

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

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

Prepared By: The Professional Staff of the Education Pre-K - 12 Appropriations Committee

BILL: CS/SB 2262

INTRODUCER: Education Pre-K - 12 Committee and Senator Thrasher

SUBJECT: Education/Virtual School

DATE: April 19, 2010                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>Matthews</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Armstrong</u>	<u>Hamon</u>	<u>EA</u>	<b>Favorable</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

The bill authorizes the establishment of charter virtual schools.

The bill permits an approved provider of virtual instruction that has a district-approved charter to establish a charter virtual school and provide virtual instruction to students who reside in the district in which the charter is granted.

Charter virtual schools are subject to the same requirements as other providers in the district virtual instruction program (VIP) with respect to definitions, provider qualifications, virtual instruction, contract requirements, student participation, and assessment and accountability.

The bill provides for funding for a charter virtual school, reporting full-time equivalent (FTE) students through the Florida Education Finance Program (FEFP), and an annual allocation for operations. Under the bill, a charter virtual school will receive an allocation that is equivalent to the funds per unweighted student for the Florida Virtual School (FLVS).

This bill creates section 1002.46 of the Florida Statutes.

## II. Present Situation:

### Florida Virtual Instruction

A virtual instruction program is instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.<sup>1</sup> Virtual courses may be offered on a part-time or full-time basis. A Florida certified teacher is responsible for at least 50 percent of the direct instruction to students in kindergarten through grade 5 or 80 percent of the direct instruction to students in grades 6 through 12.<sup>2</sup>

### Types of Virtual Instruction Programs Offered in Florida

Florida currently offers three virtual instruction programs:

- The school district virtual instruction program (VIP) provides full-time virtual courses for students in kindergarten through grade twelve and full-time or part-time courses for students enrolled in dropout prevention and academic intervention programs or Department of Juvenile Justice (DJJ) education programs in grades nine through 12.<sup>3</sup>
- The Florida Virtual School (FLVS) provides virtual education courses to students in grades six through 12 and through district franchise programs.<sup>4</sup>
- The statewide K-8 Virtual School program provides a full-time virtual instruction program to eligible students in kindergarten through grade eight.<sup>5</sup> This program is currently being phased-out and incorporated into the VIP program.<sup>6</sup> Existing students are allowed to complete the program.<sup>7</sup>

### School District Virtual Instruction Program (VIP)

Virtual instruction programs are a component of the K-20 public education system.<sup>8</sup> District programs are included among the public school choice options available to parents and students.<sup>9</sup> In 2008, the Legislature required each school district to establish its own virtual instruction program by the 2009-2010 school year.<sup>10</sup> Districts were authorized, but not required, to offer a virtual instruction program for the 2008-2009 school year.<sup>11</sup>

### *Student Eligibility*<sup>12</sup>

Enrollment in a school district virtual instruction program is open to any student residing in the district who meets at least one of the following conditions:

<sup>1</sup> ch. 2009-59, L.O.F., codified in s. 1002.45 (1)(a)2., F.S.

<sup>2</sup> s. 1002.45(1)(a)2., F.S.

<sup>3</sup> s. 1002.45(1)(b), F.S.

<sup>4</sup> ss. 1002.37 and 1011.61(1)(c) 1.b.(V), F.S.

<sup>5</sup> Until 2009-2010, the K-8 Virtual School program was funded by a specific line-item appropriation in the General Appropriations Act (GAA). Proviso set forth the amount authorized per full-time equivalent student. Chapter 2006-48, L.O.F., established the statutory framework for the program, which was codified in s. 1002.415, F.S.

<sup>6</sup> Phase-out proviso language is incorporated into the FEFP line-item in the 2009-2010 GAA (Specific Appropriations 5A and 76, s. 1, ch. 2009-81, L.O.F.)

<sup>7</sup> s. 1002.45(5)(c), F.S.

<sup>8</sup> s. 1000.04(1), F.S.

<sup>9</sup> s 1002.20(6)(a) and 1002.31(2), F.S.

<sup>10</sup> s. 4, ch. 2008-147, L.O.F.

<sup>11</sup> s. 1002.45(11), F.S. (2008). The school district virtual instruction program was further modified by ch. 2009-59, L.O.F.

<sup>12</sup> s. 1002.45(5), F.S.

- The student attended a Florida public school during the prior year and was reported for funding during the October and February Florida Education Finance Program (FEFP) surveys.
- The student is the dependent child of a member of the military who transfers into Florida with his or her parent from another state or country within 12 months of seeking enrollment in a district virtual instruction program.
- The student was enrolled in a district virtual instruction program<sup>13</sup> or K-8 Virtual School program during the prior school year.

Participating students must comply with the compulsory school attendance requirements which must be verified by the district. Students must also participate in the state assessment program.<sup>14</sup>

### ***Eligible Providers***<sup>15</sup>

Each school district may:

- Contract with one or more virtual instruction providers approved by the DOE;
- Contract with the FLVS;
- Establish a franchise of the FLVS; or
- Participate in multi-district agreements to provide virtual instruction services.

Multidistrict agreements may be executed by regional consortiums on behalf of their member districts.<sup>16</sup> A charter school may enter a joint agreement with the school district in which it is located to have its students participate in the district's program.<sup>17</sup>

Annually, the DOE must provide school districts with a list of providers approved to offer virtual instruction programs.<sup>18</sup> The law grants approved-provider status to the FLVS. To obtain DOE approval, a private provider of virtual instruction programs must document that it:<sup>19</sup>

- Is nonsectarian in its programs, admission policies, employment practices, and operations;
- Complies with statutory antidiscrimination provisions;
- Locates its administrative offices in the state;
- Requires all administrative personnel to be Florida residents;
- Requires all instructional staff to be Florida-certified teachers;
- Subjects all employees or contract personnel to background screening;
- Has prior successful experience offering online courses to K-12 students; and
- Is accredited by a specific entity.<sup>20</sup>

<sup>13</sup> In 2008-2009, eligibility at the high school level was limited to the DJJ programs, dropout prevention programs, and career and vocational programs. See s. 1002.45(7)(c), F.S. (2008).

<sup>14</sup> s. 1002.45(6), F.S.

<sup>15</sup> s. 1002.45(1)(c), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> s. 1002.45(1)(d), F.S.

<sup>18</sup> s. 1002.45(2), F.S.

<sup>19</sup> *Id.* Rule 6A-8.0981, L.O.F.

<sup>20</sup> The Southern Association of Colleges and Schools Council on Accreditation and School Improvement, the North Central Association Commission on Accreditation and School Improvement, the Middle States Association of Colleges and Schools Commission on Elementary Schools and Commission on Secondary Schools, the New England Association of Schools and

On March 12, 2010, the DOE notified districts that it approved the following providers for the next three years: Advanced Academics (Grades 6-12); Educational Options, Inc. (Grades 6-12); Florida Connections Academy, L.L.C. (Grades K-12); Kaplan Virtual Education (Grades 6-12); K12 Florida, L.L.C. (Grades K-12); and National Network of Digital Schools (Grades 6-12).<sup>21</sup>

***Program Criteria and Contract Requirements***<sup>22</sup>

Each virtual instruction program must:

- Align its curriculum and content to the Sunshine State Standards;
- Design instruction to enable students to achieve proficiency in each virtual course;
- Provide each student with all necessary instructional materials;
- Provide each full time student, when appropriate, all necessary computer equipment and access to, or reimbursement for, Internet services; and
- Not require tuition or student registration fees.

Each contract with an approved provider must at a minimum:

- Set forth a detailed curriculum plan that illustrates how students will be provided services to attain proficiency on the Sunshine State Standards;
- Provide a method for determining that a student has satisfied the requirements for graduation if the contract is for the provision of a full-time virtual instruction program to students in grades 9 through 12;
- Specify a method for resolving conflicts among the parties;
- Specify authorized reasons for termination of the contract; and
- Require the approved provider to be responsible for all debts of the school district virtual instruction program if the contract is not renewed or is terminated.

***Accountability***

Each provider of a school district virtual instruction program receives a school grade or a school improvement rating, as applicable.<sup>23</sup> A provider's school grade or school improvement rating is based upon the aggregated assessment scores of all students served by the provider statewide. The performance of part-time students in grades nine through 12 will be factored into the school grade or school improvement ratings of the student's nonvirtual school of record.<sup>24</sup>

An approved provider that receives a school grade of "D" or "F" or a school improvement rating of "Declining" must file with the DOE a school improvement plan for correcting low performance. An approved provider's contract must be terminated if the provider receives a school grade of "D" or "F" or a school improvement rating of "Declining" for any two years

Colleges, the Northwest Association of Accredited Schools, the Western Association of Schools and Colleges, or the Commission on International and Trans-Regional Accreditation.

<sup>21</sup> DOE, March 12, 2010. See <http://www.fldoe.org/Schools/virtual-schools/pdf/VIPApprovedProviders.pdf>. The six approved providers operate in a number of school districts: K12 Florida and Florida Connections Academy (FLVSCA) have contracts with over 40 districts each; Educational Options and Kaplan Virtual Education have contracts with fewer than five districts; and Advanced Academics has a contract with one district. CompuHigh does not have any contracts. The FLVS is also an approved provider and currently has contracts with over 50 districts.

<sup>22</sup> s. 1002.45(3) and (4), F.S.

<sup>23</sup> ss. 1008.34 and 1008.341, F.S.

<sup>24</sup> s. 1002.45(8), F.S.

during a four-year period. A provider that has a contract terminated may not be an approved provider for a period of at least one year and until the DOE determines that the provider qualifies for participation in the program and has corrected each cause of the provider's low performance.<sup>25</sup>

### ***Funding***

District virtual instruction programs are funded through the FEFP.<sup>26</sup> Students in full-time kindergarten through grade five programs are funded based on program completion and promotion to the next grade-level.<sup>27</sup>

Full and part-time students in grades six through 12 are funded on a credit completion basis. Funding is only received if the course is successfully completed.<sup>28</sup> Six credits equal one full-time equivalent (FTE) student. Half credit completions are included in determining an FTE student.<sup>29</sup> For this program, districts may only earn one FTE per student, per school year and they are not eligible for summer school FTE funding.<sup>30</sup>

If a district contracts with a provider, funding flows to the district and the provider is paid by the district pursuant to the terms of the contract.<sup>31</sup> Districts may use FEFP funds to provide equipment or Internet access to students under appropriate circumstances.<sup>32</sup>

### **Florida Virtual School**

The FLVS is an online school offering virtual education for students in grades six through 12.<sup>33</sup> The FLVS may provide services to school districts under the school district virtual instruction program.<sup>34</sup> It offers more than 90 courses that include core subjects, foreign languages, electives, honors, and advanced placement.<sup>35</sup> All FLVS courses are delivered over the Internet. Students have access to these courses at any time during the day. Certified teachers guide students through these courses and communicate with them on a regular basis via phone, e-mail, instant

<sup>25</sup> *Id.*

<sup>26</sup> s. 1002.45(7), F.S.

<sup>27</sup> s. 1011.61(1)(c)1.b.(III), F.S.

<sup>28</sup> A "successful completion" for students in grades K-5 is completion of a basic education program and promotion to a higher grade level. "Successful completion" for students in grades 6-12 is based on course credits earned for high school students or course completions with a passing grade for middle school students. See DOE, *School District Virtual Instruction Program (SB 1676) Questions and Answers #1*, available at: <http://www.fldoe.org/Schools/virtual-schools/pdf/DistrictVIP-FAQ.pdf>.

<sup>29</sup> s. 1011.61(1)(c)1.b.(IV), F.S.

<sup>30</sup> DOE, Office of Funding and Financial Reporting, *FTE General Instructions (2008-2009)*, See <http://www.fldoe.org/fefp/pdf/Instructions08-09.pdf>.

<sup>31</sup> DOE, *School District Virtual Instruction Program (SB 1676) Questions and Answers #1*, available at: <http://www.fldoe.org/Schools/virtual-schools/pdf/DistrictVIP-FAQ.pdf>.

<sup>32</sup> s. 1002.45(3)(d), F.S.

<sup>33</sup> ss. 1002.37 and 1011.61(1)(c) 1.b.(V), F.S. In 2008, the FLVS and Connections Academy, L.L.C., formed the Florida Virtual School's Connections Academy (FLVSCA). The FLVSCA offers a full-time virtual education program to students in kindergarten through grade eight (K-8). Press Release, *Partnership Between Florida Virtual School and Connections Academy Expands Online Learning Opportunities* (August 8, 2008), See [http://www.connectionsacademy.com/libraries/pdfs/2008-08-08\\_flvsca-florida-virtual-school-partnership.sflb.ashx](http://www.connectionsacademy.com/libraries/pdfs/2008-08-08_flvsca-florida-virtual-school-partnership.sflb.ashx).

<sup>34</sup> s. 1002.45(1)(c)1., F.S.

<sup>35</sup> Florida Virtual School, *Frequently Asked Questions: FLVS Course Questions*, available at: <http://www.fldoe.org/schools/virtual-schools/faqs.asp>.

messaging, and discussion forums.<sup>36</sup> Students must have access to a computer. Internet access is not provided by the FLVS.<sup>37</sup>

The FLVS is governed by a Board of Trustees comprised of seven members appointed by the Governor to four-year staggered terms and is administratively housed within the DOE.<sup>38</sup> The school's performance is monitored by the Commissioner of Education and reported to the State Board of Education and the Legislature.<sup>39</sup> It is accredited by the Southern Association of Colleges and Schools and the Commission on International and Trans-Regional Accreditation.<sup>40</sup>

### ***Student Eligibility***

The law requires that enrollment priority be given to students who need expanded access to courses in order to meet their educational goals, such as home education students, students in inner-city and rural high schools that do not have access to advanced courses, and students seeking accelerated access to a high school diploma.<sup>41</sup> The FLVS does not award high school diplomas.<sup>42</sup>

### ***Funding***

In the FEFP, the FLVS FTE funding is based on credit successfully completed. Credit completed by a student in excess of the minimum required for that student for high school graduation is not eligible for funding.<sup>43</sup>

Six credits equal one full-time equivalent (FTE) student. A student who completes less than six credits is a fraction of an FTE student. Half-credit completions are included in determining an FTE student.<sup>44</sup> Each half credit successfully completed generates 0.0834 FTE.<sup>45</sup>

### ***School District Participation***

The FLVS is available to students in all 67 Florida school districts.<sup>46</sup> School districts must provide students with access to FLVS courses during or after the normal school day and through summer school enrollment.<sup>47</sup>

The FLVS Board of Trustees may enter into franchise agreements with Florida district school boards. The board establishes the criteria that define the elements of an approved franchise, the terms and conditions governing franchise agreements, and the performance and accountability

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<sup>36</sup> *Id.*

<sup>37</sup> Florida Virtual School, *Hardware/Software Requirements*, See <http://www.flvs.net/areas/flvscourses/Pages/HardwareRequirements.aspx>.

<sup>38</sup> s. 1002.37(1) and (2), F.S.

<sup>39</sup> s. 1002.37(1)(a), F.S.

<sup>40</sup> Florida Virtual School, See <http://www.flvs.net/areas/aboutus/Pages/accreditation.aspx>.

<sup>41</sup> s. 1002.37(1)(b), F.S.

<sup>42</sup> Florida Virtual School, See <http://www.flvs.net/areas/aboutus/Pages/accreditation.aspx>.

<sup>43</sup> s. 1002.37(3)(a), F.S.

<sup>44</sup> ss. 1002.37(3)(a) and 1011.61(1)(c)1.b.(V), F.S.

<sup>45</sup> DOE, Office of Funding and Financial Reporting, *FTE General Instructions* (2008-2009), available at: <http://www.fldoe.org/fefp/pdf/Instructions08-09.pdf>.

<sup>46</sup> s. 1001.42(23), F.S.

<sup>47</sup> s. 1001.42(23), F.S.

measures for a school district franchise.<sup>48</sup> The board also reports the performance of each school district franchise to the Commissioner of Education.<sup>49</sup>

FLVS franchises are active in 17 school districts: Broward, Escambia, Flagler, Hillsborough, Levy, Marion, Miami-Dade, Nassau, Okaloosa, Osceola, Palm Beach, Pasco, Polk, Santa Rosa, Seminole, St. Johns, and Walton.<sup>50</sup> School districts that operate an approved FLVS franchise count FTE students for funding purposes in the FEFP.<sup>51</sup>

### **Charter Schools in Florida**

Florida law specifies that all charter schools are considered public schools.<sup>52</sup> Charter schools are formed through the creation of a new school or the conversion of an existing public school.<sup>53</sup> A charter, or the written contractual agreement between the sponsor and applicant, establishes the terms and conditions of operation.<sup>54</sup> According to the Department of Education (DOE), there were 118,169 students enrolled in 389 charter schools operating in the state for the 2008-2009 school year.<sup>55</sup>

Existing charter schools are sponsored by a district school board or a state university, in which case the charter school was converted from a lab school to a charter lab school. Sponsors are responsible for monitoring the charter school, reviewing revenues and expenditures, and ensuring innovation and consistency with state education goals, including the state accountability system.<sup>56</sup> Charter lab school applications are subject to review by the state university in consultation with the district school board in that jurisdiction.<sup>57</sup> With the exception of the charter lab schools, district school boards review and approve charter school applications.<sup>58</sup>

A sponsor must provide certain administrative and educational services to charter schools (e.g., contract management services, FTE and data reporting services, exceptional student education administration services, services related to eligibility and reporting duties required for school lunch services under the federal lunch program).<sup>59</sup> The sponsor may withhold up to 5 percent of the funding for the charter school for the provision of the administrative services. The law provides for the calculation of the fee.<sup>60</sup>

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<sup>48</sup> s. 1002.37(2)(i), F.S.

<sup>49</sup> s. 1002.37(2)(i), F.S.

<sup>50</sup> DOE, e-mail correspondence, April 12, 2010. See also <http://www.fl DOE.org/Schools/virtual-schools/district-franchises.asp>.

<sup>51</sup> s. 1002.37(3)(a) and (4), F.S.

<sup>52</sup> s. 1002.33(1), F.S.

<sup>53</sup> *Id.*

<sup>54</sup> s. 1002.33(6)(i), F.S.

<sup>55</sup> See [https://www.floridaschoolchoice.org/information/charter\\_schools/files/fast\\_facts\\_charter\\_schools.pdf](https://www.floridaschoolchoice.org/information/charter_schools/files/fast_facts_charter_schools.pdf).

<sup>56</sup> s. 1002.33(5)(b), F.S.

<sup>57</sup> s. 1002.33(6)(h), F.S.

<sup>58</sup> s. 1002.33(6)(b), F.S.

<sup>59</sup> s. 1002.33(20), F.S.

<sup>60</sup> *Id.*

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

The bill permits an approved provider of virtual instruction that has a district-approved charter school agreement to establish a charter virtual school. The school will be able to enroll and provide virtual instruction to students who reside in the district in which the charter is granted.

Charter virtual schools are subject to the same requirements as other providers for the district virtual instruction program (VIP) with respect to definitions, provider qualifications, virtual instruction, contract requirements, student participation, and assessment and accountability. A charter virtual school is not required to meet the educational facilities or student transportation requirements for charter schools.

The bill provides for funding a charter virtual school through the FEFP and requires the school to report its FTE students to the school district in which the charter is granted. The FTE is reported in the same manner as other providers for the district VIP program.

For each eligible FTE reported in the FEFP, the school district will receive an annual allocation for operation which will be equivalent to the funds per unweighted student for the Florida Virtual School. This amount will be included in the basic amount for operation under the FEFP for each district; however, these payments and FTE students may not be used for any other FEFP calculation. The school district may retain an administrative fee pursuant to s. 1002.33(20)(a) prior to the distribution of funds to the charter virtual school.

### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.



**C. Government Sector Impact:**

The bill authorizes funding from the Florida Education Finance Program (FEFP) for charter virtual schools that meet the requirements of the bill. The FEFP funding allocation will be equivalent to the Florida Virtual School funds per FTE and will be provided in the basic amount for current operation with no other adjustments in the FEFP formula. Students who enroll in charter virtual schools must have been served by the school district in the prior fiscal year; therefore, no additional funds are needed for this program. There may be a savings, particularly when taking into account the reduced infrastructure needs for virtual instruction.

Like other providers in the VIP program and FLVS, funding will be based on student performance, either on credit successfully completed (VIP or FLVS) or on promotion (VIP).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education Pre-K – 12 Committee on April 14, 2010:**

The committee substitute:

- Corrects a typographical error.

**B. Amendments:**

None.