

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/CS/CS/SB 986

INTRODUCER: Fiscal Policy Committee; Appropriations Committee on Education; Education Pre-K -12 Committee; and Senator Burgess

SUBJECT: Education

DATE: April 26, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sagues</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Gray</u>	<u>Elwell</u>	<u>AED</u>	<u>Fav/CS</u>
3.	<u>Sagues</u>	<u>Yeatman</u>	<u>FP</u>	<u>Fav/CS</u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/CS/SB 986 modifies provisions related to charter school enrollment preferences, charter school sponsors, and the Florida Teachers Classroom Supply Assistance Program. The bill authorizes a charter school to give enrollment preference to students who are the children of a school safety officer assigned to the charter school, authorizes charter schools operated by a not-for-profit entity to loan unrestricted current or capital assets to other charter schools operated by the same entity within the state, and adds accountability measures for charter school sponsors by requiring the:

- Sponsor to provide training to charter schools on systems the sponsor will require the charter school to use.
- Sponsor to annually provide a report to its charter schools and the Florida Department of Education on what services are being rendered from the sponsor's portion of the administrative fee.
- Sponsor to make timely payments and reimbursement of eligible federal grant funds.
- State Board of Education to adopt rules for a standard charter school monitoring tool.

In addition, the bill modifies the Florida Teachers Classroom Supply Assistance Program (Program) to support more classroom teachers by:

- Expanding the definition of a classroom teacher for purposes of the Program.
- Requiring a school district to calculate a prorated share of the funds to a classroom teacher who teaches less than full time.

The Bill requires the district to post step-by-step instructions on how to provide first aid for choking in each public school cafeteria within the district.

Lastly, the bill authorizes private tutoring for up to 25 students in identified facilities.

The bill takes effect on July 1, 2023.

## II. Present Situation:

### Charter Schools

Charter schools are tuition-free public schools created through an agreement or “charter” that provides flexibility relative to regulations created for traditional public schools.<sup>1</sup> Forty-five states and the District of Columbia have enacted charter school laws as of January 2020.<sup>2</sup> Nationally, between the 2009-2010 and 2018-2019 school years, the percentage of all public schools that were charter schools increased from 5 to 8 percent, and the total number of charter schools increased from 5,000 to 7,400. The percentage of public school students nationwide attending charter schools increased from 3 to 7 percent between fall 2009 and fall 2018.<sup>3</sup>

All charter schools in Florida are public schools and are part of the state’s public education system.<sup>4</sup> During the 2021-2022 school year, 361,939 students were enrolled in 703 charter schools in 47 districts. Seventy percent of the students attending charter schools in the 2021-2022 school year were minorities. Hispanic students comprised 45 percent of Florida’s charter school enrollment, and 19 percent were African-American students.<sup>5</sup>

### Charter School Student Eligibility

Charter schools are open to all students residing within the district; however, charter schools are allowed to target students within specific age groups or grade levels, students considered at-risk of dropping out or failing, students wishing to enroll in a charter school-in-the-workplace or charter school-in-a-municipality, students residing within a reasonable distance of the school, students who meet reasonable academic, artistic or other eligibility standards established by the charter school, or students articulating from one charter school to another. Additionally, a charter school may give enrollment preference to the following student populations:<sup>6</sup>

- Siblings of current charter school students.
- Children of a charter school governing board member or employee.

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<sup>1</sup> Florida Department of Education, Office of Independent Education & Parental Choice, *Fact Sheet Florida’s Charter Schools* (September 2022), available at <https://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2022.pdf>.

<sup>2</sup> Education Commission of the States, *50-State Comparison: Charter School Policies* <https://www.ecs.org/charter-school-policies/> (last visited Mar. 5, 2022).

<sup>3</sup> National Center for Education Statistics, *Public Charter School Enrollment*, <https://nces.ed.gov/programs/coe/indicator/cgb> (last visited Mar. 5, 2022).

<sup>4</sup> Section 1002.33(1), F.S.

<sup>5</sup> Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida’s Charter Schools* (September 2022), available at <https://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2022.pdf>.

<sup>6</sup> Florida Department of Education, *Frequently Asked Questions (Charter Schools)*, <https://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml> (last visited Mar. 27, 2023). Section 1002.33(10), F.S.

- Children of employees of the business partner of a charter school-in-the-workplace<sup>7</sup> or resident of the municipality in which such a charter is located.
- Children of residents of a municipality that operates a charter school-in-a-municipality.<sup>8</sup>
- Students who have successfully completed a voluntary prekindergarten program provided by the charter school during the previous year.
- Children of an active-duty member of any branch of the US Armed Forces.
- Students who attended or are assigned to failing schools.<sup>9</sup>

### **Charter School Sponsors**

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

A charter school sponsor has several responsibilities, including:

- Approving or denying charter school applications.
- Overseeing each sponsored school's progress toward the goals established in the charter.
- Monitoring the revenues and expenditures of the school.
- Ensuring that the school participates in the state's education accountability system.
- Ensuring that the charter is innovative and consistent with state education goals.
- Intervening when a sponsored school demonstrates deficient student performance or financial instability.<sup>10</sup>

### ***Administrative and Educational Services***

A sponsor must provide administrative and educational services including contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure school lunch services under the National School Lunch Program; test administration services; processing of teacher certificate data services; and information services.

A sponsor may withhold an administrative fee of up to five percent of each charter school's total operating funds for enrollment of up to and including:

- 250 students in a charter school or virtual charter school.
- 500 students within a charter school system which meets specified conditions.

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<sup>7</sup> Section 1002.33(15), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 1002.38, F.S.

<sup>10</sup> Section 1002.33(5), F.S. and Section 1002.34(3)(b), F.S.

A sponsor may withhold an administrative fee of up to 2 percent of each charter school's total operating funds for enrollment of up to and including 250 students in a high performing charter school or 250 students in an exceptional student education center that meets specified requirements.<sup>11</sup>

### **Charter School Funding**

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.<sup>12</sup>

A charter school is also entitled to a proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.<sup>13</sup> Categorical funds must be spent for specified purposes, which include student transportation, safe schools, supplemental academic instruction, evidence-based reading instruction, mental health assistance, instructional materials, teacher classroom supplies, class-size reduction operating funds, and teacher salary increases.<sup>14</sup>

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.<sup>15</sup> For charter schools operated by a not-for-profit or municipal entity, any unrestricted current<sup>16</sup> and capital assets<sup>17</sup> 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.<sup>18</sup>

### **Safe-school Officers**

For the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent must partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers at each school facility

<sup>11</sup> Section 1002.33(20), F.S.

<sup>12</sup> 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.

<sup>13</sup> Section 1002.33(17)(b), F.S.

<sup>14</sup> *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).

<sup>15</sup> Section 1002.33(17)(b)1., F.S.

<sup>16</sup> 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>.

<sup>17</sup> 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>.

<sup>18</sup> *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.*

within the district, including charter schools. A district school board must collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options available under this section. The school district may implement any combination of the following options in to best meet the needs of the school district and charter schools:

- School Resource Officer.
- School Safety Officer.
- School Guardian.
- School Security Guard.<sup>19</sup>

### **First Aid for a Choking Student**

Approximately 66 to 77 children under the age of 10 die from choking on food each year in the United States.<sup>20</sup> The Florida Department of Health (DOH) published an Emergency Guidelines for Schools which contains step-by-step instructions for performing emergency first aid on a choking conscious individual. The DOH recommends that schools designate at least one employee who has received instruction in choking rescue be present in the cafeteria at all meals.<sup>21</sup>

### **The Florida Teachers Classroom Supply Assistance Program**

The Florida Teachers Classroom Supply Assistance Program (Program) provides funds for classroom teachers to purchase supplemental materials and supplies for public school students assigned to them. Program funds are appropriated by the Legislature in the General Appropriations Act (GAA) and distributed by July 15 to each school district by the Commissioner of Education based on each district's unweighted full-time equivalent student enrollment.<sup>22</sup>

School districts are required to calculate an identical amount from the funds available to the school districts for the program for each classroom teacher who will be employed by the district or a charter school in the district on September 1. A job-share classroom teacher may receive a prorated share of the amount provided to a full-time classroom teacher. As of July 1, if a teacher is expected to be employed by a school district or a charter school in the district on September 1, the district school board and each charter school board may provide the teacher with the teacher's proportionate share of funds by August 1. If a teacher's expected employment is determined after July 1, the district school board and each charter school board must provide the teacher with the teacher's proportionate share of funds by September 30.<sup>23</sup>

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<sup>19</sup> Section 1006.12, F.S.

<sup>20</sup> American Academy of Pediatrics, *Prevention of Choking Among Children*, <https://publications.aap.org/pediatrics/article/125/3/601/72642/Prevention-of-Choking-Among-Children> (last visited Apr. 10, 2023)

<sup>21</sup> Florida Department of Health, *Emergency Guidelines for Schools (2019)*, [https://www.floridahealth.gov/programs-and-services/childrens-health/school-health/\\_documents/emergency-guidelines-for-schools-2019.pdf](https://www.floridahealth.gov/programs-and-services/childrens-health/school-health/_documents/emergency-guidelines-for-schools-2019.pdf)

<sup>22</sup> Section 1012.71, F.S.

<sup>23</sup> Section 1012.71(3), F.S. A job-share classroom teacher is one of two teachers whose combined full-time equivalent employment for the same teaching assignment equals one full-time classroom teacher.

A teacher must acknowledge receipt of the funds and keep receipts for at least four years to show that funds were spent in accordance with Program requirements. Any unused funds must be returned to the district school board at the end of the school year.<sup>24</sup>

The 2022-2023 GAA appropriated \$54,143,275 to the Program.<sup>25</sup>

### **III. Effect of Proposed Changes:**

CS/CS/CS/SB 986 modifies provisions related to charter schools, school district requirements, private tutoring and the Florida Teachers Classroom Supply Assistance Program (Program).

#### **Charter Schools**

The bill modifies s. 1002.33, F.S., to authorize a charter school to give enrollment preference to students who are the children of a school safety officer assigned to the charter school, authorizes charter schools operated by a not-for-profit entity to loan unrestricted current or capital assets to other charter schools operated by the same entity within the state, and adds accountability measures for charter school sponsors by requiring the sponsor to:

- Provide training to charter schools on systems the sponsor will require the charter school to use.
- Annually provide a report to its charter schools on the services provided from the sponsor's portion of the administrative fee. The report must include the listed services and be submitted to the FDOE annually by September 15.
- Require the sponsor to process timely payments and reimbursements of eligible federal grant funds.
- Require the State Board of Education to adopt rules for a standard monitoring tool.

#### **School District Requirements**

The bill modifies s. 1003.02, F.S., to require each school district to post step-by-step first aid instructions for choking conscious individuals in each school cafeteria in the district.

#### **Private Tutoring**

The bill modifies s. 1002.43, F.S., to authorize private tutoring for up to 25 students in identified facilities, so long as certain criteria are met.

#### **The Florida Teachers Classroom Supply Assistance Program**

The bill modifies s. 1012.71, F.S., to expand the reach of the Florida Teachers Classroom Supply Assistance Program (Program) by:

- Expanding the definition of a classroom teacher for purposes of the Program to include an administrator or a substitute teacher who is filling a vacancy in an identified teaching position on or before September 1 of each year and who holds a valid teaching certificate.

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<sup>24</sup> Section 1012.71(4), F.S.

<sup>25</sup> Specific Appropriations 5 and 86, s. 2, ch. 2022-156, Laws of Fla.

- Requiring a school district to calculate a prorated share of the funds to a classroom teacher who teaches less than full time.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 1002.33, 1002.43, 1003.02 and 1012.71 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS/CS by Fiscal Policy Committee on April 25, 2023:**

The committee substitute authorizes charter schools operated by a not-for-profit entity to loan unrestricted current or capital assets to other charter schools operated by the same entity within the state.

**CS/CS by Appropriations Committee on Education on April 12, 2023:**

The committee substitute adds to the bill provisions that:

- Require the charter sponsor to make timely payments and reimbursement of eligible federal grant funds.
- Require the school districts to post step-by-step instructions on how to provide emergency first aid for choking conscious individuals in each public school cafeteria within the district.
- Authorize private tutoring for up to 25 students in identified facilities, as long as such tutoring meets all applicable state and local health, safety and welfare laws, including those pertaining to fire and building safety.

**CS by Education PreK-12 on March 27, 2023:**

The committee substitute removes from the bill the provisions that:

- Require the Florida Department of Education (DOE) to develop a standardized annual periodic review and evaluation form to meet the criteria of the charter contract and replacing it with requiring the State Board of Education to adopt rules to implement a standard monitoring tool.
- Require the charter school sponsor to provide training to charter schools, to the same extent it provides training to its employees, and to notify charter schools of open vacancies for training in the district and allow them to participate, subject to financial penalties and replacing it with requiring a sponsor to provide training on systems the sponsor will require the charter school to use.
- Assess financial penalties associated with the report submitted to the DOE by the sponsor on what services are being rendered from the sponsor's portion of the administrative fee.
- Extend the validity period of a professional certificate from 5 years to 10 years, and removing general knowledge and subject area knowledge requirements for educators meeting specified training and evaluation criteria.
- Authorize an administrator or a substitute teacher acting dually as a classroom teacher to petition the DOE for a portion of the Florida Teachers Classroom Supply Assistance Program allocation.



In addition, the committee substitute adds children of a school safety officer or officers assigned to a charter school to receive enrollment preference at the charter school.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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