

CHAPTER 98-206

Committee Substitute for Committee Substitute for Senate Bill No. 1996 and Committee Substitute for Senate Bill No. 1182

An act relating to charter schools; amending s. 228.056, F.S.; providing for recognition as public schools; revising requirements relating to proposals; providing for appeal of disputes and requiring mediation services; revising limitations on the number of schools; revising provisions relating to eligible students; providing for operation by a nonprofit organization; deleting certain restrictions on holding charter contracts; revising provisions relating to charter terms; providing for public employee status; providing requirements relating to employees; revising requirements relating to student transportation; revising administrative fee provisions and requiring certain administrative and educational services; revising provisions relating to charter school use of certain facilities or property; providing for certain purchasing; authorizing charter schools-in-the-workplace; providing requirements and tax exemption; creating s. 228.0561, F.S.; authorizing distribution of funds to charter schools from the Public Education Capital Outlay and Debt Service Trust Fund and establishing eligibility of charter schools for such funds; establishing an amount and manner for allocation or proration of such funds; providing an appropriation; providing for future repeal of statute; amending s. 235.42, F.S.; clarifying eligibility of educational boards and entities for receipt of funds from the Public Education Capital Outlay and Debt Service Trust Fund; providing an appropriation to the Columbia County School District; providing for the release of funds for the Commission on Education Reform and Accountability; providing for the dissolution of the Governor's Commission on Education; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1), (3), (5), (7), and (12), paragraph (f) of subsection (4), paragraphs (a) and (c) of subsection (6), paragraph (h) of subsection (8), paragraphs (a) and (b) of subsection (9), and paragraphs (c), (e), (f), (g), and (h) of subsection (13) of section 228.056, Florida Statutes, as amended by chapter 97-384, Laws of Florida, are amended, and subsection (22) is added to said section, to read:

228.056 Charter schools.—

(1) AUTHORIZATION.—The creation of charter schools is hereby authorized. Charter schools shall be part of the state's program of public education. All charter schools in Florida are fully recognized as public schools. A charter school may be formed by creating a new school or converting an existing public school to charter status.

(3) PROPOSAL.—A proposal 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. The district school board or the principal, teachers, and/or the school advisory council at an existing public school, including a public school-within-a-school that is designated as a school by the district school board, shall submit any proposal for converting the school to a charter school. An application submitted proposing to convert an existing public school to a charter school shall demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to vote participate in the ballot process, according to procedures established by rules of the state board. A private school, parochial school, or home education program shall not be eligible for charter school status.

(4) SPONSOR.—A district school board may sponsor a charter school in the county over which the board has jurisdiction.

(f) The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement. The sponsor shall not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The applicant and sponsor shall have 6 months in which to mutually agree to the provisions of the contract. The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter application, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge may rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the contract violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial. The costs of the administrative hearing shall be paid by the party whom the administrative law judge rules against. If, after 6 months, the contract is still pending, the application is deemed denied.

(5) NUMBER OF SCHOOLS.—~~The number of newly created charter schools or existing public schools which may convert to charter schools is limited to no more than 28 in each school district that has 100,000 or more students, no more than 20 in each school district that has 50,000 to 99,999 students, and no more than 12 in each school district with fewer than 50,000 students. limited to no more than seven in each school district that has 100,000 or more students, no more than five charter schools in each school district that has 50,000 to 99,999 students, and no more than three charter schools in each school district that has fewer than 50,000 students. The number of newly created charter schools shall be limited to no more than seven charter schools in each school district that has 100,000 or more students, no more than five charter schools in each school district that has 50,000 to 99,999 students, and no more than three charter schools in each school district that has fewer than 50,000 students. Notwithstanding any~~

~~limitation in this section on the number of charter schools authorized for a district, any school board shall have the right to request an increase in the number of charter schools located within its district from the State Board of Education.~~

(6) ELIGIBLE STUDENTS.—

(a) A charter school shall be open to any student covered in an interdistrict agreement or residing in the school district in which the charter school is located. When a public school converts to charter status, enrollment preference shall be given to students who would have otherwise attended that public school. A charter school may give enrollment preference to a sibling of a student enrolled in the charter school or to the child of an employee of the charter school.

(c) A charter school may limit the enrollment process only to target the following student populations:

1. Students within specific age groups or grade levels.
2. Students considered at risk of dropping out of school or academic failure. Such students shall include exceptional education students.
3. Students enrolling in a charter school-in-the-workplace established pursuant to subsection (22).
4. Students residing within a reasonable distance of the charter school, as described in paragraph (13)(c). Such students shall be subject to a random lottery and to the racial/ethnic balance provisions described in subparagraph (9)(a)8. or any federal provisions which require a school to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.

(7) LEGAL ENTITY.—A charter school shall organize as, or be operated by, a nonprofit organization. As such, the charter school may be either a private or a public employer. As a public employer, a charter school may participate in the Florida Retirement System upon application and approval as a “covered group” under s. 121.021(34). If a charter school participates in the Florida Retirement System, the charter school employees shall be compulsory members of the Florida Retirement System. As either a private or a public employer, a charter school may contract for services with an individual or group of individuals who are organized as a partnership or a cooperative. Individuals or groups of individuals who contract their services to the charter school are not public employees.

(8) REQUIREMENTS.—

~~(h) No organization shall hold more than one elementary, one middle, and one high school charter contract in a school district and no more than 15 charters statewide.~~

(9) CHARTER.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The

charter shall be signed by the governing body of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address, and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.

2. The focus of the curriculum, the instructional methods to be used, and any distinctive instructional techniques to be employed.

3. The current baseline standard of achievement and the outcomes to be achieved and the method of measurement that will be used.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. Students in charter schools shall, at a minimum, participate in the statewide assessment program.

5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 232.246.

6. A method for resolving conflicts between the governing body of the charter school and the sponsor.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct.

8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.

9. The financial and administrative management of the school.

10. The manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

11. The term of the charter, ~~not to exceed 3 years~~, which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter shall be for 3, 4, or 5 years.

12. The facilities to be used and their location.

13. The qualifications to be required of the teachers.

14. The governance structure of the school, including the status of the charter school as a public or private employer as required in subsection (7).

15. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.

16. In the case of an existing public school being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or school board policy in the absence of a collective bargaining agreement.

(b) A charter may be renewed every 5 in increments of 1, 2, or 3 school years, provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished by a mutual agreement of the parties.

(12) EMPLOYEES OF CHARTER SCHOOLS.—

(a) A charter school shall select its own employees. A charter school may contract with its sponsor for the services of personnel employed by the sponsor.

(b) Charter school employees shall have the option to bargain collectively. Employees may collectively bargain as a separate unit or as part of the existing district collective bargaining unit as determined by the structure of the charter school.

(c) The employees of a conversion charter school shall remain public employees for all purposes, unless such employees choose not to do so.

~~(d)~~(e) The teachers at a charter school may choose to be part of a professional group that subcontracts with the charter school to operate the instructional program under the auspices of a partnership or cooperative that they collectively own. Under this arrangement, the teachers would not be public employees.

~~(e)~~(d) Employees of a school district may take leave to accept employment in a charter school upon the approval of the district school board. While employed by the charter school and on leave that is approved by the school board, the employee may retain seniority accrued in that school district and may continue to be covered by the benefit programs of that school district, if the charter school and the district school board agree to this arrangement and its financing. School districts shall not require resignations of teachers desiring to teach in a charter school. This paragraph shall not prohibit a school board from approving alternative leave arrangements consistent with chapter 231.

~~(f)~~(e) Teachers employed by or under contract to a charter school shall be certified as required by chapter 231. A charter school may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as teacher aides in the same manner as defined in chapter 231. A charter school may not employ an individual to provide instructional services or to serve as a teacher aide if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. The qualifications of teachers shall be disclosed to parents.

(g)(f) A charter school shall employ or contract with employees who have been fingerprinted as provided in s. 231.02.

(13) REVENUE.—Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a chartered developmental research school shall be as provided in s. 228.053(9).

(c) Transportation of charter school students shall be provided by the charter school consistent with the requirements of chapter 234. The governing body of the charter school may provide transportation through an agreement or contract with the district school board, a private provider, or parents. The charter school and the sponsor shall cooperate in making arrangements that ensure that transportation is not a barrier to equal access for all students residing within a reasonable distance of the charter school as determined in its charter.

(e) Any administrative fee charged by the school district relating to a charter school shall be limited to ~~no more than the actual cost of administering the contract between the charter school and the school district or 5 percent of the available funds as defined in paragraph (b), whichever is the lesser amount.~~ The sponsor shall provide certain administrative and educational services to charter schools at no additional fee. These services shall include contract management services, FTE and data reporting, exceptional student education administration, test administration, processing of teacher certificate data, and information services.

(f) School boards shall make every effort to ensure that charter schools receive timely and efficient reimbursement, including processing paperwork required to access special state and federal funding for which they may be eligible. The district school board may distribute funds to a charter school for up to 3 months based on the projected full-time equivalent student membership of the charter school. Thereafter, the results of full-time equivalent student membership surveys must be used in adjusting the amount of funds distributed monthly to the charter school for the remainder of the fiscal year. The payment shall be issued no later than 10 working days after the district school board receives a distribution of state or federal funds. If a warrant for payment is not issued within 30 working days after receipt of funding by the district school board, the school district shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 30-day period until such time as the warrant is issued.

(g) If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it ~~shall~~ may be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the school district may not sell or dispose of such property without written permission of the school district. Similarly, for an existing public school converting to charter status, no rental or leasing fee for the existing facility

or for the property normally inventoried to the conversion school may be charged by the district school board to the parents and teachers organizing the charter school. The charter organizers shall agree to reasonable maintenance provisions in order to maintain the facility in a manner similar to district school board standards.

(h) If other goods and services are made available to the charter school through the contract with the school district, they shall be provided to the charter school at a rate no greater than the district's actual cost. To maximize the use of state funds, school districts shall allow charter schools to participate in the sponsor's bulk purchasing program if applicable.

(22) CHARTER SCHOOLS-IN-THE-WORKPLACE.—

(a) In order to increase business partnerships in education, to reduce school and classroom overcrowding throughout the state, and to offset the high costs for educational facilities construction, the Legislature intends to encourage the formation of business partnership schools or satellite learning centers through charter school status.

(b) A charter school-in-the-workplace may be established when a business partner provides the school facility to be used; enrolls students based upon a random lottery which involves all of the children of employees of that business or corporation who are seeking enrollment, as provided for in subsection (6); and enrolls students according to the racial/ethnic balance provisions described in subparagraph (9)(a)8. Any portion of a facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 235.198, for the duration of its use as a public school.

Section 2. Section 228.0561, Florida Statutes, is created to read:

228.0561 Charter schools capital outlay funding.—

(1) In each year in which funds are appropriated from the Public Education Capital Outlay and Debt Service Trust Fund for charter schools, the Commissioner of Education shall allocate the funds among eligible charter schools. To be eligible for a funding allocation, a charter school must meet the provisions of subsection (6), must have received final approval from its sponsor pursuant to s. 228.056 for operation during that fiscal year, and must serve students in facilities that are not provided by the charter school's sponsor. Prior to the release of capital outlay funds to the charter school, the Department of Education shall enter into a written agreement that includes provisions for attaching a lien to property that has been improved through the use of these funds, in the event that the school terminates operations. Any funds recovered by the state shall be deposited in the Public Education Capital Outlay and Debt Service Trust Fund. A charter school is not eligible for a funding allocation if it was created by the conversion of a public school and operates in facilities provided by the charter school's sponsor for a nominal fee or at no charge. Unless otherwise provided in the General Appropriations Act, the funding allocation for each eligible charter school shall be determined by multiplying the school's projected student enrollment by one-thirtieth of the cost-per-student station specified in s. 235.435(6)(b) for an elementary, middle, or high school, as appropriate. If

the funds appropriated are not sufficient, the commissioner shall prorate the available funds among eligible charter schools. In the first quarter of the fiscal year, funds shall be distributed on the basis of projected enrollment as provided in this section. The commissioner shall adjust subsequent distributions as necessary to reflect each charter school's actual student enrollment. The commissioner shall establish the intervals and procedures for determining the projected and actual student enrollment of eligible charter schools. If a school district chooses to share funding for the capital outlay purposes described in subsection (2) with the applicable charter school or charter schools, any allocation from the Public Education Capital Outlay and Debt Service Trust Fund allocation to the charter school or charter schools shall be reduced by the amount shared.

(2) A charter school's governing body with the school board's permission may use funds from the Public Education Capital Outlay and Debt Service Trust Fund for any capital outlay purpose that is directly related to the functioning of the charter school, including the:

- (a) Purchase of real property.
- (b) Construction, renovation, repair, and maintenance of school facilities.
- (c) Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- (d) Purchase of vehicles to transport students to and from the charter school.

(3) When a charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with public funds shall revert to the ownership of the district school board, as provided for in s. 228.056(10)(e) and (f). The reversion of such equipment, property, and furnishings shall focus on recoverable assets, but not on intangible or irrecoverable costs such as rental or leasing fees, normal maintenance, and limited renovations. If there are additional local issues such as the shared use of facilities or partial ownership of facilities or property, these issues shall be agreed to in the charter contract prior to the expenditure of funds.

(4) The Commissioner of Education shall specify procedures for submitting and approving requests for funding under this section and procedures for documenting expenditures.

(5) The annual legislative budget request of the Department of Education shall include a request for funding for charter schools from the Public Education Capital Outlay and Debt Service Trust Fund. The request shall be based on the projected number of students to be served in charter schools who meet the eligibility requirements of this section.

(6)(a) Effective July 1, 1998, any charter school which has been in continuous operation in the district in which its charter was approved for at least two school years immediately preceding the school year in which the school seeks an appropriation from the Public Education Capital Outlay and Debt Service Trust Fund shall be eligible to receive funds from that trust fund.

No other charter schools are eligible to receive funds from the Public Education Capital Outlay and Debt Service Trust Fund.

(b) Unless authorized other wise by the Legislature, allocation and proration of funds from the Public Education Capital Outlay and Debt Service Trust Fund shall be made to eligible charter schools by the Commissioner of Education in an amount and in a manner authorized by subsection (1), and only schools eligible for such funds in this subsection shall be considered "eligible charter schools" for such an allocation or proration.

(c) There is appropriated from the Public Education Capital Outlay and Debt Service Trust Fund in fiscal year 1998-1999 the amount of \$5,000,000 to be used for capital outlay purposes of charter schools eligible under this subsection and allocated or prorated in an amount and in a manner authorized by this subsection. This paragraph shall be repealed July 1, 1999.

Section 3. Subsection (7) of section 235.42, Florida Statutes, is amended to read:

235.42 Educational and ancillary plant construction funds; Public Education Capital Outlay and Debt Service Trust Fund; allocation of funds.—

(7) Boards and entities authorized to participate in the trust fund are district school boards, the community college district boards of trustees, the Trustees of the Florida School for the Deaf and the Blind, the Board of Regents, charter schools only if eligible pursuant to s. 228.0561(6), and other units of the state system of public education, and other educational entities defined in s. 228.041 for which funds are purposes authorized by the Legislature.

Section 4. The sum of \$13,244,151 is appropriated for fiscal year 1998-1999 from the Public Education and Capital Outlay Debt Service Trust Fund to the Columbia County School District or the Ft. White High School. No funds shall be released for this project before the Special Facility Construction Committee has approved said project.

Section 5. Notwithstanding proviso immediately preceding Specific Appropriation 26 of the 1998-1999 General Appropriations Act, funds designated for the Commission on Education Reform and Accountability shall be released beginning July 1, 1998, and shall be released throughout fiscal year 1998-1999 based on a regular release schedule.

Section 6. The Governor's Commission on Education, established by Executive Order on September 10, 1996, shall be dissolved on October 31, 1998.

Section 7. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 24, 1998.

Filed in Office Secretary of State May 22, 1998.