

CHAPTER 2023-69

Committee Substitute for Committee Substitute for House Bill No. 1259

An act relating to education; amending s. 212.055, F.S.; conforming provisions to changes made by the act; amending s. 1013.62, F.S.; deleting obsolete language; making technical changes; revising charter school eligibility and ineligibility criteria to receive capital outlay funds; revising the calculation methodologies for the distribution of specified funds to eligible charter schools; providing school district requirements for the distribution of capital outlay funds to eligible charter schools; providing requirements for the use of capital outlay funds; providing an effective date.

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

Section 1. Paragraph (c) of subsection (6) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(6) SCHOOL CAPITAL OUTLAY SURTAX.—

(c) The resolution providing for the imposition of the surtax must set forth a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto, or any purchase, lease-purchase, lease, or maintenance of school buses, as defined in s. 1006.25, which have a life expectancy of 5 years or more. Additionally, the plan shall include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used to service bond indebtedness to finance projects authorized by this subsection, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses. Surtax revenues shared with charter schools shall be shared based

on their proportionate share of total school district capital outlay full-time equivalent enrollment as adopted by the education estimating conference established in s. 216.136 and expended by the charter school in a manner consistent with the allowable uses set forth in s. 1013.62(4). All revenues and expenditures shall be accounted for in a charter school's monthly or quarterly financial statement pursuant to s. 1002.33(9). The eligibility of a charter school to receive funds under this subsection shall be determined in accordance with s. 1013.62(1). If a school's charter is not renewed or is terminated and the school is dissolved under the provisions of law under which the school was organized, any unencumbered funds received under this subsection shall revert to the sponsor.

Section 2. Subsections (1), (2), (3), and (4) of section 1013.62, Florida Statutes, are amended to read:

1013.62 Charter schools capital outlay funding.—

~~(1) For the 2022-2023 fiscal year, charter school capital outlay funding shall consist of state funds appropriated in the 2022-2023 General Appropriations Act. Beginning in fiscal year 2023-2024, Charter school capital outlay funding shall consist of state funds when such funds are appropriated in the General Appropriations Act and revenue resulting from the discretionary millage authorized in s. 1011.71(2) if the amount of state funds appropriated for charter school capital outlay in any fiscal year is less than the average charter school capital outlay funds per unweighted full-time equivalent student for the 2018-2019 fiscal year, multiplied by the estimated number of charter school students for the applicable fiscal year, and adjusted by changes in the Consumer Price Index issued by the United States Department of Labor from the previous fiscal year. Nothing in this subsection prohibits a school district from distributing to charter schools funds resulting from the discretionary millage authorized in s. 1011.71(2).~~

(a) To be eligible to receive capital outlay funds, a charter school must:

- 1.a. Have been in operation for 2 or more years;
- b. Be governed by a governing board established in the state for 2 or more years which operates both charter schools and conversion charter schools within the state;
- c. Be an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds;
- d. Have been accredited by a regional accrediting association as defined by State Board of Education rule;
- e. Serve students in facilities that are provided by a business partner for a charter school-in-the-workplace pursuant to s. 1002.33(15)(b); or
- f. Be operated by a hope operator pursuant to s. 1002.333.

2. Have an annual audit that does not reveal any of the financial emergency conditions provided in s. 218.503(1) for the most recent fiscal year for which such audit results are available.

3. Have satisfactory student achievement based on state accountability standards applicable to the charter school.

4. Have received final approval from its sponsor pursuant to s. 1002.33 for operation during that fiscal year.

5. Serve students in facilities that are not provided by the charter school’s sponsor.

6. Attest in writing to the department that if the charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with public funds shall revert pursuant to subsection (5).

(b) A charter school is not eligible to receive capital outlay funds if:

1. 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, or if it is directly or indirectly operated by the school district;

2. It is a developmental research (laboratory) school that receives state funding for capital improvement purposes pursuant to s. 1002.32(9)(e); or

3. A member of the governing board, or his or her family member as defined in s. 440.13(1)(b), has an interest in or is an employee of the lessor, excluding charter schools operating pursuant to s. 1002.33(15).

(2) The department shall use the following calculation methodology to allocate state funds appropriated in the General Appropriations Act to eligible charter schools:

~~(a) Eligible charter schools shall be grouped into categories based on their student populations according to the following criteria:~~

~~1. Seventy five percent or greater who are eligible for free or reduced-price school meals under the National School Lunch Program or, for schools operating programs under the Community Eligibility Provision of the Healthy, Hunger-Free Kids Act of 2010, an equivalent percentage of the student population eligible for free and reduced-price meals as determined by applying the multiplier authorized under the National School Lunch Act, 42 U.S.C. s. 1759a(a)(1)(F)(vii), to the number of students reported for direct certification.~~

~~2. Twenty-five percent or greater with disabilities as defined in state board rule and consistent with the requirements of the Individuals with Disabilities Education Act.~~

~~(b) If an eligible charter school does not meet the criteria for either category under paragraph (a), its FTE shall be provided as the base amount of funding and shall be assigned a weight of 1.0. An eligible charter school that meets the criteria under subparagraph (a)1. or subparagraph (a)2. shall be provided an additional 25 percent above the base funding amount, and the total FTE shall be multiplied by a weight of 1.25. An eligible charter school that meets the criteria under both subparagraphs (a)1. and (a)2. shall be provided an additional 50 percent above the base funding amount, and the FTE for that school shall be multiplied by a weight of 1.5.~~

~~(a)(e) Divide the state appropriation for charter school capital outlay shall be divided by the total weighted FTE for all eligible charter schools to determine the base charter school per weighted FTE allocation amount. The base charter school per weighted FTE allocation amount shall be multiplied by the weighted FTE of each charter school to determine each charter school's capital outlay allocation.~~

~~(b)(d) The department shall calculate the eligible charter school funding allocations. Funds shall be allocated using full-time equivalent membership from the second and third enrollment surveys and free and reduced-price school lunch data. The department shall recalculate the allocations periodically based on the receipt of revised information, on a schedule established by the Commissioner of Education.~~

~~(c)(e) The department shall distribute capital outlay funds monthly, beginning in the first quarter of the fiscal year, based on one-twelfth of the amount the department reasonably expects the charter school to receive during that fiscal year. The commissioner shall adjust subsequent distributions as necessary to reflect each charter school's recalculated allocation.~~

~~(3) If the school board levies the discretionary millage authorized in s. 1011.71(2), and the state funds appropriated for charter school capital outlay in any fiscal year are less than the average charter school capital outlay funds per unweighted full-time equivalent student for the 2018-2019 fiscal year, multiplied by the estimated number of charter school students for the applicable fiscal year, and adjusted by changes in the Consumer Price Index issued by the United States Department of Labor from the previous fiscal year, the department shall use the following calculation methodology to determine the amount of revenue that a school district must distribute to each eligible charter school:~~

~~(a) Reduce the total discretionary millage revenue by the school district's annual debt service obligation incurred as of March 1, 2017, which has not been subsequently retired, and any amount of participation requirement pursuant to s. 1013.64(2)(a)8. that is being satisfied by revenues raised by the discretionary millage.~~

~~(b) Divide the school district's adjusted discretionary millage revenue by the district's total capital outlay full-time equivalent membership and the total number of unweighted full-time equivalent students of each eligible~~

charter school to determine a capital outlay allocation per full-time equivalent student.

(c) Multiply the capital outlay allocation per full-time equivalent student by the total number of full-time equivalent students of each eligible charter school to determine the capital outlay allocation for each charter school.

(d) If applicable, reduce the capital outlay allocation identified in paragraph (c) by the total amount of state funds allocated to each eligible charter school in subsection (2) to determine the maximum calculated capital outlay allocation. The amount of funds a school district must distribute to charter schools shall be as follows:

1. For fiscal year 2023-2024, the amount is 20 percent of the amount calculated under this paragraph.

2. For fiscal year 2024-2025, the amount is 40 percent of the amount calculated under this paragraph.

3. For fiscal year 2025-2026, the amount is 60 percent of the amount calculated under this paragraph.

4. For fiscal year 2026-2027, the amount is 80 percent of the amount calculated under this paragraph.

5. For fiscal year 2027-2028, and each fiscal year thereafter, the amount is 100 percent of the amount calculated under this paragraph.

(e) School districts shall distribute capital outlay funds to eligible charter schools no later than February 1 of each year, as required by this subsection, based on the amount of funds received by the district school board. School districts shall distribute any remaining capital outlay funds, as required by this subsection, upon the receipt of such funds until the total amount calculated pursuant to this subsection is distributed.

By October 1 of each year, each school district shall certify to the department the amount of debt service and participation requirement that complies with the requirement of paragraph (a) and can be reduced from the total discretionary millage revenue. The Auditor General shall verify compliance with the requirements of paragraph (a) and s. 1011.71(2)(e) during scheduled operational audits of school districts.

(4) A charter school's governing body may use charter school capital outlay funds for the following purposes:

(a) Purchase of real property.

(b) Construction 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.

(e) Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer.

(f) Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.

(g) Purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.

(h) Purchase, lease-purchase, or lease of computer and device hardware and operating system software necessary for gaining access to or enhancing the use of electronic and digital instructional content and resources; and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements. Enterprise resource software may be acquired by annual license fees, maintenance fees, or lease agreement.

(i) Payment of the cost of the opening day collection for the library media center of a new school.

Any purchase, lease-purchase, or lease made pursuant to this subsection must be at the appraised value. For purposes of this subsection, the term "appraised value" means the fair market value as determined by an independent, Florida-licensed, qualified appraiser selected by the governing board. Documentation of the appraised value shall be provided to the department upon its request. Conversion charter schools may use capital outlay funds received through the reduction in the administrative fee provided in s. 1002.33(20) for renovation, repair, and maintenance of school facilities that are owned by the sponsor.

Section 3. This act shall take effect July 1, 2023.

Approved by the Governor May 11, 2023.

Filed in Office Secretary of State May 11, 2023.