

Committee Substitute for House Bill No. 4135

An act relating to education; authorizing the creation of charter technical career centers; prescribing powers and duties of the Commissioner of Education, the Department of Education, participating district school boards, and community college district boards of trustees, with respect to charter technical career centers; prescribing powers and duties of charter technical career centers and their boards of directors; providing for funding; prescribing rights and duties of employees of centers and of district school board employees and community college employees working at charter technical career centers; providing for revocation of a charter; providing for rules; amending s. 121.021, F.S.; redefining the terms “covered group” and “employer” with respect to the Florida Retirement System to include charter technical career centers; amending s. 121.051, F.S.; providing for optional participation in the Florida Retirement System by employees of charter technical career centers; amending s. 121.1122, F.S.; including charter technical career centers with a group for the purchase of certain retirement credit; amending s. 236.081, F.S.; providing for calculating changes in school district funding resulting from a drop in enrollment based on student transfers to a charter technical career center; providing an appropriation; providing an effective date.

WHEREAS, the Legislature supports a strong, prosperous economy, with a well-trained, highly qualified workforce, and

WHEREAS, the Legislature continues to foster transition of WAGES participants from dependency on public funds to self-sufficiency, and

WHEREAS, local economies are dependent upon maximizing local workforce training and education resources, and

WHEREAS, the Legislature promotes more choices for parents and students, but has not authorized public chartering entities to encourage public or public and private partnerships for workforce education and training, and

WHEREAS, technical career centers that operate under a charter rather than under the direct supervision of a school board or a community college may be able to respond more rapidly to economic development and economic expansion opportunities, and

WHEREAS, traditional education and career training environments may be restricted in their flexibility to serve the individual education and career training needs of students, and

WHEREAS, charter technical career centers may be able to provide more innovative approaches to workforce preparation, and

WHEREAS, business and industry should have primary input in the design and structure of all career programs and services, and

WHEREAS, the Legislature desires to maintain and strengthen the mission of individual education and training delivery systems, NOW, THEREFORE,

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

Section 1. (1) AUTHORIZATION.—The Legislature finds that the establishment of charter technical career centers can assist in promoting advances and innovations in workforce preparation and economic development. A charter technical career center may provide a learning environment that better serves the needs of a specific population group or a group of occupations, thus promoting diversity and choices within the public education and public postsecondary technical education community in this state. Therefore, the creation of such centers is authorized as part of the state's program of public education. A charter technical career center may be formed by creating a new school or converting an existing school district or community college program to charter technical status.

(2) PURPOSE.—The purpose of a charter technical career center is to:

(a) Develop a competitive workforce to support local business and industry and economic development.

(b) Create a training and education model that is reflective of marketplace realities.

(c) Offer a continuum of career educational opportunities using a school-to-work, tech-prep, technical, academy, and magnet school model.

(d) Provide career pathways for lifelong learning and career mobility.

(e) Enhance career and technical training.

(3) DEFINITIONS.—As used in this act, the term:

(a) “Charter technical career center” or “center” means a public school or a public technical center operated under a charter granted by the local school board or community college district board of trustees or a consortium, including one or more school boards and community college district boards of trustees that includes the district in which the facility is located, which is nonsectarian in its programs, admission policies, employment practices, and operations and is managed by a board of directors.

(b) “Sponsor” means a district school board, a community college district board of trustees, or a consortium of one or more of each.

(4) CHARTER.—A sponsor may designate centers as provided in this section. An application to establish a center may be submitted by a sponsor or another organization that is determined, by rule of the State Board of Education, to be appropriate. However, an independent school is not eligible for status as a center. The charter must be signed by the governing body of the center and the sponsor, and must be approved by the district school board and community college board of trustees in whose geographic region

the facility is located. An applicant who wishes to establish a center must submit to the local school board or community college district board of trustees, or a consortium of one or more of each, an application that includes:

- (a) The name of the proposed center.
- (b) The proposed structure of the center, including a list of proposed members of the board of directors or a description of the qualifications for and method of their appointment or election.
- (c) The workforce development goals of the center, the curriculum to be offered, and the outcomes and the methods of assessing the extent to which the outcomes are met.
- (d) The admissions policy and criteria for evaluating the admission of students.
- (e) A description of the staff responsibilities and the proposed qualifications of the teaching staff.
- (f) A description of the procedures to be implemented to ensure significant involvement of representatives of business and industry in the operation of the center.
- (g) A method for determining whether a student has satisfied the requirements for graduation specified in s. 232.246, Florida Statutes, and for completion of a postsecondary certificate or degree.
- (h) A method for granting secondary and postsecondary diplomas, certificates, and degrees.
- (i) A description of and address for the physical facility in which the center will be located.
- (j) A method of resolving conflicts between the governing body of the center and the sponsor and between consortium members, if applicable.
- (k) A method for reporting student data as required by law and rule.
- (l) Other information required by the local school board or community college district board of trustees.

Students at a center must meet the same testing and academic performance standards as those established by law and rule for students at public schools and public technical centers. The students must also meet any additional assessment indicators that are included within the charter approved by the district school board or community college district board of trustees.

(5) APPLICATION.—An application to establish a center must be submitted by February 1 of the year preceding the school year in which the center will begin operation. The sponsor must review the application and make a final decision on whether to approve the application and grant the charter by March 1, and may condition the granting of a charter on the

center's taking certain actions or maintaining certain conditions. Such actions and conditions must be provided to the applicant in writing. The local school board or community college district board of trustees is not required to issue a charter to any person.

(6) SPONSOR.—A district school board or community college district board of trustees or a consortium of one or more of each may sponsor a center in the county in which the board has jurisdiction.

(a) A sponsor must review all applications for centers received through at least February 1 of each calendar year for centers to be opened at the beginning of the sponsor's next school year. A sponsor may receive applications later than this date if it so chooses. To facilitate an accurate budget projection process, a sponsor shall be held harmless for FTE students that are not included in the FTE projection due to approval of applications after the FTE projection deadline. A sponsor must, by a majority vote, approve or deny an application no later than 60 days after the application is received. If an application is denied, the sponsor must, within 10 days, notify the applicant in writing of the specific reasons for denial, which must be based upon good cause. Upon approval of a charter application, the initial startup must be consistent with the beginning of the public school or community college calendar for the district in which the charter is granted, unless the sponsor allows a waiver of this provision for good cause.

(b) An applicant may appeal any denial of its application to the State Board of Education within 30 days after the sponsor's denial and shall notify the sponsor of its appeal. Any response of the sponsor must be submitted to the state board within 30 days after notification of the appeal. The state board must, by majority vote, accept or reject the decision of the sponsor no later than 60 days after an appeal is filed, pursuant to state board rule. The state board may reject an appeal for failure to comply with procedural rules governing the appeals process, and the rejection must describe the submission errors. The appellant may have up to 15 days after notice of rejection to resubmit an appeal. An application for appeal submitted after a rejection is timely if the original appeal was filed within 30 days after the sponsor's denial. The state board shall remand the application to the sponsor with a written recommendation that the sponsor approve or deny the application, consistent with the state board's decision. The decision of the state board is not subject to the provisions of chapter 120, Florida Statutes.

(c) The sponsor must act upon the recommendation of the State Board of Education within 30 days after it is received, unless the sponsor determines by competent substantial evidence that approving the state board's recommendation would be contrary to law or the best interests of the students or the community. The sponsor must notify the applicant in writing concerning the specific reasons for its failure to follow the state board's recommendation. The sponsor's action on the state board's recommendation is a final action, subject to judicial review.

(d) The Department of Education may provide technical assistance to an applicant upon written request.

(e) The terms and conditions for the operation of a center must be agreed to by the sponsor and the applicant in a written contract. The sponsor may not impose unreasonable requirements that violate the intent of giving centers greater flexibility to meet educational goals. The applicant and sponsor must reach an agreement on the provisions of the contract or the application is deemed denied.

(f) The sponsor shall monitor and review the center's progress towards charter goals and shall monitor the center's revenues and expenditures.

(7) LEGAL ENTITY.—A center must organize as a nonprofit organization and adopt a name and corporate seal. A center is a body corporate and politic, with all powers to implement its charter program. The center may:

(a) Be a private or a public employer.

(b) Sue and be sued, but only to the same extent and upon the same conditions that a public entity can be sued.

(c) Acquire real property by purchase, lease, lease with an option to purchase, or gift, to use as a center facility.

(d) Receive and disburse funds.

(e) Enter into contracts or leases for services, equipment, or supplies.

(f) Incur temporary debts in anticipation of the receipt of funds.

(g) Solicit and accept gifts or grants for career center purposes.

(h) Take any other action that is not inconsistent with this section and rules adopted under this section.

(8) ELIGIBLE STUDENTS.—A center must be open to all students as space is available and may not discriminate in admissions policies or practices on the basis of an individual's physical disability or proficiency in English or on any other basis that would be unlawful if practiced by a public school or a community college. A center may establish reasonable criteria by which to evaluate prospective students, which criteria must be outlined in the charter.

(9) FACILITIES.—A center may be located in any suitable location, including part of an existing public school or community college building, space provided on a public worksite, or a public building. A center's facilities must comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to s. 235.26, Florida Statutes, or with applicable state minimum building codes pursuant to chapter 553, Florida Statutes, and state minimum fire protection codes pursuant to s. 633.025, Florida Statutes, adopted by the authority in whose jurisdiction the facility is located. If K-12 public school funds are used for construction, the facility must remain on the local school district's Florida Inventory of School Houses (FISH) school building inventory of the local school board and must revert to the local school board if the consortium dissolves and the program

is discontinued. If community college public school funds are used for construction, the facility must remain on the local community college's facilities inventory and must revert to the local community college district board if the consortium dissolves and the program is discontinued. The additional student capacity created by the addition of the center to the local school district's FISH may not be calculated in the permanent student capacity for the purpose of determining need or eligibility for state capital outlay funds while the facility is used as a center. If the construction of the center is funded jointly by K-12 public school funds and community college funds, the sponsoring entities must agree, before granting the charter, on the appropriate owner and terms of transfer of the facility if the charter is dissolved.

(10) EXEMPTION FROM STATUTES.—

(a) A center must operate pursuant to its charter and is exempt from all statutes of the Florida School Code except provisions pertaining to civil rights and to student health, safety, and welfare, or as otherwise required by law.

(b) A center must comply with the Florida School Code with respect to providing services to students with disabilities.

(c) A center must comply with the antidiscrimination provisions of s. 228.2001, Florida Statutes.

(11) FUNDING.—

(a) Each school board and community college that sponsors a charter technical career center shall pay directly to the center an amount stated in the charter. State funding shall be generated for the center for its student enrollment and program outcomes as provided in law. A center is eligible for funding from the Florida Workforce Development Education Fund, the Florida Education Finance Program, and the Community College Program Fund, depending upon the programs conducted by the center.

(b) A center may receive other state and federal aid, grants, and revenue through the local school board or community college district board of trustees.

(c) A center may receive gifts and grants from private sources.

(d) A center may not levy taxes or issue bonds, but it may charge a student tuition fee consistent with authority granted in its charter and permitted by law.

(e) A center is subject to an annual financial audit in a manner similar to that of a school district or community college.

(f) A center must provide instruction for at least the number of days required by law for other public schools or community colleges, as appropriate, and may provide instruction for additional days.

(g) The sponsor, at the center's request, may apply to the Commissioner of Education for a waiver of any requirements that inhibit maximizing the use of public education funds.

(12) EMPLOYEES OF A CENTER.—

(a) A center may select its own employees.

(b) A center may contract for services with an individual, partnership, or a cooperative. Such persons contracted with are not public employees.

(c) If a center contracts with a public educational agency for services, the terms of employment must follow existing state law and rule and local policies and procedures.

(d) The employees of a center may bargain collectively, as a separate unit or as part of the existing district collective bargaining unit, as determined by the structure of the center.

(e) As a public employer, a center may participate in:

1. The Florida Retirement System upon application and approval as a “covered group” under s. 121.021(34), Florida Statutes. If a center participates in the Florida Retirement System, its employees are compulsory members of the Florida Retirement System.

2. The State Community College System Optional Retirement Program pursuant to s. 240.3195(2), Florida Statutes, if the charter is granted by a community college that participates in the optional retirement program and meets the eligibility criteria of s. 121.051(2)(c), Florida Statutes.

(f) Teachers who are considered qualified by the career center are exempt from state certification requirements.

(g) A public school or community college teacher or administrator may take a leave of absence to accept employment in a charter technical career center upon the approval of the school district or community college.

(h) An employee who is on a leave of absence under this section may retain seniority accrued in that school district or community college and may continue to be covered by the benefit programs of that district or community college if the center and the district school board or community college board of trustees agree to this arrangement and its financing.

(13) BOARD OF DIRECTORS AUTHORITY.—The board of directors of a center may decide matters relating to the operation of the school, including budgeting, curriculum, and operating procedures, subject to the center’s charter.

(14) ACCOUNTABILITY.—Each center must submit a report to the participating school board or district community college board of trustees by August 1 of each year. The report must be in such form as the sponsor prescribes and must include:

(a) A discussion of progress made toward the achievement of the goals outlined in the center’s charter; and

(b) A financial statement setting forth by appropriate categories the revenue and expenditures for the previous school year.

(15) TERMS OF THE CHARTER.—The term of an initial charter may not exceed 5 years. Thereafter, the sponsor may renew a charter for a period up to 5 years. The sponsor may refuse to renew a charter or may revoke a charter if the center has not fulfilled a condition imposed under the charter or if the center has violated any provision of the charter. The sponsor may place the center on probationary status to allow the implementation of a remedial plan, after which, if the plan is unsuccessful, the charter may be summarily revoked. The sponsor shall develop procedures and guidelines for the revocation and renewal of a center's charter. The sponsor must give written notice of its intent not to renew the charter at least 12 months before the charter expires. If the sponsor revokes a charter before the scheduled expiration date, the sponsor must provide written notice to the governing board of the center at least 60 days before the date of termination, stating the grounds for the proposed revocation. The governing board of the center may request in writing an informal hearing before the sponsor within 14 days after receiving the notice of revocation. A revocation takes effect at the conclusion of a school year, unless the sponsor determines that earlier revocation is necessary to protect the health, safety, and welfare of students. The sponsor shall monitor and review the center in its progress towards the goals established in the charter and shall monitor the revenues and expenditures of the center.

(16) TRANSPORTATION.—The center may provide transportation, pursuant to chapter 234, Florida Statutes, through a contract with the district school board or the community college district board of trustees, a private provider, or parents of students. The center must ensure that transportation is not a barrier to equal access for all students in grades K-12 residing within a reasonable distance of the facility.

(17) IMMUNITY.—For the purposes of tort liability, the governing body and employees of a center are governed by s. 768.28, Florida Statutes.

(18) RULES.—The State Board of Education shall adopt rules, pursuant to chapter 120, Florida Statutes, relating to the implementation of charter technical career centers.

(19) EVALUATION; REPORT.—The Commissioner of Education shall provide for an annual comparative evaluation of charter technical career centers and public technical centers. The evaluation may be conducted in cooperation with the sponsor, through private contracts, or by department staff. At a minimum, the comparative evaluation must address the demographic and socioeconomic characteristics of the students served, the types and costs of services provided, and the outcomes achieved. By December 30 of each year, the Commissioner of Education shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Senate and House committees that have responsibility for secondary and postsecondary career education a report of the comparative evaluation completed for the previous school year.

Section 2. Subsections (10) and (34) of section 121.021, Florida Statutes, are amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(10) “Employer” means any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch, department board, district school board, or special district of the state, or any city of the state which participates in the system for the benefit of certain of its employees, or a charter school or charter technical career center that participates as provided in s. 121.051(2)(d).

(34) “Covered group” means the officers and employees of an employer who become members under this chapter. “Covered group” applies also when the employer is a charter technical career center, charter school, special district, or city for which coverage under this chapter is applied for by the employer and approved for social security coverage by the United States Secretary of Health and Human Services and approved by the administrator for membership under this chapter. Members of a firefighters’ pension trust fund or a municipal police officers’ retirement trust fund, established in accordance with chapter 175 or chapter 185, respectively, shall be considered eligible for membership under this chapter only after holding a referendum and by affirmative majority vote electing coverage under this chapter.

Section 3. Paragraphs (c) and (d) of subsection (2) of section 121.051, Florida Statutes, are amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(c) Employees of members of the State Community College System or charter technical career centers sponsored by members of the State Community College System, as designated in s. 240.3031, who are members of the Regular Class of the Florida Retirement System and who comply with the criteria set forth in this paragraph and in s. 240.3195 may elect, in lieu of participating in the Florida Retirement System, to withdraw from the Florida Retirement System altogether and participate in a lifetime monthly annuity program, to be known as the State Community College System Optional Retirement Program, which may be provided by the employing agency under s. 240.3195. Pursuant thereto:

1. The cost to the employer for such annuity shall equal the normal cost portion of the employer retirement contribution which would be required if the employee were a member of the Regular Class, plus the portion of the contribution rate required by s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund, and less an amount approved by the employer to provide for the administration of the optional retirement program. The employer providing such annuity shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Regular Class contribution rate.

2. The decision to participate in such an optional retirement program shall be irrevocable for as long as the employee holds a position eligible for participation. Any service creditable under the Florida Retirement System shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Florida Retirement System shall not be earned while a member of the optional retirement program.

3. Participation in an optional annuity program shall be limited to those employees who satisfy the following eligibility criteria:

a. The employee must be otherwise eligible for membership in the Regular Class of the Florida Retirement System, as provided in s. 121.021(11) and (12).

b. The employee must be employed in a full-time position classified in the Accounting Manual for Florida's Public Community Colleges as:

(I) Instructional; or

(II) Executive Management, Instructional Management, or Institutional Management, if a community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and:

(A) The duties and responsibilities of the position include either the formulation, interpretation, or implementation of policies; or

(B) The duties and responsibilities of the position include the performance of functions that are unique or specialized within higher education and that frequently involve the support of the mission of the community college.

c. The employee must be employed in a position not included in the Senior Management Service Class of the Florida Retirement System, as described in s. 121.055.

4. Participants in the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions as are applicable to regular members of the Florida Retirement System under ss. 121.091(9), 121.122, and 121.091(5), respectively.

5. Eligible community college employees shall be compulsory members of the Florida Retirement System until, pursuant to the procedures set forth in s. 240.3195, the first day of the next full calendar month following the filing of both a written election to withdraw and a completed application for an individual contract or certificate with the program administrator and receipt of such election by the division.

(d) The governing body of a charter school or a charter technical career center may elect to participate in the system upon proper application to the administrator and shall cover its units as approved by the Secretary of Health and Human Services and the administrator. Once this election is made and approved, it may not be revoked, and all present officers and employees selecting coverage under this chapter and all future officers and employees shall be compulsory members of the Florida Retirement System.

Section 4. Section 121.1122, Florida Statutes, is amended to read:

121.1122 Purchase of retirement credit for in-state public service and in-state service in accredited nonpublic, nonsectarian schools and colleges, including charter schools and charter technical career centers.—Effective January 1, 1998, a member of the Florida Retirement System may purchase creditable service for periods of certain public or nonpublic, ~~nonsectarian~~ employment performed in this state, as provided in this section.

(1) PURCHASE OF RETIREMENT CREDIT AUTHORIZED.—Subject to the provisions of subsections (2) and (3), a member of the Florida Retirement System may purchase up to 5 years of retirement credit for:

(a) Periods of public employment in this state; or

(b) Periods of employment in charter schools or charter technical career centers or in any nonpublic, nonsectarian school or college in this state that is accredited by the Southern Association of Colleges and Schools.

Credit for 1 year of such service may be purchased for each year of creditable service a member completes under the Florida Retirement System.

(2) LIMITATIONS AND CONDITIONS.—

(a) A member is not eligible to receive credit for in-state service under this section until he or she has completed 10 years of creditable service under the Florida Retirement System, excluding service purchased under this section and out-of-state service claimed and purchased under s. 121.1115.

(b) A member may not purchase and receive credit for more than 5 years of creditable service aggregated under the provisions of this section and s. 121.1115.

(c) Service credit claimed under this section shall be credited only as service in the Regular Class of membership and shall be subject to the provisions of s. 112.65.

(d) A member shall be eligible to receive service credit for in-state service performed after leaving the Florida Retirement System only upon returning to membership and completing at least 1 year of creditable service in the Florida Retirement System following the in-state service.

(e) The service claimed must have been service covered by a retirement or pension plan provided by the employer.

(3) COST.—The cost to purchase retirement credit under this section shall be calculated in the same manner as set forth in s. 121.1115(2) for purchase of credit for out-of-state service.

Section 5. Subsection (7) of section 236.081, Florida Statutes, is amended to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(7) DECLINE IN FULL-TIME EQUIVALENT STUDENTS.—In those districts where there is a decline between prior year and current year unweighted FTE students, 50 percent of the decline in the unweighted FTE students shall be multiplied by the prior year calculated FEFP per unweighted FTE student and shall be added to the allocation for that district. For this purpose, the calculated FEFP shall be computed by multiplying the weighted FTE students by the base student allocation and then by the district cost differential. If a district transfers a program to another institution not under the authority of the district's school board, including a charter technical career center, the decline is to be multiplied by a factor of 0.15.

Section 6. There is hereby appropriated from the General Revenue Fund the sum of \$3 million, for FY 1998-99, as a grant and aid to Daytona Beach Community College for planning and design costs for a charter technical career center which will serve Volusia and Flagler County students in grades eleven through fourteen on a model basis.

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

Became a law without the Governor's approval May 29, 1998.

Filed in Office Secretary of State May 28, 1998.