.org/core/fileparse.php/7778/urlt/Charter-Sept-2022.pdf>.

⁹ Section 1002.33(3)(a), F.S. *see also* Rule 6A-6.0786, F.A.C. and Florida Department of Education, *Charter Schools, Model Application Forms*, <https://www.fldoe.org/schools/school-choice/charter-schools/charter-school-reference/> (last visited Mar. 8, 2023).

¹⁰ Section 1002.33(12)(i), F.S. While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization. *Id.*

- adopting policies which establish standards of ethical conduct for educational support employees, instructional personnel, and school administrators.¹¹

A sponsor must receive and consider charter school applications during the year for charter schools to be opened at a time determined by the applicant.¹²

Charter school applications must:¹³

- demonstrate how the school will utilize the guiding principles;¹⁴
- provide a detailed curriculum plan aligned with the state's academic standards;¹⁵
- contain goals and objectives for improving student learning and measuring such improvement;
- describe the reading curricula and differentiated strategies for serving students at various levels of reading ability;
- contain an annual financial plan; and
- disclose the name of each applicant, governing board member, and all proposed education services providers; the name and sponsor of any charter school operated by each applicant, each governing board member, and each proposed education services provider that has closed and the reasons for the closure; and the academic and financial history of such charter school.¹⁶

Charter

After a charter school application is approved, the terms of the charter must be negotiated by the applicant and sponsor using the standard charter contract within 30 days after approval of the application.¹⁷ The initial term of a charter is 5 years, excluding 2 planning years.¹⁸ The charter must include:¹⁹

- the types of students to be served, including ages and grade levels;
- the curriculum focus and instructional methods to be used;²⁰
- baseline standards of student academic achievement, outcomes to be achieved and methods of measurement to be used;²¹

¹¹ Section 1002.33(7), (9)(h)-(k), and (12)(g)3. F.S.

¹² 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.

¹³ Section 1002.33(6)(a)1.-6., F.S. A sponsor may require the applicant to submit additional information as an addendum to the application. See also Florida Department of Education, Charter Schools, *Model Application Forms*, <https://www.fldoe.org/schools/school-choice/charter-schools/charter-school-reference/> (last visited Mar. 8, 2023).

¹⁴ 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. Section 1002.33(2), F.S.

¹⁵ Section 1003.41, F.S.

¹⁶ The sponsor must consider the history of these entities in deciding to approve or deny the application. Section 1002.33(6)(a)6., F.S.

¹⁷ Section 1002.33(7) and (7)(b), F.S. A sponsor may require the applicant to submit additional information as an addendum to the application. See section 1002.33(6)(a)7., F.S.

¹⁸ Section 1002.33(7)(a)(12), F.S. (2018).

¹⁹ Section 1002.33(7)(a)1.-19., F.S.

²⁰ 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. Section 1002.33(7)(a)2.a.-b., F.S. Any changes to curriculum which are consistent with state standards are deemed approved under the charter unless the sponsor and the DOE determine in writing that the curriculum is inconsistent with state standards. Section 1002.33(7)(d), F.S. (2021)

²¹ The district school board 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. (flush-left provision at the end of the sub-subparagraph).

- the method for determining the strengths and needs of students and whether they are meeting educational goals²² and for secondary charter schools,²³ 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."

Student Eligibility for Enrollment

Charter schools are open to all students residing within a school district and students who are covered by an inter-district enrollment agreement.²⁴ The charter school governing board determines the school's capacity based upon its contract.²⁵ Prospective students must apply for enrollment in a charter school and, if the number of applications exceeds the school's capacity, a random lottery must be used to determine which students are enrolled.²⁶ Enrollment preference may be given to:

- siblings of current charter school students;
- children of a member of the charter school governing board;
- children of charter school employees;
- children who complete a Voluntary Prekindergarten Education (VPK) program, during the previous year, provided by the charter school, the charter school's governing board, or a VPK provider which has a written agreement with the governing board;
- children of active-duty U.S. Armed Forces personnel; and
- children who attend or are assigned to a failing school.²⁷

Additionally, a charter school-in-the-workplace may give enrollment preference to students whose parents are employees of the school's business partner and students whose parents are residents of the municipality in which the school is located. A charter school-in-a-municipality may also give enrollment preference to students whose parents are residents or employees of a municipality that operates a charter school-in-the-workplace or allows a charter school to use a school facility or portion of land provided by the municipality for the operation of a charter school.²⁸

²² Students in a charter school must, at a minimum, participate in Florida's statewide assessments. Section 1002.33(7)(a)4., F.S.

²³ 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").

²⁴ Section 1002.33(10)(a), F.S. A charter school receiving federal Charter School Program grant funds must use a lottery if more students apply for admission to the charter school than can be admitted, unless students are enrolling in the immediate prior grade level of an "affiliated charter school." However, a charter school may use a weighted lottery under certain prescribed circumstances. *see* 20 U.S.C. s. 7221b(c)(3) and s. 7221i(2)(H). *see also* U.S. Department of Education, Office of Elementary & Secondary Education, *Dear Colleague Letter-ESSA flexibilities for CSP Grantees* (Nov. 15, 2017), available at <https://oese.ed.gov/files/2019/11/CSP-DCL-1.pdf>.

²⁵ Section 1002.31(2)(b), F.S.

²⁶ Section 1002.33(10)(b), F.S.

²⁷ Section 1002.33(10)(d)1.-3. and 5.-7., F.S.

²⁸ Section 1002.33(10)(d)4.a.-b., F.S.

A charter school may limit the enrollment process in order to target the following student populations:²⁹

- Students within specific age groups or grade levels.
- Students considered at risk of dropping out of school.
- Exceptional education students.
- Children of a business partner who seek to enroll in a charter school-in-the-workplace or children of municipal residents who seek to enroll in a charter school-in-a-municipality.
- Students residing within a reasonable distance of the charter school.
- Students who meet reasonable academic, artistic or other eligibility standards established by the charter school.
- Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor.
- Students living in a development in which a developer, including any affiliated business entity or charitable foundation, contributes to the formation, acquisition, construction, or operation of one or more charter school facilities and related property in an amount equal to or having a total appraised value of at least \$5 million to be used as charter schools to mitigate the educational impact created by the development of new residential dwelling units.³⁰

High-Performing Charter Schools

A high-performing charter school is a charter school that:³¹

- received at least two school grades of “A” and no school grade below “B,” during each of the previous three school years or received at least two consecutive school grades of “A” in the most recent two school years for the years that the school received a grade; or
- receives, during its first three years of operation, funding through the National Fund of the Charter School Growth Fund,³² and has received no school grade lower than a “C” during each of the previous three school years for the years the school received a grade; and
- received an unqualified opinion³³ on each annual financial audit;
- did not receive an annual financial audit that revealed a financial emergency condition.³⁴

The Commissioner of Education (commissioner), upon request by a charter school, must verify that the school meets the qualifications above, and provide a verification letter to both the school and the school’s sponsor. The commissioner must annually determine whether a high-performing charter school continues to meet the high-performing eligibility criteria, and if the charter school does not meet the criteria, the commissioner must send a letter to the school notifying it of its declassification as a high-performing charter school.³⁵

A high-performing charter school is authorized to:³⁶

²⁹ Section 1002.33(10)(e)1.-7., F.S.;

³⁰ *Id.* Students living in such a development are entitled to 50 percent of the student stations in the charter schools.

³¹ Section 1002.331(1)(a)-(c), F.S.

³² Charter School Growth Fund, *Apply for Funding*, <https://chartergrowthfund.org/apply-for-funding/> (last visited Mar. 21, 2023).

³³ An unqualified audit opinion means that the charter school’s financial statements are materially correct. See Public Company Accounting Oversight Board, Standards, *AS 3101: The Auditor’s Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, <https://pcaobus.org/Standards/Auditing/Pages/AS3101.aspx> (last visited Mar. 21, 2023).

³⁴ Section 218.503(1), F.S. A financial emergency condition includes failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes or make employer contributions to social security or pensions or failure for one pay period to pay, wages, salaries, and retirement benefits owed. Section 1002.331(1)(c), F.S. A charter school-in-the-workplace satisfies audit requirements if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition. Section 1002.345(1)(a)3., F.S. A “deteriorating financial condition” is a circumstance that significantly impairs the ability of a charter school to generate enough revenue to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1), F.S.

³⁵ Section 1002.331(4), F.S. Verification of eligibility is based upon the most recent available school grade and financial audit information. *Id.* Charter school audit reports may be filed with the auditor general as much as nine months after the end of the fiscal year. See s. 218.39(1), F.S.

³⁶ Section 1002.331(2)(a)-(e), F.S.

- increase its student enrollment once per school year to more than the capacity identified in the charter, but student enrollment may not exceed the capacity of the facility at the same time the enrollment increase will take effect;
- expand grade levels within kindergarten through grade 12 to add grade levels not already served if any annual enrollment increase resulting from grade level expansion is within the limit;
- submit a quarterly, rather than monthly, financial statement to the sponsor;
- consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the charter schools' governing board regardless of the renewal cycle; and
- receive a modification of its charter to a term of 15 years of a 15-year charter renewal.

Charter Governing Board Ethical Standards

An employee of a charter school or charter management organization and their spouses are prohibited from being a member of the governing board of a charter school.³⁷ Charter school governing board members, including those operated by private entities are subject to the same requirements that apply to public employees for the solicitation and acceptance of gifts, business transactions, conflicting employment or contractual relationships, and voting conflicts.³⁸

Board members who violate any of these provisions are subject to various penalties, including fines; impeachment, removal, or suspension from office for officers; dismissal from employment; and reduction in, or forfeiture of, salary.³⁹

Standard Forms

The Department of Education (DOE) must provide information to the public, directly and through sponsors, on how to form and operate a charter school and how to enroll in a charter school once it is created. The information must include the standard application form, standard charter and virtual charter contracts, standard evaluation instrument, and standard charter and virtual charter renewal contracts.⁴⁰ To fulfill these requirements, the DOE, after consulting with sponsors and charter school directors, must recommend that the State Board of Education (SBE) adopt rules to implement the forms.⁴¹

³⁷ Section 1002.33(26)(c), F.S.

³⁸ Section 1002.33(26)(a)-(b), F.S. A board member, like public employees or officers, may seek a waiver from the governing board after providing full disclosure of a transaction or relationship, from the provisions for business transactions and conflicts of interest. Section 112.313(12), F.S.

³⁹ Section 112.317, F.S.

⁴⁰ Section 1002.33(21), F.S.

⁴¹ Section 1002.33(28), F.S.

Effect of Proposed Changes

Current law authorizes a charter school to limit the enrollment process to students who meet reasonable academic standards as established by the school. The bill clarifies that the admission and dismissal procedures specified in a school's charter may allow for dismissal based on a student's academic performance if academic performance was identified in the school's enrollment process.

The bill prohibits a landlord of a charter school, or his or her spouse, or an officer, director, or employee of an entity that is a landlord of a charter school, or his or her spouse, from being a member of the governing board of the charter school unless:

- the charter school is established as a charter school-in-a-municipality and the landlord is a municipal entity; or
- the landlord is a not-for-profit entity and a two-thirds majority vote of the charter school board, excluding the vote of the landlord-affiliated board members, approves the landlord-affiliated board member to be elected to, or remain on, the board.

The bill authorizes a charter school to assign its charter to a high-performing charter school operating in the same district.

The bill requires the SBE to adopt rules to implement a standard monitoring tool for conducting annual site reviews of charter schools.

Charter School Funding

Present Situation

Florida Education Finance Program

Like traditional public schools, charter school operations are funded through the Florida Education Finance Program (FEFP) based on student enrollment. Each charter school reports student enrollment to its sponsor for inclusion in the district's report of student enrollment.⁴² The following chart summarizes how a charter school's share of FEFP funds is determined:

Calculating a Charter School's Share of FEFP Funds⁴³						
Sum of the district's operating funds from the FEFP and the GAA, including the district's gross state and local funds, discretionary lottery funds, and funds from the district's current operating discretionary tax levies	÷	The total funded weighted full-time equivalent students in the district	x	The weighted full-time equivalent students for the charter school	=	Charter school allotment of FEFP dollars

A charter school is also entitled to a proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.⁴⁴ Categorical funds must be spent for specified purposes, which include student transportation, safe schools, supplemental academic instruction, evidence-based

⁴² Section 1002.33(17)(a)-(b), F.S. To reflect any changes in enrollment, the charter school's funding is recalculated during the school year, based upon the October and February FTE enrollment surveys. *See s. 1002.33(17)(b)*, F.S.

⁴³ Section 1002.33(17)(b) and (c), F.S.

⁴⁴ Section 1002.33(17)(b), F.S.

reading instruction, mental health assistance, instructional materials, teacher classroom supplies, class-size reduction operating funds, and teacher salary increases.⁴⁵

Total funding for each charter school is recalculated during the year to reflect the revised calculations under the FEFP by the state and the actual weighted FTE reported by the charter school during the survey periods.⁴⁶ For charter schools operated by a not-for-profit or municipal entity, any unrestricted current⁴⁷ and capital assets⁴⁸ identified in the charter school's annual financial audit may be used for other charter schools operated by the not-for-profit or municipal entity within the school district.⁴⁹

Capital Outlay

Beginning in Fiscal Year (FY) 2023-2024, charter school capital outlay funding consists of state funds when funds are appropriated in the GAA and revenue resulting from the 1.5 discretionary millage a school district levies if the amount of state funds appropriated for charter school capital outlay is less than the average charter school capital outlay funds per unweighted full-time equivalent student for FY 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 issued by the United States Department of Labor from the previous fiscal year.⁵⁰ In FY 2022-2023, the Legislature appropriated \$195,768,743 for the Charter School Capital Outlay Allocation.⁵¹

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

- be in operation for at least two 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 chain 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 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.⁵²

In addition, a charter school must:

- have an annual audit that does not reveal a financial emergency 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;
- have received final approval from its sponsor for operation during that fiscal year; and

⁴⁵ See, e.g., s. 1011.62(6), F.S. (general categoricals); s. 1011.68, F.S. (student transportation); s. 1011.62(12), F.S. (safe schools allocation); s. 1011.62(1)(f), F.S. (supplemental academic instruction); s. 1011.62(18), F.S. (evidence-based reading instruction allocation); s. 1011.62(13), F.S. (mental health assistance); s. 1011.67, F.S. (instructional materials); s. 1012.71, F.S. (Florida Teachers Classroom Supply Assistance Program); s. 1011.685, F.S. (class size reduction); and s. 1011.62(14), F.S. (teacher salary increase allocation).

⁴⁶ Section 1002.33(17)(b)1., F.S.

⁴⁷ Current assets include cash or other assets that are reasonably expected to be realized in cash or sold or consumed within a year. See Florida Department of Education, *Financial and Program Cost Accounting and Reporting for Florida Schools* (2021), at 2-1, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/REDBK.pdf>.

⁴⁸ Capital assets include, but are not limited to, land, land improvements, buildings, building improvements, vehicles, machinery, furniture, equipment, and all other tangible and intangible assets that are used in operations and have useful lives that extend beyond a single accounting period. See Florida Department of Education, *Financial and Program Cost Accounting and Reporting for Florida Schools* (2021), at 2-3, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/REDBK.pdf>.

⁴⁹ *Id.* Unrestricted current assets must be used in accordance with s. 1011.62, F.S., and any unrestricted capital assets shall be used in accordance with s. 1013.62(2). *Id.*

⁵⁰ Section 1013.62(1), F.S. For the 2022-2023 fiscal year, charter capital outlay consisted of funds appropriated in the General Appropriations Act.

⁵¹ Florida Department of Education, *2022-23 Funding for Florida's School Districts*, at 7, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf>.

⁵² Section 1013.62(1)(a)1.a.-f., F.S.

- serve students in facilities that are not provided by the charter school sponsor.⁵³

Under SBE rule, satisfactory student achievement is determined by the school's most recent grade designation or school improvement rating from the state accountability system.⁵⁴ Satisfactory student achievement for a school that does not receive a school grade or a school improvement rating, including a school that has not been in operation for at least one year, are based on the student performance metrics in the charter school's charter agreement.⁵⁵ Allocations are not distributed until school grade designations are known.⁵⁶ A charter school is not eligible for capital outlay funding if the charter:⁵⁷

- receives a grade designation of "F" or two consecutive grades lower than a "C"; or
- receives a school improvement rating of "Unsatisfactory".

Capital outlay funds may be used by a charter school's governing board for the following:⁵⁸

- 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.
- 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.
- Payment of the cost of the opening day collection for the library media center of a new school.

Effect of Proposed Changes

The bill authorizes a charter school operated by a not-for-profit entity to loan any unrestricted current or capital assets identified in the charter school's annual audit to another school operated by the same entity in another school district in this state. The loan must be unforgiveable and repaid to the originating school by the receiving school.

The bill amends the provision of student achievement for charter school capital outlay funding eligibility. Under the bill, a charter school that meets the eligibility requirements under the law will be eligible for charter capital outlay funding, so long as the school has not earned two consecutive grades of "F", three consecutive grades below a "C", or two consecutive school improvement ratings of "Unsatisfactory".

⁵³ Section 1013.62(1)(a)2.-5., 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. S. 1013.62(1)(b), F.S.

⁵⁴ Rule 6A-2.0020(4), F.A.C.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Rule 6A-2.0020(4)(a)-(b), F.A.C.

⁵⁸ Section 1013.62(4)(a)-(i), F.S.

Educator Certification

Present Situation

In order for a person to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the DOE.⁵⁹ Persons seeking employment at a public school as a school supervisor, principal, teacher, library media specialist, counselor, athletic coach, or in another instructional capacity must be certified.⁶⁰ The purpose of certification is to require school-based personnel to “possess the credentials, knowledge, and skills necessary to allow the opportunity for a high-quality education in the public schools.”⁶¹

The DOE issues three types of educator certificates:

- Professional Certificate. The professional certificate is Florida’s highest type of full-time educator certification.⁶² The professional certificate is valid for 5 years and is renewable.⁶³
- Temporary Certificate. The temporary certificate covers employment in full-time positions for which educator certification is required.⁶⁴ Generally, a temporary certificate is valid for 3 years and is nonrenewable.⁶⁵
- Athletic Coaching Certificate. The athletic coaching certificate covers full-time and part-time employment as a public school’s athletic coach.⁶⁶ The DOE issues two types of athletic coaching certificates – one is valid for 5 years and may be issued for subsequent 5-year periods while the other is valid for 3 years and may be issued only once.⁶⁷ The 5-year certificate requires satisfaction of certain specialization requirements established in rule.⁶⁸

To be eligible for an educator certificate, a person must:⁶⁹

- be at least 18 years of age;
- sign an affidavit attesting that the applicant will uphold the U.S. and State Constitutions;
- earn a bachelor’s or higher degree from an accredited institution of higher learning⁷⁰ or from a nonaccredited institution identified by the DOE as having a quality program resulting in a bachelor’s or higher degree;⁷¹
- submit to fingerprinting and background screening and not have a criminal history that requires the applicant’s disqualification from certification or employment;

⁵⁹ Sections 1012.55(1) and 1002.33(12)(f), F.S.

⁶⁰ Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certified individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-1.0502, F.A.C.; ss. 1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

⁶¹ Section 1012.54, F.S.; see rule 6A-4.001(1), F.A.C.

⁶² Rule 6A-4.004(3), F.A.C.

⁶³ Section 1012.56(7)(a), F.S.; see rule 6A-4.0051(3)(d), F.A.C. (validity period is expressed as 5 years from July 1 of the school fiscal year). The DOE also issues a nonrenewable 5-year professional certificate that allows an applicant with a bachelor’s degree in the area of speech-language impairment to complete a master’s degree in speech-language impairment. Section 1012.56(7)(c), F.S.; rule 6A-4.004(4), F.A.C.

⁶⁴ Rule 6A-4.004(1)(a)2., F.A.C.

⁶⁵ Section 1012.56(7)(e), F.S. (flush-left provisions at end of subsection; validity period is expressed in school fiscal years); rule 6A-4.004(1)(a), F.A.C. The veteran’s pathway to educator certification authorizes a 5 year nonrenewable temporary certificate. Section 1012.56(7)(e)2., F.S. The DOE also issues a nonrenewable temporary certificate, which is valid for 2 years, in the area of speech-language impairment. Sections 1012.56(7)(c), F.S.

⁶⁶ Section 1012.55(2)(a), F.S.

⁶⁷ Rule 6A-4.004(5), F.A.C. (validity periods expressed in school fiscal years).

⁶⁸ See rule 6A-4.0282, F.A.C.

⁶⁹ Section 1012.56(2)(a)-(f), F.S.

⁷⁰ Section 1012.56(2)(c), F.S.; rule 6A-4.003(1), F.A.C. (approved accrediting agencies); see also 34 C.F.R. ss. 602.1-602.50; U.S. Department of Education, *Institutional Accrediting Agencies*, https://www2.ed.gov/admins/finaid/accred/accreditation_pg3.html#RegionalInstitutional (last visited Mar. 21, 2023) (list of accrediting agencies approved by the U.S. Department of Education).

⁷¹ Section 1012.56(2)(c), F.S.; rule 6A-4.003(2), F.A.C. (criteria for approval of nonaccredited institutions of higher learning). For initial certification, an applicant must attain at least a 2.5 overall grade point average on a 4.0 scale in the applicant’s major field of study. Section 1012.56(2)(c), F.S.

- be of good moral character; and
- be competent and capable of performing the duties, functions, and responsibilities of a teacher.

An applicant must submit an application and the required fee to the DOE.⁷²

In addition to the certifications issued by the DOE, school districts are authorized to issue adjunct teaching certificates to instructional staff who have expertise in the subject area to be taught. To be eligible for an adjunct certificate, an applicant must meet all general requirements for educator certification and demonstrate expertise in the area to be taught by passing a subject-area test. A school district may issue an adjunct teaching certificate for a part-time or full-time teaching position.

An adjunct teaching certificate issued for a full-time teaching position is valid for no more than 3 years and is nonrenewable. An adjunct teaching certificate is valid through the term of the annual contract between the educator and the school district.⁷³ School districts are required to:⁷⁴

- post requirements on its website for the issuance of an adjunct teaching certificate, which must specify the subject area test through which an applicant demonstrates subject area mastery; and
- annually report to the DOE the number of adjunct teaching certificates issued for part-time and full-time teaching positions.

Effect of Proposed Changes

Similar to district school boards, the bill authorizes a charter school governing board to adopt rules to allow for the issuance of an adjunct teaching certificate to any applicant who fulfills the certification requirements under the law. A charter school governing board must comply with the same requirements as a district school board as it relates to certificate issuance, validity period, posting requirements, and annual reporting.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 1002.33, F.S., providing clarifying language relating to admission and dismissal procedures; authorizing a charter school to assign its charter to a high-performing charter school in the same district; authorizing the transfer of specified assets to certain charter schools within the state; providing requirements for such transfers; providing the circumstances under which the landlord of a charter school or certain other individuals may serve on a charter school governing board; requiring the State Board of Education to adopt rules to implement a standard monitoring tool.
- Section 2.** Amending s. 1002.331, F.S., conforming provisions to changes made by the act.
- Section 3.** Amending s. 1013.62, F.S., revising charter school capital outlay fund eligibility.
- Section 4.** Amending s. 1012.57, F.S., authorizing charter school governing boards to issue adjunct teaching certificates; requiring a charter school to post specified requirements on its websites and annually report specified information relating to adjunct teaching certificates to the Department of Education.
- Section 5.** Providing an effective date.

⁷² Section 1012.56(1), F.S.; *see* s. 1012.59, F.S. The fee for initial certification is \$75 per subject area. Rule 6A-4.0012(1)(a)1. and 2., F.A.C.

⁷³ Section 1012.57(1) and (4), F.S. An additional annual certification and an additional annual contract may be awarded by the district at its discretion only if the adjunct teacher is rated effective or highly effective during each year of teaching under the adjunct certification. Section 1012.57(4), F.S.

⁷⁴ Section 1012.57(6)(a)-(b), F.S.

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 March 21, 2023, the Choice & Innovation Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. The amendments:

- require the State Board of Education to adopt rules to develop a standard monitoring tool for conducting annual site reviews of charter schools;
- authorize a charter school and a high-performing charter to assign its charter to another governing board, subject to approval by the sponsor, provided that the proposed governing board is a nonprofit entity and meets all requirements under the law;
- specify the circumstances under which the landlord of a charter school or certain other individuals may serve on a charter school governing board;
- revise eligibility for charter school capital outlay funding based on student achievement;

- authorize a charter school governing board to adopt rules to allow for issuing adjust teaching certificates; and
- require a charter school governing board to comply with the same requirements as a district school board as it relates to certificate issuance, validity period, posting requirements, and annual reporting.

On March 31, 2023, the Education & Employment Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- revises the provisions for assigning a charter to a new operator to only be authorized if the new operator is a high-performing charter school operating in the same district;
- authorizes a charter school operated by a not-for-profit entity to loan any unrestricted current or capital assets identified in the charter school's annual audit to another school operated by the same entity in another school district in this state; and
- revises eligibility for charter school capital outlay funding to include schools receiving a school improvement rating.

The bill analysis is drafted to the committee substitute adopted by the Education & Employment Committee.