

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Education Committee

BILL: CS/SB 2424

INTRODUCER: Education Committee and Senator Webster

SUBJECT: Charter Schools

DATE: April 19, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Fav/CS
2.	_____	_____	GO	_____
3.	_____	_____	EA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill amends the Financial Emergencies Act to include procedures and requirements if the financial condition of a charter school is determined to be deteriorating. In general, the bill would ensure charter school financial information is provided by an auditor in a timely fashion and is available to the members of a charter school's governing board. Duties and certain procedural requirements for the governing board of a charter school are detailed.

The bill also makes changes for charter schools in the areas of charter applications, reviews, and appeals, sponsor duties, cause for termination and nonrenewal of a charter, facilities, and capital outlay allocations. The Legislature must review the operation of charter schools during the 2010 legislative session. The bill allows the two mills that school boards may levy to be used for district schools, including charter schools.

This bill substantially amends the following sections of the Florida Statutes: 218.39, 218.50, 218.501, 218.503, 218.504, 1002.32, 1002.33, 1003.05, 1011.71, and 1013.62.

This bill takes effect upon becoming a law.

II. Present Situation:

Section 1002.33, F.S., Charter Schools:

Section 1002.33(2), F.S., Guiding Principles – Charter schools must encourage the use of innovative learning methods and meet requirements related to the following areas:

- Improved student learning and academic achievement;

- Increased learning opportunities for all students, with special emphasis on low-performing students and reading;
- New professional opportunities for teachers, including ownership of the learning program at the school site; and
- Measured learning outcomes.

Section 1002.33(3), F.S., Application for Charter Status – Applicants for a new charter school include an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under Florida law. Applicants for a conversion charter school are limited to district school boards, principals, teachers, parents, or the school advisory council at an existing public school that has been in operation for at least two years prior to the application to convert.

Section 1002.33(5), F.S., Sponsor’s Duties – This subsection identifies who may sponsor a charter school and the duties, which a sponsor must assume. Presently only a district school board may sponsor a charter school. A university may sponsor a charter lab school. Among the listed duties of a sponsor are monitoring and reviewing progress toward goals, revenues and expenditures, innovation and consistency with state education goals, and participation in the state’s accountability system.

Section 1002.33(6), F.S., Application Process and Review – Subsection (6) identifies the content of a charter application, specifies the dates for making an application, provides directions for reviewing and approving or denying an application, provides an appeals procedure when applications are denied, establishes a Charter School Appeal Commission, and identifies how disagreements between an applicant and a sponsor are to be resolved.

Section 1002.33(7), F.S., Charter – Subsection (7) details the content of a charter for a charter school, including the mission, focus of the curriculum, student data and characteristics, admissions procedures, financial issues, facilities information, teacher qualifications, timetables, conflict resolution, matters relating to conversion charter schools, and the length of time for which charters may be awarded.

Section 1002.33(8), F.S., Causes for Nonrenewal or Termination of Charter – This subsection specifies the grounds upon which a sponsor may determine the need for non-renewal or termination of a charter. It specifies how such a determination is to be conveyed to a charter school, how the school is to be dissolved, and what happens if the charter school has outstanding debt. Finally, provisions related to the rights of students in such a charter school are identified.

Section 1002.33(9), F.S., Charter School Requirements – This subsection provides specific requirements that a charter school must meet in order to operate in Florida, including being nonsectarian in nature, not charging tuition or registration fees, and meeting all applicable state and local health, safety, and civil rights requirements.

Section 1002.33(18), F.S., Facilities – Charter schools must use facilities that comply with specific requirements, including the Florida Building Code. These schools are permitted, but not required, to comply with the provisions applicable to the State Requirements for Educational Facilities. Facilities or portions of facilities that house approved charter schools are exempt from

ad valorem taxes under s. 196.1983, F.S. Charter school facilities are also exempt, with some exceptions, from fees for building permits.

Section 1002.33(20), F.S., Services – Charter school sponsors must provide specific administrative and educational services to charter schools, including those related to contract management, full time equivalent (FTE) and data reporting, exceptional student education, and test administration. The calculation of an administrative fee for these services is based on five percent of the funds available in s. 1002.33(17), F.S., for all students. Charter school sponsors may withhold a five percent administrative fee for enrollment for up to and including 500 students.

Section 1002.33(21), F.S., Public Information on Charter Schools – The Department of Education is tasked with providing information to the public on establishing and operating charter schools.

Section 1002.33(22), F.S., Charter School Review Panel and Legislative Review – The Department of Education must convene the Charter School Review Panel on a regular basis to review issues related to charter schools.

Section 1003.05, F.S., Assistance to Students Transitioning from Military Families – Dependent children of active military personnel who otherwise meet eligibility criteria for special academic programs in public schools must be give preference for admission, even if the program is offered in a school outside of their assigned area or the program has reached maximum enrollment. Special academic programs include charter schools.

Section 1013.62, F.S., Charter Schools Capital Outlay Funding – To be eligible for a funding allocation from the Commissioner of Education, charter schools must meet statutorily defined requirements, including criteria related to the number of years in operation, accreditation, financial stability, and final approval by the school's sponsor.

Section 218.39(5), F.S., Annual Financial Audit Reports - Upon completion of an audit, the auditor is required to notify each member of the governing body of a unit of local government or district school board when a deteriorating financial condition exists that may cause one of a statutorily specified list of financial conditions to occur.¹ The governing board of a charter school is not included in the governing boards to be so notified.

Sections 218.50, 218.501, 218.503, and 218.504, F.S., Financial Emergencies Act – The Financial Emergencies Act is presently restricted in its scope of application to local governmental entities and to school boards. Local governmental entities and district school boards are subject to review and oversight by the Governor or the Commissioner of Education when any one of the specific statutory conditions occurs (e.g., failure to pay short-term loans within the same fiscal year in which due or failure to make bond debt service or other long-term debt payments when due, as a result of a lack of funds). District school boards must notify the Commissioner of Education and the Legislative Auditing Committee, when one or more of the statutory conditions has occurred or will occur if action is not taken to assist the school board.

¹ Section 218.503(1), F.S., enumerates these conditions.

Upon notification, the Commissioner of Education must contact the school board to determine what actions have been taken to resolve the condition. If it is determined that the school board needs state assistance, the district school board is considered to be in a state of financial emergency.

The Governor or the Commissioner of Education, as appropriate, may implement measures² to assist a local governmental entity or district school board in resolving a financial emergency. The measures may include the following:

- Requiring approval of the district school board's budget by the Commissioner of Education;
- Prohibiting a school board from issuing bonds, notes, certificates of indebtedness, or any other form of debt;
- Making inspections and reviews of records, information, reports, and assets of the district school board;
- Consulting with officials and auditors of the school board and the appropriate state officials regarding any steps necessary to ensure compliance with state requirements;
- Providing technical assistance to the school board; and
- Establishing a financial emergency board to oversee the activities of the school board.

If a financial emergency board is established for a school board, the State Board of Education must appoint board members and select a chair.

Section 1002.32(9) and (11), F.S., Developmental Research (Laboratory) Schools – Each laboratory school must receive its proportionate share of all categorical funds, with the exception of funds in s. 1011.68, F.S., for student transportation. Section 1002.32(17)(b), F.S., provides that charter schools are entitled to a share of categorical funds, including transportation, through the Florida Education Finance Program (FEFP).

Section 1011.71(2), F.S., District School Tax – School districts may levy up to two mills for capital outlay and related purposes. This levy may be used by school boards for the purpose of funding the following: new construction and remodeling projects, and sites and site improvement; maintenance, renovation, and repair of existing school plants; purchase, lease-purchase, or lease of motor vehicles and new and replacement equipment; payment for educational facilities and sites due under certain lease-purchase agreements; certain loan payments; payment of costs incurred in compliance with state and federal statutes; payment of costs of renting or leasing relocatable educational facilities; and payment of costs of school buses when a school district contracts with a private entity.

III. Effect of Proposed Changes:

Section 1.

This bill amends the following provisions:

² See ss. 218.50-218.504, F.S.

Section 1002.33(2), F.S., Guiding Principles – The bill requires a charter school to fulfill at least one of the five current statutory purposes as opposed to meeting all of the five requirements.

Section 1002.33(3), F.S., Application for Charter Status – The bill clarifies that a public school-within-a-school may apply for charter school conversion if the school board designates it as a school. This provision does not appear to revise current law. The provision also shortens the district school board's time to send a notice of denial from 30 days to 10 days after the meeting at which the school board denies an application for a conversion charter school.

Section 1002.33(5), F.S., Sponsor's Duties – The bill provides an exception to current law, which prohibits the sponsor's policies applying to a charter school. The sponsor and the charter school may agree to comply with the sponsor's policies. Additionally, the bill provides that if a charter school receives a "D" or "F" school grade, the director and a member of the governing board are required to appear before the sponsor at least once a year to present information about noted deficiencies and planned corrective actions. The sponsor must report to the school's director and the Department of Education (DOE) on the nature of the services being offered to assist the school.

Section 1002.33(6), F.S., Application Process and Review – The bill changes the date on which district school boards must review and consider charter school applications from August 1 to September 1, beginning with the 2007-2008 school year.

Additionally, the bill requires the school board to provide a letter of denial with documentation to the applicant and the DOE supporting the reasons for denying a charter application.

An initial start up of a charter school must coincide with the beginning of the public school calendar, unless waived by the school board. The bill expands the school board's discretion to grant a waiver from this provision by eliminating good cause as the only reason for granting a waiver.

The bill provides that the State Board of Education's decision in a charter school appellate proceeding is final action, subject to judicial review in the district court of appeal. Under the bill, the Charter School Appeals Commission would not be involved in disputes over contracts that failed to be resolved through mediation until the dispute culminates with the termination of the charter contract.

The DOE is charged with either offering or arranging training and specific technical assistance for charter school applicants in developing business plans and estimating expenses.

The bill decreases the timeframe from six to three months during which the applicant and sponsor must agree on the terms of the charter. Certain school districts have indicated that the three-month period is insufficient to negotiate a charter contract.

The bill also specifies the timeframe for providing a proposed charter to a charter school prior to a hearing on the charter application. The bill limits the jurisdiction of the administrative law hearing by excluding matters related to charter school terminations or nonrenewals.

Section 1002.33(7), F.S., Charter Schools – The charter must contain a provision requiring notice by an auditor to the charter school governing board, the sponsor, and the DOE if an audit reveals a state of financial emergency, as defined in s. 218.503, F.S. An internal auditor is tasked with reporting a state of financial emergency to the charter school principal or the administrator. A charter school that is in a state of financial emergency must file a financial recovery plan with the sponsor. The DOE is tasked with establishing guidelines for developing these plans.

The bill establishes five years as the initial term of a charter and provides that charter schools that are operated by private, not-for-profit s. 501 (c)(3) status corporation may have a 15-year charter. Certain school districts have indicated that this provision would have an unintended consequence of less charter schools being approved.

The bill eliminates the good cause termination of long-term charters; instead, a sponsor may only terminate such a charter in accordance with subsection (8). Certain school districts are concerned that this will eliminate necessary grounds for termination that are not sufficiently covered in subsection (8).

Section 1002.33(8), F.S., Causes for Nonrenewal or Termination of Charter – The bill allows a sponsor to terminate or not renew a charter if the health, safety, and welfare of children are threatened. Furthermore, the bill provides that unless the school and the sponsor agree that the school will remain open during corrective actions, a sponsor may not renew or shall terminate a charter if a school receives a school performance grade of “F” for two consecutive years. If a sponsor immediately terminates a charter, the charter’s sponsor is subject to new notification requirements. The notification must include not only the reasons for termination, but also evidence of prior notification of the reasons.

When a charter is not renewed or is terminated, the school must be dissolved and any of the school’s unencumbered public funds, except for capital outlay and federal charter school program grant funds, revert to the sponsor rather than to the district school board. Unencumbered federal charter school program grant funds revert to the DOE for redistribution to eligible charter schools.

Section 1002.33(9), F.S., Charter School Requirements – The DOE is directed to develop a uniform, on-line annual accountability report for use by charter schools to report demographic information, student performance data, and financial information. However, charter schools are not required to provide information already in the DOE’s possession.

Current law is amended to require a timetable for delivering an audit to the charter school governing board when there is an indication of a state of financial emergency. Charter schools in a state of financial emergency must timely file a financial recovery plan with the sponsor within 30 days after receipt of the audit. The bill indicates that a financial audit is conducted by a certified public accountant or an auditor. Since a certified public accountant conducts financial audits, it may not be necessary to use refer to an audit conducted by an auditor. The bill specifies that when a certified public accountant finds that a charter school is in a state of financial emergency, the school must file a financial recovery plan. Under current law, a school district or local governmental entity that needs state assistance is considered to be in a state of financial

emergency. The need is determined by the Governor or the Commissioner of Education, as appropriate.

Section 1002.33(18), F.S., Facilities – The bill provides that only start-up charter schools must use facilities that comply with the Florida Building Code. Certain school districts are concerned with the applicable facility standards for conversion charter schools. If such facilities revert, the district would want the facilities to meet existing SREF standards.

Additionally, the bill allows the following entities to provide space to a charter school within its facilities and under its existing zoning and land use designations: a library; community service facility; museum; performing arts facility; theatre; cinema; church; community college; college; or university. Charter fees are exempt from the occupational license fees.

Section 1002.33(20), F.S., Services – The bill provides that services required by a sponsor for a charter school must include exceptional student evaluation services and services related to eligibility and reporting requirements for school lunches under the National School Lunch Program that are provided by school districts at the request of the charter school. Some school districts may provide eligibility determinations for National School Lunch Program. However, evaluation services for exceptional students may not be currently provided. Accordingly, it is unclear as to what impact this would have statewide.

The administrative fee for services must be calculated based on up to five percent of available funds. The sponsor is limited to withholding up to a five percent administrative fee for enrollment for up to and including 500 students. Certain school districts have indicated that the additional services, especially the exceptional student evaluation, would significantly exceed the five percent administrative fee authorized by law.

Section 1002.33(21), F.S., Public Information on Charter Schools – The bill requires standard application formats for use by sponsors of charter schools.

Section 1002.33(22), F.S., State Board of Education Authority – The DOE must provide staff for the Charter School Review Panel, which reviews relevant issues, practices, and policies. The Legislature must review the operation of charter schools during the 2010 legislative session. The Senate Education Committee reviewed charter schools in 2005.³

Section 2.

Assistance to Students Transitioning from Military Families

The bill amends s. 1003.05, F.S., to delete charter schools as one of the special academic programs that must be available on a priority basis to dependent children of active duty military personnel. This provision is designed to protect local charter school eligible students in areas surrounding military bases.

³ Senate Interim Project Report 2005-206.

Section 3. Charter Schools Capital Outlay Funding

The bill amends s. 1013.62, F.S., to revise charter school eligibility for capital outlay funding. To be eligible for a funding allocation, a charter school must be one of the following:

- A charter school that received capital outlay funding in 2002-2003.
- A charter school that is an expanded feeder pattern of a charter school that received capital outlay funding in 2002-2003.

If an appropriation for charter school capital outlay funds is less than the 2002-2003 appropriation, the funds must be prorated among eligible schools. However, if an appropriation for these funds is greater than the 2002-2003 appropriation, the funds must be allocated to eligible schools and to charter schools that meet the existing eligibility criteria in s. 1013.62, F.S.

The bill specifies the priorities for allocating the amount in excess of the 2002-2003 appropriation:

- First priority – To prorate the excess funds among charter schools having long-term debt or a long-term lease, to the extent that the initial allocation is insufficient to provide one-fifteenth of the cost-per-student station specified in s. 1013.64(6)(b), F.S.; and
- Second priority – To other eligible charter schools.

The bill repeals the current requirements for allocating and prorating charter school capital outlay funds. The bill allows a governing body of a charter school to use capital outlay funds for furnishing and equipping school facilities.

Section 4. Annual Financial Audit Reports

This bill amends s. 218.39, F.S., to add the members of the governing board of a charter school to the list of governing boards an auditor is required to notify upon completion of an audit when a deteriorating financial condition exists that may cause one of a statutorily specified list of financial conditions to occur.

Sections 5 through 8. Financial Emergencies Act

The bill amends ss. 218.50, 218.501, 218.503, and 218.504, F.S., the Financial Emergencies Act to include charter schools in addition to local governmental entities and school boards. Should one of the specified financial conditions occur or appear to be about to occur, the charter school must notify the sponsor and the Legislative Auditing Committee. The sponsor, in turn, is to determine what is being done to resolve the condition. The sponsor may require a financial-recovery plan be prepared by the charter school governing board. The DOE is required to establish guidelines for these plans.

Section 9.
Developmental Research (Laboratory) Schools

This bill amends s. 1002.32, F.S., to allow for the use of funds for charter lab schools that elect to provide student transportation in order to fulfill the requirement for having a representative student population pursuant to s. 1002.32(4), F.S. These schools are eligible for funding pursuant to s. 1011.68, F.S.

Section 10.
District Tax

The bill allows the two mills levy to be used for district schools, including charter schools. This levy may be used to fund the purposes specified in s. 1011.71(2)(a) through (i), F.S.

Section 11.
Effective Date

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOE is charged with either offering or arranging training and specific technical assistance for charter school applicants. The DOE must also develop an on-line

accountability report. There may be some indeterminate costs associated with these requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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