

Committee Substitute for Senate Bill No. 3000

An act relating to charter schools; amending s. 1002.33, F.S.; revising authorized purposes of charter schools; providing for appeals under certain circumstances; providing for reversion of capital outlay funds to the Department of Education under certain circumstances; providing for designation as one charter school of schools in a charter school feeder pattern under certain circumstances; revising provisions relating to facility compliance with building construction standards; clarifying Florida Building Code and Florida Fire Prevention Code compliance requirements for charter schools; clarifying jurisdiction for inspections; providing an exemption from assessment of certain fees; providing for use of educational impact fees; requiring an agreement relating to allocation and use of impact fees; requiring a charter school sponsor to provide additional services; prohibiting certain fees or surcharges for certain services; revising provisions relating to contracts for goods and services; requiring a study of transportation issues by the department; amending s. 1002.32, F.S.; correcting the name of a charter lab school; revising provisions relating to the allocation of lab school funds from the Florida Education Finance Program; providing for severability; providing an effective date.

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

Section 1. Paragraph (c) of subsection (2), paragraph (e) of subsection (6), paragraph (e) of subsection (8), paragraph (c) of subsection (15), subsection (18), and paragraphs (a) and (b) of subsection (20) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.—

(2) GUIDING PRINCIPLES; PURPOSE.—

(c) Charter schools may fulfill the following purposes:

1. Create innovative measurement tools.
2. Provide rigorous competition within the public school district to stimulate continual improvement in all public schools.

3. Expand the capacity of the public school system.

4. Mitigate the educational impact created by the development of new residential dwelling units.

(6) APPLICATION PROCESS AND REVIEW.—Beginning September 1, 2003, applications are subject to the following requirements:

(e)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial

review of appeals by applicants whose charter applications ~~charters~~ have been denied, ~~or whose charter contracts have not been renewed or have been terminated~~ by their sponsors, or whose disputes over contract negotiations have not been resolved through mediation.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint the members of the Charter School Appeal Commission. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in conjunction with their service. One-half of the members must represent currently operating charter schools, and one-half of the members must represent school districts. The commissioner or a named designee shall chair the Charter School Appeal Commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

(e) When a charter is not renewed or is terminated, the school shall be dissolved under the provisions of law under which the school was organized,

and any unencumbered public funds, except for capital outlay funds, from the charter school shall revert to the district school board. Capital outlay funds provided pursuant to s. 1013.62 that are unencumbered shall revert to the department to be redistributed among eligible charter schools. In the event a charter school is dissolved or is otherwise terminated, all district school board property and improvements, furnishings, and equipment purchased with public funds shall automatically revert to full ownership by the district school board, subject to complete satisfaction of any lawful liens or encumbrances. Any unencumbered public funds from the charter school, district school board property and improvements, furnishings, and equipment purchased with public funds, or financial or other records pertaining to the charter school, in the possession of any person, entity, or holding company, other than the charter school, shall be held in trust upon the district school board's request, until any appeal status is resolved.

(15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-A-MUNICIPALITY.—

(c) A charter school-in-a-municipality designation may be granted to a municipality that possesses a charter; enrolls students based upon a random lottery that involves all of the children of the residents of that municipality who are seeking enrollment, as provided for in subsection (10); and enrolls students according to the racial/ethnic balance provisions described in subparagraph (7)(a)8. When a municipality has submitted charter applications for the establishment of a charter school feeder pattern, consisting of elementary, middle, and senior high schools, and each individual charter application is approved by the district school board, such schools shall then be designated as one charter school for all purposes listed pursuant to this section. Any portion of the land and facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 1013.54, for the duration of its use as a public school.

(18) FACILITIES.—

(a) A charter school shall utilize facilities which comply with the Florida State Uniform Building Code pursuant to chapter 553 except for the State Requirements for Educational Facilities. Charter schools are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities of the Florida Building Code adopted pursuant to s. 1013.37. The local governing authority shall not adopt or impose local building requirements or restrictions that are more stringent than those found in the Florida Building Code. The agency having jurisdiction for inspection of a facility and issuance of a certificate of occupancy shall be the local municipality or, if in an unincorporated area, the county governing authority for Public Educational Facilities Construction adopted pursuant to s. 1013.37 or with applicable state minimum building codes pursuant to chapter 553 and state minimum fire protection codes pursuant to s. 633.025, as adopted by the authority in whose jurisdiction the facility is located.

(b) A charter school shall utilize facilities that comply with the Florida Fire Prevention Code, pursuant to s. 633.025, as adopted by the authority in whose jurisdiction the facility is located as provided in paragraph (a).

(c)(b) Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor and the governing board, pursuant to subsection (7), shall be exempt from ad valorem taxes pursuant to s. 196.1983.

~~(c) Charter school facilities shall utilize facilities which comply with the Florida Building Code, pursuant to chapter 553, and the Florida Fire Prevention Code, pursuant to chapter 633.~~

(d) Charter school facilities are exempt from assessments of fees for building permits, except as provided in s. 553.80, and for building licenses and from assessments of impact fees or service availability fees.

(e) If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it shall 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. The Public Education Capital Outlay maintenance funds or any other maintenance funds generated by the facility operated as a conversion school shall remain with the conversion school.

(f) To the extent that charter school facilities are specifically created to mitigate the educational impact created by the development of new residential dwelling units, pursuant to subparagraph (2)(c)4., some of or all of the educational impact fees required to be paid in connection with the new residential dwelling units may be designated instead for the construction of the charter school facilities that will mitigate the student station impact. Such facilities shall be built to the State Requirements for Educational Facilities and shall be owned by a public or nonprofit entity. The local school district retains the right to monitor and inspect such facilities to ensure compliance with the State Requirements for Educational Facilities. If a facility ceases to be used for public educational purposes, either the facility shall revert to the school district subject to any debt owed on the facility, or the owner of the facility shall have the option to refund all educational impact fees utilized for the facility to the school district. The district and the owner of the facility may contractually agree to another arrangement for the facilities if the facilities cease to be used for educational purposes. The owner of property planned or approved for new residential dwelling units and the entity levying educational impact fees shall enter into an agreement that designates the educational impact fees that will be allocated for the charter school student stations and that ensures the timely construction of the charter school student stations concurrent with the expected occupancy of the residential units. The application for use of educational impact fees shall include an approved charter school application. To assist the school district in forecasting student station needs, the entity levying the impact fees shall

notify the affected district of any agreements it has approved for the purpose of mitigating student station impact from the new residential dwelling units.

(20) SERVICES.—

(a) A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services;[;] full-time equivalent and data reporting services;[;] exceptional student education administration services;[;] test administration services, including payment of the costs of state-required or district-required student assessments;[;] processing of teacher certificate data services;[;] and information services, including equal access to student information systems that are used by public schools in the district in which the charter school is located. A total administrative fee for the provision of such services shall be calculated based upon 5 percent of the available funds defined in paragraph (17)(b) for all students. However, a sponsor may only withhold a 5-percent administrative fee for enrollment for up to and including 500 students. For charter schools with a population of 501 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(2). Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the 5-percent administrative fee withheld pursuant to this paragraph.

(b) If 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 unless mutually agreed upon by the charter school and the sponsor in a contract negotiated separately from the charter. When mediation has failed to resolve disputes over contracted services or contractual matters not included in the charter, an appeal may be made for a dispute resolution hearing before the Charter School Appeal Commission. To maximize the use of state funds, school districts shall allow charter schools to participate in the sponsor's bulk purchasing program if applicable.

Section 2. The Department of Education shall conduct a study of transportation issues as they relate to charter schools, including, but not limited to, full-time equivalent and data reporting services with respect to transportation; the impact that transporting charter school students has on a school district's average bus occupancy and the feasibility of calculating average bus occupancy separately for charter schools and school districts; and the additional costs of transporting students who choose not to attend conversion charter schools. The results of the study shall be presented to the President of the Senate, the Speaker of the House of Representatives, and the Charter School Appeal Commission no later than November 1, 2004, for a public hearing and development of legislative recommendations.

Section 3. Subsection (2) and paragraph (a) of subsection (9) of section 1002.32, Florida Statutes, are amended to read:

1002.32 Developmental research (laboratory) schools.—

(2) ESTABLISHMENT.—There is established a category of public schools to be known as developmental research (laboratory) schools (lab schools). Each lab school shall provide sequential instruction and shall be affiliated with the college of education within the state university of closest geographic proximity. A lab school to which a charter has been issued under s. 1002.33(5)(a) 2. must be affiliated with the college of education within the state university that issued the charter, but is not subject to the requirement that the state university be of closest geographic proximity. For the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school. The limitation of one lab school per university shall not apply to the following charter lab schools authorized prior to June 1, 2003: Florida State University Charter Lab ~~K-12 Elementary~~ School in Broward County, Florida Atlantic University Charter Lab 9-12 High School in Palm Beach County, and Florida Atlantic University Charter Lab K-12 School in St. Lucie County.

(9) FUNDING.—Funding for a lab school, including a charter lab school, shall be provided as follows:

(a) Each lab school shall be allocated its proportional share of operating funds from the Florida Education Finance Program as provided in s. 1011.62 based on the county in which the lab school is located and the General Appropriations Act. The nonvoted ad valorem millage that would otherwise be required for lab schools shall be allocated from state funds. The required local effort funds calculated pursuant to s. 1011.62 shall be allocated from state funds to the schools as a part of the allocation of operating funds pursuant to s. 1011.62. Each eligible lab school in operation as of September 1, 2002, shall also receive a proportional share of the sparsity supplement as calculated pursuant to s. 1011.62. In addition, each lab school shall receive its proportional share of all categorical funds, with the exception of s. 1011.68, and new categorical funds enacted after July 1, 1994, for the purpose of elementary or secondary academic program enhancement. The sum of funds available as provided in this paragraph shall be included annually in the Florida Education Finance Program and appropriate categorical programs funded in the General Appropriations Act.

Section 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 5. This act shall take effect July 1, 2004.

Approved by the Governor June 23, 2004.

Filed in Office Secretary of State June 23, 2004.