

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 1569 Charter Schools
SPONSOR(S): Education Policy Council; PreK-12 Appropriations Committee; PreK-12 Policy Committee; Stargel
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	12 Y, 0 N, As CS	Beagle	Ahearn
2)	PreK-12 Appropriations Committee	8 Y, 0 N, As CS	Seifert	Heflin
3)	Education Policy Council	11 Y, 2 N, As CS	White	Lowell
4)				
5)				

SUMMARY ANALYSIS

The bill revises statutory provisions related to charter schools. Specifically, the bill:

- Removes provisions requiring specified personnel to participate in charter school applicant training.
- Clarifies that eligibility for a 15-year initial or renewal charter is not limited to charter schools that need long-term financing for charter school construction.
- Creates a “high-performing charter school” designation for a charter school that has received a school grade of “A” or “B” and has met specified financial benchmarks during the previous three years. Such a school may increase student enrollment once per year up to 25 percent above the maximum specified in its charter and receive capital outlay funds in the first year it receives the designation.
- Creates a “high-performing education service provider” designation for entities that: operate at least two high-performing charter schools; have received a school grade of “A” or “B” during the previous three years for at least 75 percent of the charter schools operated by the entity; and have not received a school grade of “F” during the previous three years for any school it operates. Such a provider may apply to establish a new charter school that will replicate one or more of its high-performing charter schools. If the application is approved, the new charter school must be granted a 15-year initial charter and designated as a high-performing charter school.
- Provides that a charter school governing board may oversee multiple charter schools in multiple districts.
- Requires a governing board to submit quarterly, rather than monthly, financial statements to the sponsor.
- Clarifies that charter schools-in-the-workplace and charter schools-in-a-municipality may give an enrollment preference to certain students.
- Prohibits school districts from requiring the resignation of instructional personnel, school administrators, and educational support personnel who desire employment in a charter school.
- Provides that a nonprofit organization may operate an affiliated network of charter schools across the state and that the network may be operated by a central governing board.
- Revises the requirements for establishing a charter school-in-the-workplace and clarifies that such schools may receive charter school capital outlay funding.
- Exempts charter schools from local government exactions and prohibits local governments from imposing building or site requirements more stringent than the State Requirements for Educational Facilities.
- Revises provisions requiring certain charter schools to report student assessment data and relaxes restrictions on the employment of relatives by charter schools.
- Adds furniture, equipment, and computer hardware, software, and network systems as allowable expenditures of charter school capital outlay funding.
- Requires the Office of Program Policy Analysis and Government Accountability to conduct a study comparing the funding of charter schools with traditional public schools.

The bill does not appear to have a fiscal impact on state government, but the bill will reduce the amount of revenue local governments receive from exactions. See “Fiscal Analysis & Economic Impact Statement.”

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter Schools Overview

In 1996, the Legislature enacted Florida's first charter school law.¹ A charter school is a nonsectarian, public school that operates under a performance contract, referred to as a "charter," with its sponsor. The charter frees the school from many regulations applicable to traditional public schools in order to encourage the use of innovative learning methods, while holding the school accountable for academic and financial results.² A charter school may be sponsored by a district school board or, in the case of a charter lab school, by a state university.³ Each charter school is administered by a governing board.⁴

Charter schools are subject to the same academic performance accountability requirements applicable to traditional public schools; i.e., charter school students must take the Florida Comprehensive Assessment Test (FCAT) and charter schools are graded annually.⁵

Since 1996, the number of charter schools in Florida has grown from five to 410 as of December 2010. These schools currently serve 137,073 students across the state.⁶

Application Process and Review

Present Situation

Charter school applicants must participate in training provided by the Department of Education (DOE) or, under specified circumstances, by the sponsor before filing an application. If the applicant is a management company or other nonprofit organization, the charter school principal and chief financial officer must participate in the training. The training must include instruction in accurate financial planning and good business practices.⁷

¹ Chapter 96-186, L.O.F., *initially codified as* § 228.056, F.S., *redesignated in 2002 as* § 1002.33, F.S.

² Section 1002.33(1), (2), (7), (9), (16), & (17), F.S.

³ Section 1002.33(5)(a), F.S.

⁴ Section 1002.33(9)(h)-(j), F.S.

⁵ Section 1002.33(7)(a)4. & (9)(k)1., F.S.

⁶ E-mail from staff of the Florida Department of Education, Office of Independent Education and Parental Choice (March 15, 2010, 6:28 PM EST).

⁷ Section 1002.33(6)(g), F.S.

Effect of Proposed Changes

The bill removes provisions requiring a charter school's principal and chief financial officer to participate in charter school applicant training as these positions are typically not filled until after the charter school application has been filed and approved.

Long-Term Charter

Present Situation

The initial term of a charter must be four or five years; however, if approved by the district school board, a charter school may be granted an initial charter for a term of up to 15 years. Such long-term charters are subject to annual review and may be terminated during the term for reasons currently specified in statute.⁸

Current law also provides opportunities for charter schools that demonstrate strong academic performance and fiscal stability to be granted a long-term charter renewal. A sponsor:

1. May grant a 15-year charter renewal to a charter school: (a) that has operated for at least three years; (b) that demonstrates exemplary academic programming and fiscal management; and (c) for which none of the grounds for nonrenewal have been documented.⁹ Such a long-term charter is subject to annual review and may be terminated during its term.¹⁰
2. Must grant a 15-year charter renewal to a charter school that meets the requirements expressed in Number 1., receives a school grade of "A" or "B" in three out of four years, and is not in a state of financial emergency or deficit position.¹¹ If granted, a long-term charter is subject to annual review and may be terminated during the term for reasons currently specified in statute.¹²

Statutory provisions governing the granting of long-term initial charters and charter renewals suggest that the purpose of such charters is to facilitate access to long-term financial resources for charter school construction.¹³ According to the DOE, this provision has been misinterpreted by some school districts to limit the granting of long-term initial charters and charter renewals only to charter schools that need long-term financing.¹⁴

Effect of Proposed Changes

The bill deletes statutory provisions suggesting that the purpose of long-term initial charters and charter renewals is to facilitate access to long-term financial resources for charter school construction.

Charter School Governing Boards

Present Situation

Each charter school must have a governing board that is responsible for exercising continuing oversight over the school's operations. A governing board performs various functions, including annual budgeting and financial matters, monthly financial reporting, personnel matters, contracting for instructional and

⁸ Section 1002.33(7)(a)12., F.S. A charter may be terminated or not renewed for: failure to participate in the state's education accountability system or failure to meet the charter's requirements for student performance; failure to meet generally accepted standards of fiscal management; violation of law; or other good cause shown. Section 1002.33(8)(a), F.S.

⁹ Section 1002.33(7)(b)1., F.S.

¹⁰ Section 1002.33(7)(b)1., F.S.

¹¹ Section 1002.33(7)(b)2., F.S..

¹² *Id.*

¹³ Section 1002.33(7)(a)12. & (b), F.S.

¹⁴ Email from staff of the Florida Department of Education, Office of Independent Education and Parental Choice (Mar. 30, 2010, 6:20 PM EST).

administrative services, and submitting the school's annual progress report to the sponsor.¹⁵ In addition, a governing board must ensure that the charter school has retained the services of a certified public accountant or auditor for its annual financial audit and must review and approve audit reports.¹⁶ Current law is silent as to whether a governing board may oversee more than one charter school.

Effect of Proposed Changes

The bill expressly authorizes a charter school governing board to oversee more than one charter school in more than one school district. In addition, the bill authorizes a nonprofit organization to operate multiple charter schools across the state, which have been approved by a sponsor under s. 1002.33, F.S., as a network of affiliated schools that may share a common mission, identity, curricula, and best practices. A charter school network may be operated by a central governing board that governs all of the charter schools or by a central governing board and local governing boards appointed by the central governing board.

High-Performing Charter Schools

Present Situation

Florida law does not currently include a program for designating charter schools as "high-performing charter schools" based on academic performance and financial stability. However, academic performance and financial stability are factors in awarding charter school capital outlay funding and 15-year charter renewal.¹⁷ The student capacity of a charter school is annually determined by the governing board, in conjunction with the sponsor.¹⁸

Effect of Proposed Changes

The bill establishes a "high-performing charter school" designation for a charter school that during each of the three previous years:

- Has received a school grade of "A" or "B";
- Has received an unqualified opinion on each financial audit required under s. 218.39; and
- Did not receive an annual financial audit that reveals a financial emergency condition.¹⁹

In order to retain the high-performing designation, the charter school must annually demonstrate in writing to its sponsor that it continues to meet these requirements.

A high-performing charter school may:

- Increase the school's enrollment once per year by up to 25 percent of the maximum enrollment specified in the charter; and
- Receive charter school capital outlay funds beginning with the first year it receives a high-performing designation.²⁰

¹⁵ Section 1002.33(9)(h),(i), and (k), (10)(g), (12)(f), & (20), F.S.

¹⁶ Section 1002.33(9)(j), F.S.

¹⁷ See text accompanying notes 9-12 and 44.

¹⁸ Section 1002.33(10)(h), F.S.

¹⁹ See *supra* note 24.

²⁰ Under current law in order to receive charter school capital outlay funding, a charter school, among other things, must have been in operation for at least three years; be governed by a governing board established in the state for three or more years which operates both charter schools and conversion charter schools; be part of an expanded feeder chain with an existing charter school in the district; or be accredited by the Southern Association of Colleges and Schools. Additionally, the charter school must demonstrate financial stability and demonstrate satisfactory student performance. Section 1013.62(1)(a)1.-3., F.S. Under the bill, a high-performing charter school is not required to satisfy these criteria because the criteria for the high-performing charter school designation establish that the charter school has a track record of successful operations, strong academic performance, and fiscal stability.

The bill also establishes a “high-performing education service provider” designation. Such a provider is a municipality or other public entity that is authorized by law to operate a charter school; a private, not-for-profit, s. 501(c)(3) status corporation; or a private, for-profit corporation that:

- Operates at least two high-performing charter schools in Florida;
- Has received a school grade of “A” or “B” during the previous three years for at least 75 percent of the charter schools operated by the provider in Florida; and
- Has not received a school grade of “F” during the previous three years for any charter school operated by the provider in Florida.

A high-performing service provider may submit an application to establish and operate a new charter school that will replicate one or more of the provider’s existing high-performing charter schools. Upon approval of the application, the newly created charter school must be designated as a high-performing charter school and issued a 15-year charter. The 15-year charter is subject to annual review and may be terminated for reasons currently specified in statute.²¹

In the first three years of operation, a charter school established by a high-performing education service provider may retain the high-performing charter school designation for as long as the provider operating the school maintains its status as a high-performing education service provider. Thereafter, the charter school must annually demonstrate in writing to its sponsor that meets the requirements applicable to other high-performing charter schools.

Financial Monitoring

Present Situation

Legislation enacted in 2009 requires each charter school to provide a monthly financial statement to its sponsor.²² Monthly financial statements enable sponsors to closely monitor the financial health of sponsored charter schools. If a monthly financial statement indicates a deteriorating financial condition²³ or financial emergency condition,²⁴ the sponsor and governing board must develop a corrective action plan.²⁵

Effect of Proposed Changes

The bill requires a charter school to provide a quarterly, instead of monthly, financial statement to the sponsor. If an annual financial audit or quarterly financial statement reveals a deteriorating financial condition or the charter school is determined to be in a state of financial emergency, such school must provide monthly financial statements.

Student Enrollment Eligibility

Present Situation

Florida law authorizes all charter schools to give an enrollment preference to the siblings of current charter school students, children of a member of the charter school governing board, or children of charter school employees.²⁶ A charter school-in-the-workplace must enroll students based on a random

²¹ See *supra* note 10.

²² Section 7, ch. 2009-214, L.O.F.; § 1002.33(10)(g), F.S.

²³ “Deteriorating financial condition” means a circumstance that significantly impairs the ability of a charter school or a charter technical career center to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1).” Section 1002.345(1)(a)3., F.S.

²⁴ 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; failure for one pay period to pay, wages, salaries, and retirement benefits owed; a fund balance or total net assets deficit. Section 218.503(1), F.S.

²⁵ Section 1002.345(1)(a) & (c), F.S.

²⁶ Section 1002.33(10)(d), F.S.

lottery that involves all children seeking enrollment whose parents are employed by the business partner associated with the school. Similarly, a charter school-in-a-municipality must enroll students based on a random lottery that involves all children seeking enrollment whose parents are residents of the municipality that operates the school.²⁷ Current law authorizes a charter school-in-the-workplace and a charter school-in-a-municipality to limit enrollment to children of employees and children of residents, respectively.²⁸ However, the law does not expressly state that a charter school-in-the-workplace or charter school-in-a-municipality may grant an *enrollment preference* to these students.²⁹

Effect of Proposed Changes

The bill clarifies that a charter school-in-the-workplace may give an enrollment preference to children whose parents are employed by the business partner associated with the school. Likewise, the bill clarifies that a charter school-in-a-municipality may give an enrollment preference to children whose parents are residents of the municipality.

Charter School Employees

Present Situation

Under current law, a school district employee may take leave to work in a charter school if approved by the district school board. School districts are prohibited from requiring the resignation of a teacher who expresses a desire to teach in a charter school.³⁰

Effect of Proposed Changes

The bill prohibits a school district from requiring the resignation of instructional personnel, school administrators, and educational support employees who desire employment in a charter school. Currently, this prohibition applies only to teachers.

Charter Schools-in-the-Workplace

Present Situation

Charter schools-in-the-workplace are sponsored by local school districts in partnership with a company or business. In order to establish a charter school-in-the-workplace, the business partner must, among other things, provide the school facility to be used.³¹ Any portion of a facility used for a public charter school is exempt from ad valorem taxes as long as it is used as a public school.³²

Effect of Proposed Changes

The bill revises the requirement that a business partner provide the school facility for a charter school-in-the-workplace to instead allow the business partner to provide one of the following

- Access to a school facility to be used;
- Resources that materially reduce the cost of constructing a school facility;
- Land for a school facility; or
- Resources to maintain a school facility.

The bill also clarifies that a charter school-in-the workplace may receive capital outlay funding, provided that the school complies with the statutory requirements for the receipt of such funding.

²⁷ Section 1002.33(15)(b) & (c), F.S.

²⁸ Section 1002.33(10)(e)3., F.S.

²⁹ E-mail from staff of the Florida Department of Education, Office of Independent Education and Parental Choice (March 30, 2010, 6:20 PM EST). The DOE has interpreted the charter school statute to permit these charter schools to grant enrollment preferences. *Id.*

³⁰ Section 1002.33(12)(e), F.S.

³¹ Section 1002.33(15)(b), F.S.

³² Section 1002.33(15)(b), F.S. (flush-left provisions at end of paragraph).

Charter School Facilities

Present Situation

Charter schools are exempt from compliance with the State Requirements for Educational Facilities (SREF), but must comply with the Florida Building Code and Florida Fire Prevention Code. A charter school may voluntarily choose to comply with the SREF.³³

A local governing authority may not impose local building requirements or restrictions on charter school facilities that are more stringent than the Florida Building Code. For purposes of inspecting a facility and issuing of a certificate of occupancy, the agency with jurisdiction is the local municipality or, if in an unincorporated area, the county governing authority.³⁴

Impact fees and exactions are used by local governments to control development and offset its impact on local infrastructure and services. Unless superseded by constitutional or statutory provisions, local governments have broad authority to impose impact fees or exactions on development.³⁵ Charter schools are statutorily exempted from impact fees, but are not currently exempt from exactions imposed by local governments.³⁶

Effect of Proposed Changes

The bill clarifies that a charter school may choose to comply with *any or all* components of the SREF. Current law prohibits a local governing authority from imposing local building requirements or restrictions on charter schools that are more stringent than the Florida Building Code. Instead, the bill revises this provision to prohibit such authorities from imposing local building requirements or *site development* restrictions, *such as parking and site-size criteria*, that are more stringent than the SREF. The bill adds that, for the purpose of issuing a *certificate of use*, the agency with jurisdiction is the local municipality or county governing authority. The bill expressly exempts charter school facilities from exactions imposed by local governments.

Resolution of Contractual Disputes

Present Situation

Goods and services that a school district provides to a charter school pursuant to the charter must be provided at a rate no greater than the district's actual cost. The school district may charge more for goods and services provided pursuant to a contract negotiated separately from the charter. When mediation has failed to resolve contractual disputes over matters negotiated separately from the charter, an appeal may be made for a dispute resolution hearing before the Charter School Appeal Commission (CSAC).³⁷

Effect of Proposed Changes

The bill deletes provisions authorizing a charter school to request a dispute resolution hearing before the CSAC regarding contractual disputes over matters negotiated separately from the charter. This provision is deleted because the CSAC has no authority to issue a binding order to resolve such contractual disputes. Under current law, the CSAC is an advisory body that considers appeals of

³³ Section 1002.33(18)(a) & (b), F.S. A conversion charter school is an existing public school that converts to charter status. Such schools are not exempt from compliance with the SREF. Section 1002.33(3)(b) & (18)(a), F.S.

³⁴ *Id.*

³⁵ Fla. Const. art. VIII §§ 1(f)-(g) & 2(b); § 125.01(1) & (3), F.S.; § 166.021(1)-(4), F.S.; *Hollywood, Inc. v. Broward County, Florida*, 431 So. 2d 606, 609-610 (4th D.C.A.) (Holding that Florida counties have implicit authority to impose impact fees or exactions on development so long as such fee or exaction is: (1) not inconsistent with general law; and (2) rationally related to the need for additional infrastructure or services caused by the development).

³⁶ Section 1002.33(18)(d), F.S.

³⁷ Section 1002.33(20)(b), F.S.

charter school application denials and charter terminations or nonrenewals and recommends action to the State Board of Education.³⁸

Public Information on Charter Schools

Present Situation

Legislation enacted in 2009 requires the DOE to report student assessment data to charter schools that do not receive a school grade or a school improvement rating, but which serve at least 10 students who are tested on the FCAT. A charter school is then required to report such information to the parent of a student attending the charter school, the parent of a child on the charter school's waiting list, the district in which the charter school is located, and the governing board of the charter school.³⁹ Each charter school must provide such information on its internet website and also provide notice to the public at large.⁴⁰ Reporting of data must comply with federal law governing education records privacy.⁴¹

Effect of Proposed Changes

The bill removes the requirement that specified smaller charter schools, which do not receive a school grade or school improvement rating, report student assessment data to the parents of students who attend the school or who are on the school's waiting list. Such charter schools must continue to report this information to the school district in which the charter school is located and governing board of the charter school and on its Internet website.

Restriction of Employment of Relatives

Present Situation

Legislation enacted in 2009 prohibits personnel in a charter school operated by a private entity from appointing, employing, promoting, or advancing, or advocating for the appointment, employment, promotion, or advancement of a relative in the school in which the personnel works or exercises jurisdiction or control. Further, the law prohibits an individual from being appointed, employed, promoted, or advanced in or to a position in the charter school if such action has been advocated by the individual's relative who serves in or exercises jurisdiction or control over the charter school, or if such appointment, employment, promotion, or advancement is made by the governing board of which a relative of the individual is a member.⁴²

Effect of Proposed Changes

The bill relaxes the restrictions on employment of relatives by prohibiting charter school personnel from *knowingly* recommending or engaging in the employment, promotion, or assignment of an individual or employee to a work location if that action will create a situation in which one employee will be responsible for the direct supervision of, or exercise jurisdiction or control over, a relative. The bill provides that the Commissioner of Education or the sponsor may make exceptions to this provision if it would cause undue hardship on students or seriously disrupt a charter school's operations.

Charter School Capital Outlay Funding

Present Situation

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

- Have been in operation for at least 3 years; be governed by a governing board established in

³⁸ Section 1002.33(6)(f), F.S.

³⁹ Section 7, ch. 2009-214, L.O.F.; § 1002.33(21)(b)1. & 2., F.S.

⁴⁰ Section 1002.33(21)(b)3.b., F.S.

⁴¹ Section 1002.33(21)(b)2., F.S.; *See* 20 U.S.C. § 1232g.

⁴² Section 7, ch. 2009-214, L.O.F.; § 1002.33(24), F.S.

the state for three or more years which operates both charter schools and conversion charter schools; be part of an expanded feeder chain with an existing charter school in the district; or be accredited by the Southern Association of Colleges and Schools;

- Demonstrate financial stability;
- Have satisfactory student performance;
- Have received final approval from its sponsor; and
- Serve students in facilities not provided by the charter school sponsor.⁴³

Capital outlay funds may be used by a charter school for the:

- 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.
- Purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications.
- 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.⁴⁴

Enterprise resource software applications must be "classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support school-wide administration or state-mandated reporting requirements."⁴⁵

Effect of Proposed Changes

The bill adds the purchase of equipment, furniture, and computer software, hardware, and network systems to the list of allowable uses of charter school capital outlay funding. Equipment is already an allowable use of these funds.

Charter School Funding Study

The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study comparing the funding of charter schools and traditional public schools. The study must:

- Identify school districts that distribute to charter schools funds generated by millage for capital improvements and the use of such funds by charter schools.
- Determine the amount of funds that would be available to charter schools if school districts equitably distributed funds generated by millage for capital improvements.
- Examine the costs associated with supervising charter schools and determine if the five percent administrative fee paid for sponsor-provided administrative and educational services covers the cost of such services.

OPPAGA must make recommendations, if warranted, for improving the accountability and equity of the charter school funding system based on the study. The results of the study must be reported to the Governor and Legislature by January 1, 2011.

⁴³ Section 1013.62(1)(a)1.-5., F.S.

⁴⁴ Section 1013.62(2), F.S.

⁴⁵ Section 1013.62(2)(f), F.S.

Technical Correction

Legislation enacted in 2009 requires governing board members of a charter school operated by a municipality or other public entity to make certain financial disclosures. The legislation cross-referenced the wrong section of law, thereby inadvertently subjecting the board members to the financial disclosure requirements for elected constitutional officers, rather than those for local officers. The bill corrects this cross-reference.

B. SECTION DIRECTORY:

Section 1: Amends s. 1002.33, F.S.; revises charter school applicant training requirements; revises provisions related to 15-year charter renewal; revises provisions related to charter school governing boards; establishes a high-performing charter school designation; revises financial reporting requirements; authorizes an enrollment preference; prohibits school districts from requiring the resignation of certain employees; revises the requirements for establishment of a charter school-in-the-workplace; authorizes charter schools to choose to comply with any or all requirements of the SREF; prohibits local governing authorities from imposing certain requirements or restrictions on charter school facilities; provides for an exemption from certain exactions; revises provisions related to the resolution of contractual disputes; revises a reporting requirement; revises restrictions on the employment of relatives, corrects a cross-reference related to financial disclosures.

Section 2: Amends s. 1013.62, F.S.; authorizes additional uses for charter school capital outlay funds.

Section 3: Amends s. 163.3180, F.S.; conforms cross-references.

Section 4: Amends s. 1002.32, F.S.; conforms cross-references.

Section 5: Amends s. 1002.34, F.S.; conforms cross-references.

Section 6: Amends s. 1002.345, F.S.; conforms to bill provisions related to financial reporting; conforms cross-references.

Section 7: Amends s. 1011.68, F.S.; conforms cross-references.

Section 8: Amends s. 1012.32, F.S.; conforms cross-references.

Section 9: Provides for an OPPAGA study.

Section 10: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments may experience a reduction in revenue resulting from the exemption of charter schools from exactions imposed by local ordinance.

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "Fiscal Comments" below.

D. FISCAL COMMENTS:

The bill may have a positive fiscal impact on new charter schools established by high-performing education service providers as the bill authorizes these new schools to receive capital outlay funding during their first year of operation. Under current law, charter schools must have typically operated for three years before they are eligible for capital outlay funding.

Conversely, the bill may have a negative fiscal impact on charter schools currently receiving capital outlay funding due to the potential that the bill will increase the number of charter schools eligible for the funding. Charter school capital outlay funds are appropriated in a fixed amount annually; thus, the amount available to be disbursed to each eligible school may be reduced.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Fixed Capital Outlay: The bill authorizes charter schools to use capital outlay funding to purchase furniture; equipment; and computer software, hardware, and network systems. Expenditure of capital outlay funds on equipment is already authorized under current law. Current law specifies limited and defined purposes for use of capital outlay funds.⁴⁶

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the PreK-12 Policy Committee adopted a strike-all amendment to HB 1569 and reported the bill favorably as a committee substitute. The strike-all amendment removes provisions from the original bill:

- Authorizing private universities and public entities to sponsor charter lab schools.

⁴⁶ See *supra* text accompanying note 37.

- Requiring a charter school sponsor to show good cause to the Commissioner of Education before terminating or not renewing a charter school's charter for cause.
- Requiring charter schools to comply with constitutional class size requirements and providing that compliance is to be measured at the school-level.
- Requiring school districts to share discretionary millage for capital improvements with charter schools.

In addition, the strike-all amendment adds provisions requiring OPPAGA to conduct a study comparing the funding of charter schools with traditional public schools. The study must:

- Identify school districts that distribute to charter schools funds generated by millage for capital improvements and the use of such funds by charter schools.
- Determine the amount of funds that would be available to charter schools if school districts equitably distributed funds generated by millage for capital improvements.
- Examine the costs associated with supervising charter schools and determine if the five percent administrative fee for sponsor-provided administrative and educational services covers the cost of such services.

OPPAGA must make recommendations, if warranted, for improving the accountability and equity of the charter school funding system based on the study. The results of the study must be reported to the Governor and Legislature by January 1, 2011.

On March 26, 2010, the PreK-12 Appropriations Committee adopted four amendments and reported the bill favorably as a committee substitute. These amendments made the following changes to the bill:

- **Amendment 1:**
 - Adds provisions clarifying that a charter school may choose to comply with *any or all* components of the SREF.
 - Adds provisions prohibiting a local governing authority from imposing local building requirements or *site development* restrictions, *such as parking and site-size criteria*, that are more stringent than the SREF.
 - Deletes provisions prohibiting a school district from imposing more stringent facilities requirements than the local governing authority.
- **Amendment 2:**
 - Adds provisions requiring the State Board of Education to adopt rules defining reasons that would constitute "good cause" for nonrenewal or termination of a charter.
- **Amendment 3:**
 - Removes provisions requiring the principal and the chief financial officer of a charter school to participate in charter school applicant training.
- **Amendment 4:**
 - Revises provisions requiring a charter school to submit quarterly, rather than monthly financial statements, by adding a requirement that a charter school must revert back to monthly financial statements if an annual financial audit or quarterly financial statement reveals a deteriorating financial condition.

On April 16, 2010, the Education Policy Council adopted a Proposed Committee Substitute (PCS) to CS/CS/HB 1569 and reported the bill favorably as a committee substitute. The PCS adds new provisions to the bill that:

- Delete current statute suggesting that the purpose of long-term initial charters and charter renewals is to facilitate access to long-term financial resources for charter school construction.
- Delete current statute authorizing a charter school to request a dispute resolution hearing before the Charter School Appeal Commission regarding certain contractual disputes.

- Clarify that charter schools-in-the-workplace and charter schools-in-a-municipality may give an enrollment preference to certain students.
- Prohibit school districts from requiring the resignation of specified personnel who desire employment in a charter school.
- Authorize a charter school governing board to oversee multiple charter schools in multiple school districts.
- Authorize a nonprofit organization to operate multiple charter schools across the state as a network of affiliated schools. A charter school network may be operated by a central governing board that governs all of the member charter schools or by a central governing board and local governing boards appointed by the central governing board.

The PCS revises existing bill provisions by:

- Removing provisions that entitled a high-performing charter school to an automatic 15-year charter renewal, automatic qualification for grants, and extension of the charter school application deadline.
- Providing that high-performing charter schools may increase enrollment by *up to 25 percent annually*.
- Creating a high-performing education service provider designation for certain entities that operate charter schools and authorizing such a provider to apply to establish a new charter school that will replicate one or more of the provider's existing high-performing charter schools.
- Removing a requirement that the State Board of Education adopt rules defining good cause for charter terminations and nonrenewals.
- Restoring current law requiring certain charter schools to report student assessment data to its school district and governing board.