

Committee Substitute for House Bill No. 2147

An act relating to charter schools; amending s. 228.056, F.S.; revising the date through which a district school board must receive charter school applications; providing for interdistrict transfer to a charter school under certain circumstances; authorizing charter schools to be operated by municipalities or other public entities; providing information to be included in the charter of a charter school; providing for 15-year charters under specified circumstances; providing for one charter for municipality charter schools comprising one feeder pattern; authorizing charter school governing boards to employ or contract with skilled selected noncertified personnel as provided in ch. 231, F.S., and as provided by rule of the State Board of Education; prohibiting a charter school from hiring certain persons who have resigned in lieu of disciplinary action or have been dismissed for good cause; requiring the fingerprinting of members of the governing boards of charter schools; prescribing time limits for charter schools to receive federal funds; providing for a Charter School Review Panel; providing for membership, purpose, and duties; amending s. 228.0561, F.S.; removing references to the Public Education Capital Outlay and Debt Service Trust Fund; providing for the reversion of unencumbered funds and property to the district school board if the charter school terminates operations; revising requirements relating to charter school use of capital outlay funds; revising eligibility requirements for charter school receipt of capital outlay funds; removing obsolete provisions; amending s. 235.42, F.S., relating to educational and ancillary plant construction funds; removing a reference to charter schools; amending s. 228.057, F.S.; requiring school districts to report the number of students attending the various types of public schools according to the rules of the State Board of Education; creating s. 228.058, F.S.; establishing a charter school districts pilot program; providing requirements for charter school districts; providing for exemptions from statutes and rules; providing for a governing board; providing for charter proposals; providing for a precharter agreement; providing a time period for the pilot project; requiring an annual report; providing for rulemaking; providing for protection and indemnity of the state and charter school from certain liability; providing effective dates.

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

Section 1. Paragraph (a) of subsection (4), paragraph (a) of subsection (6), subsections (7) and (9), paragraphs (f) and (g) of subsection (12), paragraph (d) of subsection (13), and subsection (20) of section 228.056, Florida Statutes, 1998 Supplement, are amended to read:

228.056 Charter schools.—

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

(a) A district school board shall receive and review all applications for a charter school. A district school board shall receive charter school applications through at least ~~November 15~~ February 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year. A district school board may receive applications later than this date if it chooses. In order to facilitate an accurate budget projection process, a district school board shall be held harmless for FTE students which are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. A district school board 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 district school board must, within 10 calendar days, articulate in writing the specific reasons based upon good cause supporting its denial of the charter application. Upon approval of a charter application, the initial startup must be consistent with the beginning of the public school calendar for the district in which the charter is granted unless the district school board allows a waiver of this provision for good cause.

(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. Any eligible student shall be allowed interdistrict transfer to attend a charter school when based on good cause. 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.

(7) LEGAL ENTITY.—A charter school shall organize as, or be operated by, a nonprofit organization. A charter school may be operated by a municipality or other public entity as provided for by law. 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.

(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 incoming baseline standard of student academic achievement, ~~and the outcomes to be achieved,~~ and the method of measurement that will be used. This section shall include a detailed description for each of the following:

a. How the baseline student academic achievement levels and prior rates of academic progress will be established;

b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school; and

c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

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, including a reasonable demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services. Both public sector and private sector professional experience shall be equally valid in such a consideration.

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 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. In order to facilitate access to long-term financial resources for charter school construction, charter schools that are

operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the local school board. In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, 501(c)3 status corporation are eligible for up to a 10-year charter, subject to approval by the local school board. Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only for specific good cause according to the provisions set forth in subsection (10).

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 school years, provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished. In order to facilitate long-term financing for charter school construction, charter schools operating a minimum of 3 years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. Such long-term charter is subject to annual review and may be terminated during the term of the charter.

(c) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor and the approval of both parties to the agreement.

(d) The governing body of the charter school shall make annual progress reports to its sponsor, which upon verification shall be forwarded to the Commissioner of Education at the same time as other annual school accountability reports. The report shall contain at least the following information:

1. The charter school's progress towards achieving the goals outlined in its charter.

2. The information required in the annual school report pursuant to s. 229.592.

3. Financial records of the charter school, including revenues and expenditures.

4. Salary and benefit levels of charter school employees.

(e) A sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 229.591.

(f) Upon receipt of the annual report required by paragraph (d), the Department of Education shall provide to the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the norm-referenced assessment tests, versus comparable public school students in the district as determined by norm-referenced assessment tests currently administered in the school district, and, as appropriate, the Florida Writes Assessment Test, the High School Competency Test, and other assessments administered pursuant to s. 229.57(3).

(g) Whenever a municipality has submitted charter applications for the establishment of a charter school feeder pattern (elementary, middle, and senior high schools), and upon approval of each individual charter application by the district school board, such applications will then be designated as one charter for all purposes listed pursuant to this section.

(12) EMPLOYEES OF CHARTER SCHOOLS.—

(f) Teachers employed by or under contract to a charter school shall be certified as required by chapter 231. A charter school governing board may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as education paraprofessionals in the same manner as defined in chapter 231, and as provided by State Board of Education rule for charter school governing boards. A charter school may not employ an individual to provide instructional services or to serve as an education paraprofessional if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. A charter school may not knowingly employ an individual who has resigned from a school district in lieu of disciplinary action with respect to child welfare or safety, or who has been dismissed for just cause by any school district with respect to child welfare or safety. The qualifications of teachers shall be disclosed to parents.

(g) A charter school shall employ or contract with employees who have been fingerprinted as provided in s. 231.02. Members of the governing board of the charter school shall also be fingerprinted in a manner similar to that provided in s. 231.02 prior to approval of the charter.

(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).

(d) If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter schools shall receive all federal funding for which the school is otherwise eligible, including Title I funding, not later than 5 months after the charter school first opens and within 5 months after any subsequent expansion of enrollment.

(20) REVIEW.—

(a) The Department of Education shall regularly convene a Charter School Review Panel in order to review issues, practices, and policies regarding charter schools. The composition of the review panel shall include individuals with experience in finance, administration, law, education, and school governance, and individuals familiar with charter school construction and operation. The panel shall include two appointees each from the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives. The Governor shall appoint three members of the panel, and shall designate the chair. Each member of the panel shall serve a 1-year term, unless renewed by the office making the appointment. The panel shall make recommendations to the Legislature, to the Department of Education, to charter schools, and to school districts for improving charter school operations and oversight and for ensuring best business practices at and fair business relationships with charter schools.

(b) The Legislature shall review the operation of charter schools during the 2000 Regular Session of the Legislature.

Section 2. Subsections (1), (2), (5), and (6) of section 228.0561, Florida Statutes, 1998 Supplement, are amended to read:

228.0561 Charter schools capital outlay funding.—

(1) In each year in which funds are appropriated for charter school capital outlay purposes 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 a school district on behalf of the charter school, the Department of Education shall ensure that the district school board and the charter school governing board enter into a written agreement that includes provisions for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the district school board, as provided for in subsection (3) 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 General Revenue Fund ~~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 ~~of charter school capital outlay funds 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 may use charter school capital outlay funds 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.

(5) The annual legislative budget request of the Department of Education shall include a request for capital outlay 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 otherwise by the Legislature, allocation and proration of charter school capital outlay 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 million 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, 1998 Supplement, 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 authorized by the Legislature.

Section 4. Subsection (9) is added to section 228.057, Florida Statutes, to read:

228.057 Public school parental choice.—

(9) Each school district shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools and public charter schools, according to rules adopted by the State Board of Education.

Section 5. Effective upon this act becoming a law, section 228.058, Florida Statutes, is created to read:

228.058 Charter School Districts Pilot Program.—The State Board of Education is authorized to enter into a performance contract with up to six school districts for the purpose of establishing them as charter school districts. The State Board of Education shall give priority to Hillsborough and Volusia Counties upon the submission of a completed precharter agreement or charter proposal for a charter school district. The purpose of this pilot program is to examine a new relationship between the State Board of Education and school districts that may produce significant improvements in student achievement and school management, while complying with constitutional requirements assigned to each entity.

(1) CHARTER DISTRICT.—A charter school district is a school district in Florida in which the school board has submitted and the state board has approved a charter proposal that exchanges statutory and rule exemption for agreement to meet performance goals in the proposal. The charter school district shall be chartered for 3 years, at the end of which the performance shall be evaluated.

(2) EXEMPTION FROM STATUTES AND RULES.—Charter school districts shall be exempt from state statutes and state board rules as provided in s. 228.056. The school board of a charter school district shall not be exempt from any statute governing election of board members, public meetings and public records requirements, financial disclosure, conflicts of interest, operation in the sunshine, or other provisions outside the Florida School Code.

(3) GOVERNING BOARD.—The governing board of the charter school district shall be the duly elected school board. The school board shall be responsible for supervising the schools in the charter district and is authorized to charter each of its existing public schools pursuant to s. 228.056, apply for deregulation of its public schools pursuant to s. 228.0565, or otherwise establish performance-based contractual relationships with its public schools for the purpose of giving them greater autonomy with accountability for performance.

(4) CHARTER PROPOSAL.—Competitive charter proposal applications shall be accepted by the State Board of Education no later than October 30, 1999. The charter proposal shall include, but not be limited to:

(a) Authorization for participation in the pilot program approved in an open school board meeting.

(b) The vision of what the school board proposes to accomplish by becoming a charter school district.

(c) A management plan for reaching performance goals, including an anticipated list of the statutes and rules from which the school board desires exemption and the purpose of the exemption.

(d) The performance goals proposed by the school board, the measures to be used to assess progress, the district's current baseline status with respect to the goals, and the timeframe for accomplishing the goals.

(e) A plan for chartering, deregulating, or otherwise freeing schools in the district from state statutes and rules and school board policies and procedures. This portion may include a phased-in approach, but shall be included as a performance goal.

(f) Agreement to file an annual report of progress to the state board.

(g) Any other provisions required by state board rule.

(5) PRECHARTER AGREEMENT.—The state board is authorized to approve a precharter agreement with a potential charter district. The agreement may grant limited flexibility and direction for developing the full charter proposal.

(6) TIME PERIOD FOR PILOT.—The pilot program shall be authorized for a period of 3 full school years commencing with award of a charter. The charter may be renewed upon action of the state board.

(7) REPORTS.—The state board shall annually report on the implementation of the charter school district pilot program. Upon the completion of the first 3-year term, the state board, through the Commissioner of Education, shall submit to the Legislature a full evaluation of the effectiveness of the program.

(8) RULEMAKING.—The State Board of Education shall have the authority to enact rules to implement this section in accordance with ss. 120.536 and 120.54.

Section 6. Any arrangement entered into to borrow or otherwise secure funds for a charter school authorized in section 228.056, Florida Statutes, from a source other than the state or a school district shall indemnify the state and the school district from any and all liability, including but not limited to financial responsibility for the payment of the principal or interest. Any loans, bonds, or other financial agreements are not obligations of the state or the school district but are obligations of the charter school authority and are payable solely from the sources of funds pledged by such agreement. The credit or taxing power of the state or the school district shall not be pledged and no debts shall be payable out of any moneys except those of the legal entity in possession of a valid charter approved by a district school board pursuant to section 228.056, Florida Statutes.

Section 7. Except as otherwise provided herein, this act shall take effect July 1, 1999.

Approved by the Governor June 17, 1999.

Filed in Office Secretary of State June 17, 1999.