

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1323 Charter Schools

SPONSOR(S): Attkisson

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee	_____	Hassell	Aldis
2) Education Appropriations Committee	_____	_____	_____
3) Education Council	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1323 amends section 1002.33, F.S., relating to charter schools. Charter schools are public schools operated pursuant to a performance contract (or charter) that frees them from many of the statutes and rules that govern traditional public schools, but which holds the school accountable for academic and financial results.

The bill establishes the Florida Charter School Accountability Authority (FCSAA) as a component of Florida's K-12 public education system to provide oversight, accountability, and assistance to charter schools and their sponsors. Additionally, the bill allows for the FCSAA to sponsor a charter school. Please see the CONSTITUTIONAL ISSUES section of the analysis.

The bill clarifies and makes consistent the application, charter and appeals processes for all charter schools. The Department of Education is required to staff the Charter School Review Panel, create a standard charter format and charter renewal format, and conduct a study on the administrative fee withheld by the districts and report the study to the Legislature. Please see the FISCAL COMMENTS section of the analysis.

The bill provides that applicants and sponsors have 3 months for charter negotiations, and requires the district school board to provide the charter to the charter school at least 7 days prior to the vote of the sponsor. Also, the bill establishes an initial charter term of 5 years and provides that certain charters are eligible for a charter term up to 15 years, subject to the approval of a district school board.

The bill provides that the district school boards are required to make timely and efficient payments and reimbursements to charter schools, and increases the interest rate to 5% per month for failure to make timely changes. The bill allows for the Commissioner of Education to withhold additional funds if the school district does not make timely payments and reimbursements to charter schools.

The bill adds the definition of charter school personnel to the definition of instructional personnel in the Florida K-20 Education Code, adds charter school classroom teachers to the BEST Florida Teaching salary career ladder program, and requires educator professional liability insurance to cover charter school personnel.

The bill provides that capital outlay funds may be used for other capital outlay purposes that are authorized capital outlay uses for the school district, in addition to the purposes identified in current law, and clarifies which charter schools are eligible to receive capital outlay funding from the state.

The bill provides that the act shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill requires the Department of Education to staff the Charter School Review Panel, create a standard charter format and charter renewal format, conduct a study on the administrative fee withheld by the districts and report the study to the Legislature, and make recommendations to the SBE for the adoption of rules to implement specific subsections. The bill provides for the appointment of the Board of Trustees for the Florida Charter School Accountability Authority (FCSAA), and provides the FCSAA with the authority to adopt rules.

Safeguard individual liberty – The bill establishes the FCSAA as a component of Florida’s K-12 public education system to provide oversight, accountability, and assistance to charter schools and their sponsors.

B. EFFECT OF PROPOSED CHANGES:

Section 1002.33, F.S., authorizes charter schools. Charter schools are public schools operated pursuant to a performance contract (or charter) that frees them from many of the statutes and rules that govern traditional public schools, but which holds the school accountable for academic and financial results.

Authorization and Purpose of Charter Schools

Currently, all charter schools are a part of Florida’s program of K-12 public education. A public school may not use the term “charter” in its name unless it has been approved under s. 1002.33, F.S. Charter schools may be formed by creating a new school or converting an existing public school to a charter status. The bill provides that charter schools may also be formed by allowing an existing charter school to reconstitute as a new charter school.

The statutory purpose of charter schools is to improve student learning and academic achievement, increase learning opportunities of all students, create new professional opportunities for teachers, encourage the use of innovative learning methods, and measure learning outcomes.¹ The bill clarifies that charter schools are responsible for fulfilling one or more of the above the purposes, rather than fulfilling all of the purposes provided for in statute, and also provides that charter schools are not responsible for measuring learning outcomes.

Application for Charter Status

Currently, 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 the laws of this state.² Alternatively, a public school that has been in operation for at least two years may convert to a charter school pursuant to an application by the district school board, the principal, teachers, parents, and/or the school advisory council.³

The bill clarifies that a public school-within-a-school that is designated as a school by the district school board may also submit an application to convert to charter status. The bill also increases the number of charters that one organization may hold within the state from 15 to 25.⁴

¹ s. 1002.33(2)(b), F.S.

² s. 1002.33(3), F.S.

³ *Id.*

⁴ s. 1002.33(9)(h), F.S., provides that no organization shall hold more than 15 charters statewide.

The bill provides that a district school board that denies an application for a conversion charter school is required to provide written notice of the denial to the applicants within 10 days, rather than the current law requirement of 30 days notice, after the meeting in which the district school boards denied the application.

Sponsors

Currently, only a district school board may sponsor a charter school in the county where the district school board has jurisdiction.⁵ However, a state university may grant a charter to a lab school in which case the university is considered to be the charter lab school's sponsor.⁶ Sponsors are required to monitor and review the charter school's progress towards the established goals and monitor the charter school's revenues and expenditures. Currently, the sponsor's policies are not required to apply to charter schools.

The bill provides that the Florida Charter School Accountability Authority (FCSAA) may also sponsor a charter school. Also, the bill permits charter school sponsors to apply their policies to the charter school, if mutually agreed to by both parties.

Florida Charter School Accountability Authority

The bill establishes the FCSAA as a component of Florida's K-12 public education system funded through the Department of Education (DOE). The FCSAA is required to comply with all laws applicable to state agencies, and has the authority to report to the SBE and the Chancellor for K-12 Public Schools. The bill creates a nine member Board of Trustees for the FSCAA.

The FCSAA is established to provide oversight, accountability, and assistance to charter schools and their sponsors. The FCSAA is must do the following:

- Establish regional offices as necessary to accomplish its duties and functions;
- Develop, promote, and disseminate best practices and high standards of financial and educational accountability;
- Provide technical assistance to the schools and the sponsors;
- Establish the authority to sponsor charter schools;
- Deliver accurate information to the DOE for publication on the DOE's website for charter schools;
- Designate FCSAA as a local educational agency;
- Review and evaluate FSCAA sponsored charter schools annually and measure compliance with the terms and requirements in the charter;
- Establish the authority to adopt rules; and
- Establish the authority to contract for services with a school district at a cost no greater than the school district's actual cost.

Additionally, the bill authorizes the FCSAA to receive and expend gifts, grants, and donations from public and private entities to carry out the purposes identified in this section. FCSAA is not obligated to begin operations necessary to receive charter school applications until the authority has received \$100,000. Also, FCSAA is required to retain up to 5% of the available funds pursuant to s. 1002.33(17)(b), F.S., for an administrative fee for the provision of services.

Application Process and Review

Section 1002.33(6), F.S., provides for the application process and review of a charter school. Charter school applications are prepared by the person or entity wishing to open the charter school and are submitted and considered by a district school board on or before September 1 of each calendar year. District school boards are required to approve or deny an application by majority vote within 60

⁵ s. 1002.33(5), F.S.

⁶ *Id.*

calendar days after the application is received, unless the applicant and the school board mutually agree to postpone the vote to a specific date. If the district school board fails to act on the application, the applicant may appeal to the State Board of Education (SBE), and if the application is denied the district school board is required to articulate in writing the specific reasons based upon good cause for denying the application.

Current law provides charter school applicants with procedures for appeal to the Charter School Appeal Commission if the charter has been denied, if the charter contract has not been renewed or has been terminated, or if mediation has failed to resolve disputes over contract negotiations.⁷ Subsequent to the approval of the charter school application, the Department of Education (DOE) is required to provide mediation services for any dispute relating to the charter's provisions and any dispute relating to the approved charter, except for disputes relating to charter school application denials.⁸ A dispute may be appealed to an administrative law judge if the Commissioner of Education determines that the dispute cannot be settled through mediation.⁹

The bill provides that beginning with the 2005-2006 school year, the deadline for submission of the charter school application is changed from September 1 to June 1. Also, the bill allows for the district school board and the applicant, if mutually agreed upon and in writing, to temporarily postpone the vote on a charter school application for an additional 30 days. If the district school board denies an application the board must provide the applicant in writing with supporting documentation stating the specific reason for denying the charter application. Applicants may appeal the decision of the FCSAA pursuant to the appeal processes and procedures already provided for in law for all charter schools. Also, the bill clarifies that an administrative law judge may not rule on issues relating to the denial of an application or on issues relating to the termination or nonrenewal of a charter.

Charter Agreement

A charter is a written contractual agreement setting forth the terms and conditions for the operation of a charter school. Current law requires that major issues involving the operation of a charter school are to be considered in advance and written into the charter that is signed by the sponsor and the governing body of the charter school.¹⁰ The initial term of a charter may be 3, 4, or 5 years, and charter schools that are operated by a municipality or other public entity and charter lab schools are eligible for a charter for a term of up to 15 years, subject to annual review and termination.¹¹

The bill provides that applicants and sponsors have 3 months, rather than the current law requirement of 6 months, to mutually agree on the provisions of the charter. The bill requires that the charter must be provided to the charter school at least 7 days prior to the vote of the sponsor. Also, the bill establishes an initial charter term of 5 years and provides that charter schools operated by private, not-for-profit, s. 501(c)(3) status corporations are eligible for a charter term up to 15 years, subject to the approval of a district school board.

The bill provides that a charter is to be renewed if the criteria provided in s. 1002.33(7)(a), F.S., has been successfully accomplished and if none of the grounds for nonrenewal were documented. Also, charter schools that are in operation for a minimum of 2 years and demonstrate exemplary academic programming and fiscal management are required to be granted a 15 year charter renewal, subject to annual review and termination.

Nonrenewal or Termination of Charter

Current law provides that sponsors may choose not to renew the charter at the end of the charter's term if the charter school fails to participate in the state's education accountability system, fails to meet

⁷ s. 1002.33(6), F.S.

⁸ *Id.*

⁹ *Id.*

¹⁰ s. 1002.33(7), F.S.

¹¹ *Id.*

generally accepted standards of fiscal management, violates a state law, or if other good cause is shown.¹²

This bill specifies that a sponsor may choose to not renew a charter based on the sponsor's determination that the health, safety, and welfare of the students is threatened rather than for the current law provision of good cause shown. Also, the bill clarifies that a charter may be immediately terminated on the ground that the health, safety, or welfare of the students is threatened, rather than on the current law grounds that good cause has been shown.

Currently, when a charter is not renewed or is terminated, the school is dissolved, and any unencumbered public funds from the charter school revert to the district school board.¹³ Capital outlay funds that are unencumbered revert to the Department of Education to be redistributed among eligible charter schools, and any property, improvements, furnishings, and equipment purchased with public funds reverts to the district school board.¹⁴

This bill provides that when a charter is not renewed or is terminated, any unencumbered funds from the charter school revert to the sponsor, not the district school board.

Funding of Charter School Student Enrollment

Currently, students enrolled in a charter school are funded in the same way as all other public school students in the school district. Thus, each charter school must report its student enrollment to the school district and the school district must include each charter school's student enrollment in its report of student enrollment that is submitted to the state in October and February of each school year.¹⁵ Current law provides that district school boards are required to make every effort to ensure that charter schools receive timely and efficient reimbursement.¹⁶

The bill provides that the district school boards are required to make timely and efficient reimbursements to charter schools. Further, if a warrant for payment is not issued within 10 working days, rather than the current law requirement of 30 working days, after receipt of funding by the district school board then the district school board is required to pay the charter school the amount of the scheduled disbursement and interest at a rate of 5% per month. This is an increase in the interest rate of 4% per month. Also, the interest rate is calculated on a daily basis on the unpaid balance from the expiration of the 10-day period until the warrant is issued.

The bill allows for the Commissioner of Education to withhold additional funds if the school district does not make timely payments and reimbursements to charter schools.

Personnel

The bill adds the definition of charter school personnel to the definition of instructional personnel in the Florida K-20 Education Code.¹⁷ Charter school instructional personnel include classroom teachers, student personnel services staff members, librarians/media specialists, other instructional staff, and education paraprofessionals employed in a charter school.

The bill also makes charter school classroom teachers a part of the BEST Florida Teaching salary career ladder program for classroom teachers. Also, the bill requires educator professional liability coverage for all full-time charter school instructional personnel, and requires that educator professional liability coverage be extended at cost to all part-time charter school instructional personnel.

¹² s. 1002.33(8), F.S.

¹³ s. 1002.33(8)(e), F.S.

¹⁴ *Id.*

¹⁵ s. 1002.33(17), F.S.

¹⁶ s. 1002.33(17)(d), F.S.

¹⁷ s. 1012.01, F.S.

Services

Currently, a school district provides the following administrative and educational services to charter schools: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services.¹⁸ Administrative fees for the above services that may be charged by the district to a charter school are 5% of the available per student FEFP funds. However, there is a cap on administrative fees that the district may charge; for schools with 501 students and above, the calculation is made only on 500. Any charter school with an enrollment of 501 or more calculates the 5% for those students over 500, but retains the calculated amount to be used only for capital outlay purposes. Goods and services provided by the school district to the charter school through the contract must be provided for no more than the actual cost.¹⁹

The bill provides for exceptional education evaluation services in addition to the exceptional student education administration services provided for in current law. Additionally, the bill provides for eligibility and reporting services relating to food services for charter school students as part of the services to be provided by the school districts under their administrative fee. The bill allows for negotiation up to 5% for the administrative fee withheld by the school district.

The bill requires the DOE to conduct a study of the administrative fee withheld by the school district and report the results of the study to the Legislature by December 1, 2005. The study is to include the total amount of funds withheld, the number of charter school students served, and the services provided.

Facilities

Current law provides that any facility or a portion of the facility that is used to house an approved charter school is exempt from ad valorem taxes pursuant to s. 196.1983.²⁰ The bill specifies that the following facilities may host charter schools within their facilities under their preexisting zoning and land use designations: libraries, community service facilities, museums, performing arts facilities, theatres, cinemas, community colleges, colleges, and universities.

Current law provides that charter school facilities are exempt from assessments of fees for building permits and licenses and impact fees or service availability fees.²¹ The bill additionally provides that charter school facilities are exempt from payment of occupational licenses fees

Any facility or property of the district school board that becomes available because it is surplus, marked for disposal, or otherwise unused is made available to the charter school on the same basis as it is made available to other public schools in the district.²² The bill provides that the charter school, not the charter organizers, is required to agree to reasonable maintenance provisions that ensure that the facility is maintained in a manner similar to district school board standards.

Capital Outlay Funding

Current law provides that the year in which funds are appropriated for charter school capital outlay purposes, the Commissioner of Education is required to allocate the funds among eligible schools.²³ To be eligible for a funding allocation, a charter school must be in operation for 3 or more years, be an expanded feeder chain of a charter school within the same school district that is currently receiving capital outlay funds, or be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; have financial stability for future operation as a charter school; have satisfactory

¹⁸ s. 1002.33(20), F.S.

¹⁹ *Id.*

²⁰ s. 1002.33(18)(c), F.S.

²¹ Exemption from assessment of fees for building permits except as provided in s. 553.80, F.S.

²² s. 1002.33(18)(f), F.S.

²³ s. 1013.62, F.S.

student achievement; have received final approval from their sponsor for operation during that year; and serve students in facilities that are not provided by the charter school's sponsor.²⁴

The bill provides that for a charter school to be eligible for a funding allocation, a charter school must be one of the following:

- The same school that received capital outlay funding in 2003-2004.
- A charter school that is an expanded feeder pattern of a charter school that received capital outlay funding in 2003-2004.

The Commissioner of Education is required to allocate and prorate charter school capital outlay funds in the following manner, unless authorized otherwise by the Legislature:

- If an appropriation for charter school capital outlay funds is less than the 2003-2004 appropriation, the funds are required to be prorated among eligible schools, as provided for in the bill.
- If the appropriation is greater than the 2003-2004 appropriation, the funds are required to be allocated to the eligible public schools as provided for in the bill and to charter schools that have been in operation for 3 or more years, be an expanded feeder chain of a charter school within the same school district that is currently receiving capital outlay funds, or be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; have financial stability for future operation as a charter school; have satisfactory student achievement; have received final approval from their sponsor for operation during that year; and serve students in facilities that are not provided by the charter school's sponsor.

The bill provides that the charter schools with long-term debt or long-term lease are the first priority for allocating the excess amount of the 2003-2004 appropriation. The excess amount is required to be prorated among these schools to the extent that the initial allocation is insufficient to provide one fifteenth of the cost-per-student station. The bill identifies the second priority to be all other eligible charter schools.

Current law provides that a capital outlay funds may be used by the charter school's governing body for the following purposes: purchase of real property; construction of school facilities; purchase, lease-purchase, or lease of permanent or relocatable school facilities; purchase of vehicles for transportation of students; and renovation, repair, and maintenance of school facilities owned by the charter school or being purchased or lease-purchase by the charter school.²⁵

The bill provides that capital outlay funds may be used for other capital outlay purposes that are authorized capital outlay uses for the school district, in addition to the purposes identified in current law.

Public Information on Charter Schools

The DOE is required to provide information directly to the public and through sponsors regarding how to form and operate a charter school and how to enroll in a charter school.²⁶ The bill provides that in addition to the standard application format, the DOE is required to create a standard charter format and standard charter renewal format that are to be used by sponsors as guidelines.

Charter School Review Panel and Legislative Review

The bill provides that the DOE is required to staff and regularly convene a Charter School Review Panel to review issues, practices, and policies relating to charter schools. The bill also changes the date of the Legislature's review on the operation of charter schools from the 2005 Regular Session of the Legislature to the 2010 Regular Session of the Legislature.

²⁴ *Id.*

²⁵ s. 1013.62(2), F.S.

²⁶ s. 1002.33(21), F.S.

C. SECTION DIRECTORY:

- Section 1. Amends s. 1002.33, F.S., relating to charter schools; providing for the authorization and purpose of charter schools; revising charter school application process; revising provisions relating to charter agreement, including nonrenewal or termination of charter; revising provisions relating to funding of charter school student enrollment; authorizing zoning and land use designations; revising exemptions; revising administrative fee requirement, and requiring report by the Department of Education; and establishing the Florida Charter School Accountability Authority.
- Section 2. Amends s. 1012.01, F.S., defining charter school instructional personnel.
- Section 3. Amends s. 1012.231, F.S., adding charter school classroom teachers to the BEST Florida Teaching salary career ladder program.
- Section 4. Amends s. 1012.74, F.S., requiring educator professional liability insurance to cover charter school personnel.
- Section 5. Amends s. 1013.62, F.S., revising provisions related to capital outlay funding
- Section 6. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

See FISCAL COMMENTS section of this analysis.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill places no requirements upon charter school applicants to apply to the FCSAA.

D. FISCAL COMMENTS:

The Department of Education is required to staff the Charter School Review Panel, create a standard charter format and charter renewal format, and conduct a study on the administrative fee withheld by the districts and report the study to the Legislature. The estimated costs of these requirements are indeterminate at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Article IX, s. 2, of the Florida Constitution provides that "[t]he state board of education be the body corporate and have such supervision of the system of free public education as is provided by law." The state board of education is composed of seven members appointed by the Governor, subject to Senate confirmation.

Article IX, s. 4, of the Florida Constitution provides that each county shall constitute a school district; however, two or more contiguous counties may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by the vote of the electors in a nonpartisan election. The school board is required to operate, control and supervise all free public schools within the school district.

The bill establishes the Florida Charter School Accountability Authority (FCSAA) as a component of Florida's K-12 public education system funded through the DOE, and creates a nine member Board of Trustees for the FSCAA. The bill requires the FCSAA to establish regional offices as necessary to accomplish its duties and functions that include oversight, accountability, and assistance to charter schools and their sponsors. Additionally, the bill allows for the FCSAA to sponsor a charter school. The establishment and duties of the FCSAA raise questions regarding the interpretation of and interplay between sections 2 and 4 of Article IX regarding supervision and control.

B. RULE-MAKING AUTHORITY:

The bill provides the FCSAA with rulemaking authority pursuant to ss. 120.536(1) and 120.54, F.S., to adopt rules for implementing provisions of the law relating to the FSCAA.

The bill provides that the DOE is required to recommend that the SBE adopt rules for implementing specific provisions relating to charter schools.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The rulemaking authority provided to the SBE is broad as it allows for the adoption of rules for the implementation of provisions in s. 1002.33, F.S.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES