

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

BILL: CS/CS/SB 1028

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Hutson and others

SUBJECT: Charter Schools

DATE: April 21, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jahnke</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1028 adds provisions for public postsecondary institutions to serve as a charter school sponsor, modifies provisions for hope operators, and authorizes a career and professional academy to be offered by a charter school. Specifically, the bill:

- Authorizes state universities and Florida College System (FCS) institutions to solicit applications and sponsor charter schools upon approval by the Department of Education (DOE).
- Provides that a state university sponsored charter school may serve students from multiple school districts to meet regional education or workforce demands, and an FCS sponsored charter school may serve students from any county within the college's service area to meet workforce demands.
- Authorizes an FCS institution that operates an approved teacher preparation program to operate additional charter schools.
- Provides that the board of trustees of a sponsoring state university or FCS institution charter school is a local educational agency for the purpose of receiving federal funds and accepting responsibility for all requirements in that role.
- Provides that students attending a state university or FCS institution sponsored charter school are not to be included in the school district's grade calculation.
- Establishes operational funding and capital outlay funding formulas for charter schools sponsored by a state university or FCS institution.
- Requires the DOE to collaborate to develop a charter school sponsor evaluation framework.

- Authorizes charter schools to provide career and professional academies and revises charter school enrollment limitations.
- Adds hope operators to the list of entities required to perform an annual financial audit.
- Modifies provisions that a high-performing charter school may submit two applications for a charter school within the state to be opened at a time determined by the high-performing charter school.
- Clarifies that instructional and noninstructional personnel at a school of hope must file with the school of hope, rather than the district school board as for other charter schools, a complete set of fingerprints taken by an authorized law enforcement agency or other recognized entity.
- Authorizes a charter school that is an exceptional student education center that receives a rating of “maintaining” or higher may replicate its educational program.
- Specifies that the limitation of one lab school per university does not apply to a university that establishes a lab school to serve a military installation within same county.
- Allows a virtual charter school to offer part-time instruction.
- Provides for a direct appeal in a charter dispute if a party wants to bypass mediation.
- Revises the procedures for immediately terminating a charter school.
- Provides for the award of attorney fees and costs in certain circumstances.

The fiscal impact of the bill is discussed in Section V.

The bill takes effect on July 1, 2021.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Charter Schools

Present Situation

Charter schools are tuition-free public schools created through an agreement or “charter” that provides flexibility relative to regulations created for traditional public schools.¹ Forty-four states and the District of Columbia have enacted charter school laws as of January 2018.² Between the 2000-2001 and 2017-2018 school years, the percentage of all public schools that were charter schools increased from two to seven percent, and the total number of charter schools increased from 2,000 to 7,200. The percentage of public school students nationwide attending public charter schools increased from one to six percent between fall 2000 and fall 2017.³

¹ Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida’s Charter Schools* (October 2020), available at <http://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2020.pdf>.

² Education Commission of the States, *50-State Comparison Charter School Policies* <http://ecs.force.com/mbdata/mbquestNB2C?rep=CS1708> (last visited March 17, 2021).

³ National Center for Education Statistics, *Public Charter School Enrollment*, https://nces.ed.gov/programs/coe/indicator_cgb.asp (last visited March 17, 2021).

All charter schools in Florida are public schools and are part of the state's public education system.⁴ During the 2019-2020 school year, over 329,000 students were enrolled in 673 charter schools in Florida. Sixty-nine percent of the students attending charter schools in the 2019-2020 school year were minorities. Hispanic students comprised 44 percent of Florida's charter school enrollment, and 19 percent were African-American students.⁵

Charter School Sponsors

Under current Florida law, a district school board may sponsor a charter school in the county over which the district school board has jurisdiction. In addition, a state university may sponsor a charter developmental research school (charter lab school).⁶ FCS institutions may work with school districts to develop charter schools as provided for in law, but may not sponsor a K-12 charter school.⁷

A charter school sponsor has several responsibilities, including:

- Approving or denying charter school applications.
- Overseeing each sponsored school's progress toward the goals established in the charter.
- Monitoring the revenues and expenditures of the school.
- Ensuring that the school participates in the state's education accountability system.
- Intervening when a sponsored school demonstrates deficient student performance or financial instability.⁸

A sponsor must provide administrative and educational services and may withhold a fee of up to five percent of each charter school's total operating funds.⁹

Florida College System and State University Charter Schools

FCS institutions may work with school districts in the FCS institution's designated service area to develop charter schools that offer secondary education, including an option for students to receive an associate degree upon high school graduation. If an FCS institution offers a teacher preparation program, it may operate one charter school for students in kindergarten through grade 12 and must implement innovative blended learning instructional models for students in kindergarten through grade 8.¹⁰

⁴ Section 1002.33(1), F.S.

⁵ Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida's Charter Schools* (October 2020), available at <http://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2020.pdf>.

⁶ Section 1002.33(5)(a)1. and 2., F.S.

⁷ FCS institutions may only sponsor a charter technical career center. Section 1002.33(5)(b)4., F.S. and Section 1002.34(3)(b), F.S.

⁸ Section 1002.33(5)(b), F.S.

⁹ Administrative and educational services include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the National School Lunch Program; test administration services; processing of teacher certificate data services; and information services. Section 1002.33(20)(a)1. and 2., F.S.

¹⁰ Section 1002.33(5)(b)4., F.S.

The table below lists the 15 FCS institution-operated charter schools in Florida:¹¹

District Sponsor	Charter School	Affiliated FCS Institution
Charlotte	Florida SouthWestern Collegiate High School	Florida SouthWestern State College
Lee	Florida SouthWestern Collegiate High School	Florida SouthWestern State College
Manatee	State College of Florida Collegiate School - Bradenton	State College of Florida Manatee-Sarasota
Sumter	The Villages High School Early College Program	Lake-Sumter State College
Duval	San Jose Prep Charter	Florida State College at Jacksonville
Duval	Duval Charter at Baymeadows	Florida State College at Jacksonville
Duval	River City Science Academy	Florida State College at Jacksonville
Martin	Clark Advanced Learning Center	Indian River State College
Okaloosa	Collegiate High School at Northwest Florida State College	Northwest Florida State College
Polk	Polk State College Collegiate High School	Polk State College
Polk	Chain of Lakes Collegiate High School	Polk State College
Polk	Polk State Lakeland Gateway to College Charter High School	Polk State College
Pinellas	St. Petersburg Collegiate High School	St. Petersburg College
Pinellas	St. Petersburg Collegiate High School North Pinellas	St. Petersburg College
Sarasota	State College of Florida Collegiate School - Venice	State College of Florida Manatee-Sarasota

There are six existing university developmental research (laboratory) schools (lab schools). Of these, three are charter lab schools. Charter lab schools are not required to be established by the nearest state university.¹² The limitation of one lab school per university does not apply to charter lab schools authorized prior to June 1, 2003.¹³ In considering an application to establish a charter lab school, a state university must consult with the district school board of the county in which the school is located. If a state university denies or does not act on the application, the applicant may appeal such decision to the State Board of Education (SBE).¹⁴

The table below lists the three charter lab schools operating in Florida:¹⁵

State University Sponsor	County	Charter Lab School
Florida Atlantic University	St. Lucie	Florida Atlantic University/St. Lucie Public Schools Palm Pointe Research School
Florida State University	Leon	Florida State University Schools
Florida State University	Broward	The Pembroke Pines Florida School

¹¹ Email, Department of Education (March 19, 2021) (on file with the Senate Committee on Education).

¹² Board of Governors, *2020 Agency Analysis of SB 1578* (Jan. 27, 2020), at 2. Developmental research (laboratory) schools (lab schools) are public schools. Each lab school must 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 is known as a charter lab school. Section 1002.32(2), F.S.

¹³ Section 1002.32(2)(a), F.S.

¹⁴ Section 1002.33(6)(g), F.S.

¹⁵ Email, Department of Education (March 17, 2021) (on file with the Senate Committee on Education).

Sparsity Supplement for Developmental Research (lab) Schools

The FEFP recognizes the relatively higher operating cost of smaller districts due to sparse student populations through a statutory formula in which the variable factor is a sparsity index.¹⁶ This index is computed by dividing the FTE student membership of the qualified district by the number of permanent senior high school centers, not to exceed three. For districts with at least 20,000 FTE, but no more than 24,000 FTE, the index is computed by dividing the total FTE by the number of permanent senior high school centers, not to exceed four.¹⁷

Each eligible lab school in operation as of September 1, 2013, with a permanent high school center must also receive a proportional share of the sparsity supplement.¹⁸

Effect of Proposed Changes

To address the needs of educational capacity, workforce qualifications, and career education opportunities that may extend beyond a school district's boundaries, the bill modifies s. 1002.33, F.S., and:

- Authorizes state universities and FCS institutions to solicit applications and sponsor charter schools upon approval by the SBE. A state university or FCS institution may deny an application for a charter school. Additionally:
 - A state university-sponsored charter school may serve students from multiple school districts to meet regional education or workforce demands.
 - An FCS-sponsored charter may exist in any county within its service area¹⁹ to meet workforce demands; however, a charter school currently operated by an FCS institution is not eligible to be sponsored by an FCS institution until its existing charter with the school district expires. An FCS-sponsored charter may offer postsecondary programs leading to industry certifications for eligible charter school students.
- Removes the requirements that an FCS institution that operates an approved teacher preparation program:
 - May operate no more than one charter school; and
 - Implement an innovative blended learning instructional model for students in kindergarten through grade eight at a charter school it operates.
- Specifies that a charter's racial/ethnic balance must reflect that of nearby public schools rather than public schools located geographically within the district to address state university and FCS sponsored charter schools which may serve students from multiple school districts.
- Prohibits an FCS institution from reporting the full-time equivalent (FTE) for any students participating in FCS-sponsored charter schools who receive FTE funding through the FEFP.
- Clarifies that a student enrolled in a charter school sponsored by a state university or FCS institution may not be included in the calculation of the school district's grade.

The bill modifies s. 1002.32, F.S. to clarify that the limitation of one lab school per university does not apply to a legislatively allowed charter lab school, and:

¹⁶ Florida Department of Education, *2020-21 Funding for Florida School Districts* (2020), available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf>.

¹⁷ Section 1011.62(7), F.S.

¹⁸ Section 1002.32(9)(a), F.S.

¹⁹ FCS institution service areas are defined in s. 1000.21(3), F.S.

- Removes an obsolete authorization date;
- Updates Florida Atlantic University Charter lab as a K-12 school, instead of a 9-12 high school;
- Specifies that the limitation of one lab school per university does not apply to a university that establishes a lab school to serve a military installation within same county; and
- Authorizes all lab schools with permanent high school centers to receive a proportional share of the sparsity supplement, not just for those in operation prior to September 1, 2013.

To ensure charter school sponsor accountability, the bill requires the DOE, in collaboration with charter school sponsors and operators, to develop a sponsor evaluation framework that must address, at a minimum:

- The sponsor’s strategic vision for charter school authorizing and progress towards that vision;
- Alignment of the sponsor’s policies and practices to best practices for charter school authorizing;
- Academic and financial performance of all operating charter schools overseen by the sponsor; and
- The status of charter schools authorized by the sponsor, including approved, operating and closed schools.

The bill requires the DOE to compile the results of the evaluation framework, by sponsor, and add them to its annual charter school sponsor report.

The bill requires the sponsor to provide equal access to student information systems that are used by public schools in the district or by schools in the sponsor’s portfolio of charter schools if the sponsor is not a school district. Additionally, the sponsor must provide student performance data, such as standardized test scores and previous public school student report cards, for each student in the charter school.

The bill replaces the terms “public school district” with “public school system” and “school district” with “sponsor” to conform to the establishment of FCS institutions and state universities as authorized charter school sponsors.

Establishing a Charter School

Present Situation

Charter schools are created when an individual, a group of parents or teachers, a business, a municipality, or a legal entity submits an application to the school district; the school district approves the application; the applicants form a governing board that negotiates a contract with the district school board; and the applicants and district school board agree upon a charter or contract. The district school board then becomes the sponsor of the charter school. The negotiated contract outlines expectations of both parties regarding the school’s academic and financial performance.²⁰

²⁰ See Florida Department of Education, Charter Schools, *Frequently Asked Questions*, <http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml> (last visited March 17, 2021).

Charter School Application

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.²¹ All charter applicants must prepare and submit a standard application, which:²²

- Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.
- Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.
- Contains goals and objectives for improving student learning and measuring that improvement.
- Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level.
- Contains an annual financial plan for each year requested by the charter for operation of the school for up to five years.
- Discloses the name of each applicant, governing board member, and all proposed education services providers; the name and sponsor of any charter school operated by each applicant, each governing board member, and each proposed education services provider that has closed and the reasons for the closure; and the academic and financial history of such charter schools, which the sponsor must consider in deciding whether to approve or deny the application.
- Contains additional information a sponsor may require.
- Documents, for the establishment of a virtual charter school, the applicant has contracted with a provider of virtual instruction services in accordance with law.²³

A sponsor receives and reviews all charter school applications and, within 90 calendar days of receipt, must by majority vote approve or deny the application. A sponsor must receive and consider charter school applications received on or before February 1 of each year for charter schools to be opened 18 months later at the beginning of the school district's school year, or to be opened at a time determined by the applicant.²⁴

If an application is denied, the sponsor must within ten calendar days provide specific written reasons, based upon good cause, for its denial to the applicant and the DOE.²⁵ The applicant has 30 calendar days to file an appeal with the SBE after the denial of or failure to act upon an application. The state board's decision is a final action subject to judicial review in the District Court of Appeal.²⁶

Charter School Sponsor Reporting

A charter school sponsor must submit an annual report to the DOE summarizing the following:

²¹ Section 1002.33(3)(a), F.S.

²² Section 1002.33(6)(a), F.S. Charter school applications are incorporated into State Board of Education (SBE) Rule 6A-6.0786, F.A.C.

²³ Section 1002.45(1)(d), F.S.

²⁴ A sponsor may receive and consider applications after February 1, if it chooses. Section 1002.33(6)(b), F.S.

²⁵ Section 1002.33(6)(b)3.a., F.S.

²⁶ Section 1002.33(6)(c)-(d), F.S.; *see also* s. 120.68, F.S.

- The number of draft applications received on or before May 1 and each applicant's contact information;
- The number of final applications received on or before August 1 and each applicant's contact information;
- The date each application was approved, denied, or withdrawn; and
- The date each final contract was executed.²⁷

The DOE must compile the reported sponsor information into an annual report, by district, and post the information on its website by November 1 each year.²⁸

Causes for Nonrenewal or Termination

A charter school sponsor must make student academic achievement for all students the most important factor when determining whether to renew or terminate a charter, but may terminate or not renew a charter for any of the following reasons:

- Failure to participate in the state's education accountability system or failure to meet the charter's requirements for student performance.
- Failure to meet generally accepted standards of fiscal management.
- Material violation of law.
- Other good cause shown.²⁹

A sponsor must provide 90-days written notice to the charter school prior to termination or nonrenewal, except that a charter may be terminated immediately if the sponsor sets forth particular facts and circumstances indicating an immediate and serious danger to the health, safety or welfare of the students.³⁰ The sponsor must notify in writing the charter school's governing board, the charter school principal, and the DOE of an immediate termination. The governing board is entitled to a formal hearing with an administrative law judge (ALJ), who must issue a final order to the sponsor. The governing board may appeal the final order in the District Court of Appeal. Under these circumstances, the sponsor must assume operation of the charter school throughout the pendency of the hearing.³¹

Award of Attorney Fees and Costs

Current law provides the award of a reasonable attorney fees and costs to the prevailing party in a dispute between a sponsor and a charter school, including:

- A dispute under the charter;³²
- The termination of nonrenewal of a charter school;³³ and
- Disputes relating to contracts for goods and services separate from the charter.³⁴

²⁷ Section 1002.33(5)(b)1.k.(I)-(II), F.S.

²⁸ Section 1002.33(5)(b)1.k.(III), F.S. See Florida Department of Education, *Annual Authorizer Report 2019* (2020), available at <http://www.fldoe.org/core/fileparse.php/9905/urlt/19-AuthorizerReport.pdf>.

²⁹ Section 1002.33(8)(a)1.-4., F.S.

³⁰ Section 1002.33(8)(b) and (c), F.S.

³¹ Section 1002.33(8)(c), F.S. The administrative law judge must award the prevailing party reasonable attorney fees and costs incurred during the administrative proceedings and any appeals.

³² Section 1002.33(7)(b), F.S.

³³ Section 1002.33(8)(b), F.S.

³⁴ Section 1002.33(20)(b), F.S.

For a charter school that is terminated immediately due to an immediate and serious danger to the health, safety or welfare of the school's students, the sponsor must assume operation of the charter school during any hearing to dispute the termination. Failure by the sponsor to assume and continue operation of the charter school must result in the awarding of reasonable costs and attorney's fees if the charter school prevails on appeal.³⁵

Charter School Student Enrollment

Prospective students must apply for enrollment in a charter school, and if the number of applications exceeds the school's capacity, a random lottery must be used to determine which students are enrolled.³⁶ A charter school may give enrollment preference to the following specific student populations:³⁷

- Students who are siblings of a student enrolled in the charter school.
- Students who are the children of a member of the governing board of the charter school.
- Students who are the children of an employee of the charter school.
- Students who are the children of:
 - An employee of the business partner of a charter school-in-the-workplace or a resident of the municipality in which the charter school is located; or
 - A resident or employee of a municipality that operates a charter school-in-a-municipality or allows a charter school to use a school facility or portion of land provided by the municipality for the operation of the charter school.
- Students who have successfully completed a voluntary prekindergarten education (VPK) program provided by the charter school or the charter school's governing board during the previous school year.
- Students who are the children of an active duty member of any branch of the United States Armed Forces.
- Students who attended or are assigned to failing schools and have received an opportunity scholarship to enroll and attend a higher performing school.³⁸

A charter school may be exempt from specific enrollment requirements if the school is open to any student covered in an inter-district agreement and any student residing in the school district in which the charter school is located.³⁹ A charter school may limit the enrollment process only to target the following student populations:

- Students within specific age groups or grade levels.
- Students considered at risk of dropping out of school or academic failure.
- Students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality.⁴⁰
- Students residing within a reasonable distance of the charter school.

³⁵ Section 1002.33(8)(c), F.S.; *See also* Championship Academy of Distinction at Davie, Inc. v. Broward County School Board, Case No.20-4344F (Fla. DOAH Dec. 17, 2020). The final order denied the petitioners entitlement to attorney's fees and costs under s. 1002.33(c) finding that the fee provision under 1002.33(8)(b), F.S. is substantive, rather than procedural, and as such, it cannot be included among the procedures set forth in paragraph (b) that have been incorporated into s. 1002.33(8)(c), F.S.

³⁶ Section 1002.33(10)(b), F.S.

³⁷ Section 1002.33(10)(d)1.-7., F.S.

³⁸ Section 1002.38(2), F.S.

³⁹ Section 1002.33(10)(a), F.S.

⁴⁰ Section 1002.33(15), F.S.

- Students who meet established academic, artistic, or other eligibility standards.
- Students articulating from one charter school to another.
- Students living in a development in which a business entity provides the school facility and related property having an appraised value of at least \$5 million.⁴¹

Effect of Proposed Changes

Charter School Application

The bill modifies s. 1002.33, F.S., by repealing an obsolete August 1 application deadline. The bill modifies the charter school application process to specify that an application may be submitted at any time, rather than by February 1.

The bill repeals the requirement that a charter school sponsor report on draft applications it receives and specifies that each sponsor's report to the DOE must reflect the applications it receives during the school year and up to August 1. The bill revises the date by which a sponsor must annually report the number of applications it receives from August 31 to November 1. Accordingly, the bill revises the date by which the DOE annually reports the number of applications on its website from November 1 to January 15.

Additionally, the bill allows a charter school to be opened at a time determined by the applicant and removes the requirement that the charter school initial startup commences with the beginning of the public school calendar for the district where the charter is granted.

Charter Contract

The bill authorizes a charter school to immediately appeal any formal or informal decision by a sponsor in a dispute regarding a charter contract to an administrative law judge. The appeal may occur if either the charter school or the sponsor do not wish to mediate the decision and indicates such a decision in writing.

The bill requires a school district that fails to implement the decision affirmed by a district court of appeal to reduce the administrative fees withheld to one percent for all charter schools operating in the school district. Such school district is required to file a monthly report detailing the reduction in the amount of administrative fees withheld. In addition, the bill specifies that upon execution of the charter, the sponsor can resume withholding the full amount of administrative fees but may not recover any fees that would have accrued during the period of noncompliance.

The bill specifies that changes to a charter school's curriculum consistent with state standards are deemed approved in terms of modifications to the charter, unless the sponsor determines in writing that the curriculum is inconsistent with state standards.

The bill specifies that, for the purpose of assisting the development of a charter school, a school district may enter into a nonexclusive interlocal agreement with federal and state agencies, counties, municipalities, and other government entities. An interlocal agreement between a school district and a federal or state agency, county, municipality, or other governmental entity

⁴¹ Section 1002.33(10)(e), F.S.

which prohibits or limits the creation of a charter school within the geographic borders of the school district is void and unenforceable.

Charter School Student Enrollment

The bill expands the enrollment preference for students who complete the VPK program provided by the charter school to include students who complete the program at a provider with which the charter school has a written agreement.

The bill expands the criteria by which a charter school may limit the enrollment process to include students living in a development in which a developer, including any affiliated business entity or charitable foundation, contributes to the formation, acquisition, construction, or operation of one or more charter schools, facilities and related property in an amount equal to or having a total appraised value of at least \$5 million.

Termination

In the case of an immediate termination of a charter school, the bill requires the sponsor to provide the facts and circumstances supporting the termination in writing. They must demonstrate that an immediate and serious danger exists to the charter school's students, that the immediate and serious danger is likely to continue, and that an immediate termination of the charter is necessary.

The bill authorizes a charter school sponsor to seek an injunction in circuit court to prohibit continued operation of a charter school if continued operation of the school would materially threaten the health, safety, or welfare of the students.

The bill removes the requirement for a sponsor to assume and continue operation of a charter school pending a hearing on the school's immediate termination.

Award of Attorney Fees and Costs

The bill revises requirements for awarding reasonable attorney fees and costs in disputes relating to charter schools by:

- Authorizing the prevailing party in the appeal of a charter school application denial to file an action with the Division of Administrative Hearings to recover reasonable attorney's fees and costs incurred during the denial and any appeals; and
- Authorizes an administrative law judge to award reasonable attorney fees and costs to the prevailing party of any injunction, administrative proceeding, or appeal.

In addition, the bill authorizes any charter school that had administrative fees withheld to recover attorney fees and costs to enforce these requirements.

High-Performing Charter Schools

Present Situation

Charter schools and operators of systems of charter schools with a track record of academic excellence and financial stability may earn “high-performing” status.⁴² A high-performing charter school is a charter school that during each of the three previous years:

- Received at least two school grades of “A” and no school grade below “B;”
- Has received an unqualified opinion⁴³ on each annual financial audit; and
- Has not received an annual financial audit that reveals a financial emergency condition.⁴⁴

Initial eligibility for “high-performing” status is verified by the commissioner, upon request by a charter school. Thereafter, the commissioner must annually verify continued eligibility.⁴⁵

High-performing charter schools may take advantage of various benefits, such as, the operator of a high-performing charter school may submit an application in any Florida school district to establish and operate a new charter school that substantially replicates one of its high-performing charter schools. The application process for such applications is streamlined to expedite approval.⁴⁶

A high-performing charter school may not be replicated more than twice in any given year and may not replicate again until the new charter school achieves “high-performing” status.⁴⁷ Systems may replicate their high-performing charter schools using the same process applicable to high-performing charter schools.⁴⁸ Additionally, a high-performing charter school may have the term of its charter extended to up to 15 years.⁴⁹

A high-performing charter school may increase the school’s enrollment once per year to more than the capacity identified in the charter, but student enrollment may not exceed the capacity of the facility at the time the enrollment increase will take effect. If the school chooses to expand the grade levels it serves, e.g., a K-5 school adding grade six, the facility capacity must include any improvements to an existing facility or any new facility in which a majority of the high-performing charter school students will enroll. A high-performing charter school may also expand grade levels within kindergarten through grade 12 to add grade levels not already served as long as the increase in enrollment in either case does not exceed the current facility capacity.⁵⁰

Effect of Proposed Changes

The bill modifies s. 1002.331, F.S., to allow a high-performing charter school to submit two applications at a time instead of two per year. Subsequent applications may be submitted so long

⁴² Section 1002.331(1), F.S.

⁴³ An unqualified audit opinion means that the charter school’s financial statements are materially correct.

⁴⁴ Section 1002.331(1), F.S.; *see s. 218.503(1)*, F.S. (financial emergency conditions).

⁴⁵ Sections 1002.331(4) and 1002.332(2)(a), F.S.

⁴⁶ Section 1002.331(3)(a)1. and 2., F.S.

⁴⁷ Section 1002.331(3)(b), F.S.

⁴⁸ Section 1002.332(2)(b), F.S.

⁴⁹ Section 1002.331(2)(e), F.S.

⁵⁰ Section 1002.331(2)(a) and (b), F.S.

as each previous charter school application is withdrawn or has commenced operation instead of upon each school being designated high-performing.

The bill revises the determination of a high-performing charter school facility's capacity so that any expansion of enrollment, regardless of grade level expansion or where a majority of new students will be enrolled, is based on the school's facilities at the time the expansion will take effect.

The bill clarifies that a charter school is high-performing if the school received at least two consecutive grades of "A" in the most recent two school years for the years that the school received a grade or receives, during its first three years of operation, or funding through the National Fund of the Charter School Growth Fund, and has received no school grade lower than a "C," during each of the previous three school years for the years that the school received a grade.

Charter School Funding

Present Situation

Charter school operations, like other public schools, are funded through the Florida Education Finance Program (FEFP). Each charter school reports student enrollment to its sponsor for inclusion in the district's report of student enrollment for FEFP funding. Operating funds from the FEFP are distributed to the charter school by the sponsor. A charter school is entitled to receive its proportionate share of categorical funds included in the FEFP for qualifying students.⁵¹ Categorical funds must be spent for specified purposes, such as student transportation, safe schools, and supplemental academic instruction.

Charter schools are eligible to receive federal education funding through such programs as the Individuals with Disabilities Education Act (IDEA), Title I programs for disadvantaged students, and Title II programs for improving teaching and leadership in the same manner as district school board-operated public schools and must be included in requests for federal funding by the school district or the DOE.⁵² A high performing charter school system⁵³ governing board may be designated as a local educational agency for the purpose of receiving federal funds, the same as if the charter school system were in the school district, if the governing board of the charter school system has adopted and filed a resolution with its sponsoring district school board and the DOE.⁵⁴

Capital outlay funding for charter schools consists of state funds when appropriated in the General Appropriations Act (GAA) and revenue resulting from discretionary millage authorized in law.⁵⁵ To be eligible to receive capital outlay funds, a charter school must:

⁵¹ Section 1002.33(17)(a) and (b), F.S.

⁵² Section 1002.33(17)(c), F.S.

⁵³ A high-performing charter school system is an entity that operated at least three high-performing charter schools in the state during each of the previous 3 school years; operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools and no charter school earned a school grade of "D" or "F", and did not receive a financial audit that revealed one or more of the financial emergency conditions. Section 1002.332 (1)(b), F.S.

⁵⁴ Section, 1002.33(25), F.S.

⁵⁵ Section 10013.62, F.S.

- Have operated for two or more years and meet specified requirements.⁵⁶
- Have an annual audit that does not reveal any financial emergency conditions.
- Have satisfactory student achievement based on state accountability standards.
- Have received final approval from its sponsor for operation during that fiscal year.
- Serve students in facilities that are not provided by the charter school's sponsor.⁵⁷

While each university receives additional state capital funding, unlike local school districts, university lab schools are dependent on funding from the Legislature for both operational and capital needs.⁵⁸

Effect of Proposed Changes

The bill modifies s. 1002.33, F.S., to provide that students enrolled in a charter school sponsored by a state university or FCS institution be funded as if they are in a basic program or special program in the school district.

The bill establishes the basis for funding these students as the sum of the total operating funds for the school district in which the school is located as provided from the FEFP and the GAA, including gross state and local funds, discretionary lottery funds, and funds from each school district's current operating discretionary millage levy; divided by total funded weighted FTE students in the school district; and multiplied by the FTE membership of the charter school.

The bill specifies that a board of trustees of a sponsoring state university or FCS institution is the local education agency (LEA) for the charter schools it sponsors. As the LEA, the sponsor may receive federal funds and accepts full responsibility for the schools it oversees, including LEA requirements.

The DOE is required to develop a tool that each state university or FCS institution sponsoring a charter school must use for purposes of calculating the funding amount for each eligible charter school student. The total obtained by the calculation must be appropriated to the charter school from state funds in the GAA.

In addition, the bill requires capital outlay funding for state university or FCS-sponsored charter schools to be determined in accordance with the requirements established in law for other charter schools.

⁵⁶ Specified requirements include being governed by a governing board established in the state for two or more years which operates both charter schools and conversion charter schools within the state; being an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds; having been accredited by a regional accrediting association as defined by State Board of Education rule; or serving students in facilities that are provided by a business partner for a charter school-in-the-workplace pursuant to s.1002.33(15)(b). Section 1013.62(1)(a), F.S.

⁵⁷ Section 10013.62(1)(a), F.S.

⁵⁸ Board of Governors, *2020 Agency Analysis of SB 1578* (Jan. 27, 2020) (on file with the Senate Committee on Education).

Exceptional Student Education Centers

Present Situation

Exceptional Student Education (ESE) is specially designed instruction and related services that are provided to students with disabilities and students who are identified as gifted.⁵⁹ A student may not be given special instruction or services as an ESE student until after the student has been properly evaluated and found eligible.⁶⁰

With regard to students with disabilities, the IDEA requires school districts to make a free appropriate public education (FAPE) available to such students ages three through 21.⁶¹ A FAPE must include special education and related services⁶² that are provided by the public school system at no cost to the parent, which meet the standards of the state and which are in conformity with the student's individual educational plan (IEP).⁶³

An ESE center is a separate public school to which nondisabled students ages six through 21 years of age do not have access.⁶⁴ For school accountability purposes, an ESE center school is one which is specifically designed to meet the needs of students with disabilities and in which all students in attendance in grades K-12 are identified as students with a disability.⁶⁵ Each ESE center must choose to receive a school grade based on student performance on statewide standardized assessments or to receive a school improvement rating.⁶⁶ An ESE center school that does not choose to receive a school grade must be assigned a school improvement rating of Commendable, Maintaining, or Unsatisfactory annually, and the school must assess at least 80 percent of their eligible students to receive a school improvement rating. A school that tests less than 90 percent of its students may not earn a rating higher than maintaining.⁶⁷

The school improvement rating is calculated using student learning gains on statewide, standardized English Language Arts and Mathematics assessments for all eligible students who are enrolled in the school and who have assessment scores, concordant scores, or comparable scores for the preceding school year.⁶⁸

⁵⁹ Section 1003.57(1)(b), F.S.; Rule 6A-6.03411(1)(m) and (n), F.A.C.

⁶⁰ Section 1003.57(1)(c), F.S.; *see also* Rule 6A-6.0331, F.A.C.

⁶¹ 20 U.S.C. s. 1400(d)(1)(A); 34 C.F.R. s. 300.101; Rules 6A-6.03028(1) and 6A-6.03411(1)(p), F.A.C.

⁶² "Related services" means "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes." "Related services" also include school health services and school nurse services, social work services in schools, and parent counseling and training. 34 C.F.R. s. 300.34 (a).

⁶³ 34 C.F.R. s. 300.17; Rule 6A-6.03411(1)(p), F.A.C.

⁶⁴ Section 1003.57(1)(a)1.a., F.S.

⁶⁵ Rule 6A-1.099828(2)(b), F.A.C.

⁶⁶ Section 1008.3415, F.S.; *see also* s. 1008.34(3)(a), F.S.

⁶⁷ Rule 6A-1.099822(3)(c)-(d), F.A.C.

⁶⁸ Section 1008.341(3), F.S.

The overall school improvement rating is calculated based on the percentage of possible points, 100 points are available for each component, earned by each school.⁶⁹ A school's overall improvement rating based, on applicable points earned, are as follows:

- “Commendable” – a significant percentage of students attending the school are making learning gains
- “Maintaining” – a sufficient percentage of students attending the school are making learning gains
- “Unsatisfactory” – an insufficient percentage of students attending the school are making learning gains

Effect of Proposed Changes

The bill modifies s. 1008.3415, F.S., by authorizing a charter school that is an exceptional student education center and receives two consecutive ratings of “maintaining” or higher to replicate its educational program. In addition, the bill requires the Commissioner of Education, upon request by a charter school, to verify that the charter school meets the specified requirements and provide a letter to the charter school and the sponsor stating that the charter school may replicate its educational program in the same manner as a high-performing charter school.

The bill modifies s. 1002.33, F.S., by specifying the charter school sponsor's administrative fee for up to two percent for enrollment of up to and including 250 students in an ESE center.

Virtual Instruction Programs

Present Situation

Florida law establishes a variety of options to make virtual instruction accessible to K-12 students. These options include:

- Full-time or part-time enrollment in a school district virtual instruction program;⁷⁰
- Full-time enrollment in a virtual charter school;⁷¹
- Enrollment in individual virtual courses offered by school districts and approved by the DOE;⁷² and
- Full-time and part-time enrollment in Florida Virtual Schools (FLVS) or school district FLVS franchises.⁷³

The DOE is required to annually publish online a list of providers approved to offer virtual instruction programs in Florida. To be approved by the DOE, among other requirements specified in law, a virtual provider must document that the provider makes available to parents and students in their virtual program specific contact information. The contact information must be posted and accessible online and include, but is not limited to, the following teacher-parent and teacher-student contact information for each virtual course:

⁶⁹ Section 1008.341(4)(b)1, F.S.

⁷⁰ Section 1002.45, F.S.

⁷¹ Sections 1002.33(1) and 1002.45(1)(d), F.S.

⁷² Section 1003.498, F.S.

⁷³ Section 1002.45(2)(a), F.S.; see also Florida Department of Education, List of Approved Program and Course Providers, <https://www.fldoe.org/schools/school-choice/virtual-edu/provider-resources/approved-providers/> (last visited April 7, 2021).

- How to contact the instructor via phone, e-mail, or online messaging tools.
- How to contact technical support via phone, e-mail, or online messaging tools.
- How to contact the administration office via phone, e-mail, or online messaging tools.
- Any requirement for regular contact with the instructor for the course and clear expectations for meeting the requirement.
- The requirement that the instructor in each course must, at minimum, conduct one contact via phone with the parent and the student each month.

Effect of Proposed Changes

The bill amends s. 1002.45, F.S. to allow a virtual charter school to offer part-time instruction. In addition, the bill removes the requirement for a virtual provider to contact a parent by phone only.

Career and Professional Academies

Present Situation

In 2007, the Legislature enacted the Florida Career and Professional Education (CAPE) Act to provide a statewide planning partnership between the business and education communities to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.⁷⁴ The primary purpose of the CAPE Act is to:

- Improve middle and high school academic performance by providing rigorous and relevant curriculum opportunities;
- Provide rigorous and relevant career-themed courses that articulate to post-secondary level coursework and lead to industry certification;
- Support local and regional economic development;
- Respond to Florida's critical workforce needs; and
- Provide state residents with access to high-wage and high-demand careers.⁷⁵

Each school board must offer career and professional academies⁷⁶ and include plans to implement a career and professional academy or career-themed course in at least one middle school in the district as part of its three-year strategic plan.⁷⁷ A career and professional academy is a research-based program that integrates a rigorous academic curriculum with an industry-specific curriculum aligned directly to priority workforce needs.⁷⁸ During the 2019-20 school year, 67 school districts, as well as, the Florida Virtual School, Florida School for Deaf and Blind, the Florida State University School, and the Florida A&M University Laboratory School registered 1,706 high school and 301 middle school career and professional academies with 194,197 participating students.⁷⁹

⁷⁴ Section 1003.491, F.S.

⁷⁵ *Id.* at (1).

⁷⁶ Section 1003.493(1)(a), F.S.

⁷⁷ Section 1003.4935(1), F.S.

⁷⁸ Section 1003.493(1)(a), F.S.

⁷⁹ Florida Department of Education, *Career and Professional Education Act, Enrollment and Performance Report, 2019-20 (2021)*, available at <http://www.fldoe.org/core/fileparse.php/9904/urlt/1920capepr.pdf>.

Current law does not expressly authorize charter schools to offer career and professional academies.

Effect of Proposed Changes

The bill modifies s. 1003.493 F.S., to authorize charter schools to provide career and professional academies. This may increase the number of charter middle and high schools offering career and professional academies to better meet career and workforce needs.

Schools of Hope

Present Situation

In 2017, the Legislature established the Schools of Hope Program to provide students in areas of persistently low-performing schools the opportunity to access a high-quality education designed to close the opportunity gap and increase student achievement.⁸⁰ A school of hope is defined as a charter school operated by a hope operator to serve students from one or more persistently low-performing schools; is located within the attendance zone of the persistently low-performing school or within a five mile radius of the school, whichever is greater; and is a Title I eligible school.⁸¹

Under the Schools of Hope Program administered by the DOE, a school of hope may receive additional funding for certain expenses such as funds for initial school facility leasing, hiring instructional support personnel, or acquiring supplies and educational materials, along with other expenses specified in law. Funds allocated that are not disbursed by June 30 of the fiscal year in which the funds are allocated may be carried forward for up to five years.⁸²

A school of hope may request that the SBE designate the school as an LEA for the purposes of receiving federal funds. As an LEA, the school accepts the full responsibility for all LEA requirements and the schools for which it will perform LEA responsibilities. Students enrolled in a school established by a hope operator designated as an LEA are not eligible students for purposes of calculating a district's school grade.⁸³

A school of hope must report its students to the school district for purposes of determining the school district's full-time equivalent FTE membership in calculating the FEFP.⁸⁴

Persistently Low Performing Schools

A persistently low-performing school is a school that has earned three grades lower than a "C" in at least three of the previous five school years and has not earned a grade of "B" or higher in the most recent two school years. A school is also a persistently low-performing school if it was closed pursuant to the school's turnaround option plan within two years after the submission of a notice of intent.⁸⁵ The SBE must publish annually a list of persistently low-performing schools

⁸⁰ Section 43, ch. 2017-116, L.O.F., codified at s.1002.333, F.S.

⁸¹ Section 1002.333(1)(d)1., F.S.

⁸² Section 1002.333(10), F.S.

⁸³ Section 1002.333(6)(a), F.S.

⁸⁴ Section 1002.333(6)(g), F.S.

⁸⁵ Section 1002.333(1)(c), F.S.

and must provide students in persistently low-performing schools with a public school that meets accountability standards.⁸⁶ For school year 2018-2019, the SBE's published list includes 183 persistently low-performing schools.⁸⁷

Pursuant to the DOE Emergency Order No. 2020-EO-1, the spring administration of K-12 statewide, standardized assessments for the 2019-2020 school year was canceled and accountability measures reliant on the assessment data, such as school grades, were not calculated for the 2019-2020 school year.⁸⁸

Hope Operators

A hope operator is a tax-exempt, nonprofit organization that operates three or more charter schools that serve students in grades K-12 in Florida or other states with a record of serving students from low-income families and is designated by the SBE as a hope operator.⁸⁹ SBE rule designates an entity as a hope operator if it submits a complete application and meets at least one of the following criteria:⁹⁰

- The entity was awarded a United States Department of Education Charter School Program grant for the Replication and Expansion of High-Quality Charter Schools pursuant to Title IV, Part C of the Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds Act (20 U.S.C. 7221-7221j) within the preceding three years from the date the entity submits an application to the Department;
- The entity has a current and active grant award for funding through the National Fund of the Charter School Growth Fund; or
- The entity is a non-profit charter school that is selected by a district school board to turnaround the performance of a low-performing public school.

Designation as a hope operator is valid for five years from the opening of a school of hope.⁹¹ Presently, Florida has designated five hope operators: Democracy Prep Public Schools, Inc., Individuals Dedicated to Excellence and Achievement (IDEA) Public Schools, the Knowledge is Power Program (KIPP) New Jersey, Mater Academy, and Somerset Academy, Inc.⁹²

Facilities

A school of hope must use facilities that comply with the Florida Building Code, except for the State Requirements for Educational Facilities (SREF). A school of hope that uses school district facilities must comply with SREF only if the school district and the hope operator have entered into a mutual management plan for the reasonable maintenance of such facilities, as specified in law.⁹³

⁸⁶ Section 1002.333(11)(d), F.S.

⁸⁷ Florida Department of Education, Florida School Accountability Reports, *Persistently Low-Performing Schools (2019)*, available at <http://fldoe.org/core/fileparse.php/18534/urlt/PLPSchools19.xls>.

⁸⁸ Florida Department of Education, *Emergency Order No. 2020-EO-1 (March 2020)*, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>.

⁸⁹ Section 1002.333(2), F.S.

⁹⁰ Rule 6A-1.0998271(2)(b), F.A.C.

⁹¹ Section 1002.333(3), F.S.

⁹² Florida Department of Education, *Schools of Hope*, <http://www.fldoe.org/schools/school-choice/other-school-choice-options/schools-of-hope/> (last visited March 22, 2021).

⁹³ Section 1002.333(7)(a), F.S.

Each school district must provide to the DOE, no later than October 1, a list of all underused, vacant, or surplus facilities owned or operated by the school district. A hope operator establishing a school of hope may use an educational facility identified by a school district at no cost or at a mutually agreeable cost not to exceed \$600 per student. In addition, a hope operator that uses a facility owned or operated by a school district may not sell or dispose of the facility without the written permission of the school district.⁹⁴

Personnel Background Screening

Each person who seeks educator certification in Florida must be fingerprinted and undergo a state and national criminal history background screening by a district school board or the DOE.⁹⁵ If a background screening reveals a criminal history, or if an applicant for certification acknowledges a criminal history, the applicant's records must be assigned to DOE's Office of Professional Practices Services (OPPS) for review and determination of eligibility for certification.⁹⁶

Instructional and non-instructional personnel hired or contracted to fill positions that require direct contact with students in any charter school are required to undergo background screening⁹⁷ by filing with the district school board for the school district in which the charter school is located a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school or school district who is trained to take fingerprints.⁹⁸ Current law provides a list of disqualifying criminal offenses for educator certification or employment in any position that requires direct contact with students in a charter school.⁹⁹ Instructional and non-instructional personnel who are hired must be rescreened every five years.¹⁰⁰

Charter School Capital Outlay Funding

Capital outlay funds appropriated by the Legislature in the GAA are allocated to eligible charter schools by the DOE based on a methodology specified in law.¹⁰¹ For fiscal year 2020-2021, the Legislature appropriated \$169.6 million for charter school capital outlay funding.¹⁰² As of March 2021, 610 charter schools received capital outlay disbursements from the DOE.¹⁰³

To be eligible for charter school capital outlay funding, a charter school must:¹⁰⁴

- Be in operation for at least two years;

⁹⁴ Section 1002.333(7)(d), F.S.

⁹⁵ Section 1012.56(10)(a), F.S.

⁹⁶ Section 1012.56(2)(d), F.S. The OPPS administers a state-level grievance process. The OPPS investigates alleged misconduct by educators in Florida who hold an educator's certificate and pursues disciplinary actions against the certificates of educators found to have committed acts of misconduct. See Florida Department of Education, *Professional Practices*, <http://www.fldoe.org/teaching/professional-practices/> (last visited March 22, 2021).

⁹⁷ Section 1002.33(12)(g)1., F.S.

⁹⁸ Section 1012.32(2)(b), F.S.

⁹⁹ Section 1012.315, F.S.

¹⁰⁰ Section 1012.56(10)(b), F.S.

¹⁰¹ Section 1013.62(2)(a)-(e), F.S.

¹⁰² Specific appropriation 21, s. 2, ch. 2020-21, L.O.F.

¹⁰³ Florida Department of Education, *Charter School Capital Outlay 2020-21*, <http://www.fldoe.org/finance/fco/charter-school-capital-outlay/index.stml> (last visited March 22, 2021).

¹⁰⁴ Section 1013.62(1)(a)1.a., F.S.

- Be governed by a governing board established in Florida for two or more years which operates both charter schools and conversion charter schools within the state;
- Be part of an expanded feeder chain¹⁰⁵ with an existing charter school in the district that is currently receiving charter school capital outlay funds;
- Be accredited by a regional accrediting association as defined by state board rule; or
- Serve students in facilities that are provided by a business partner for a charter school-in-the-workplace.

In addition, a charter school must:

- Have an annual audit that does not reveal a financial emergency for the most recent fiscal year for which such audit results are available;¹⁰⁶
- Have satisfactory student achievement based upon the state accountability standards applicable to charter schools;¹⁰⁷
- Have received final approval from its sponsor for operation during that fiscal year; and
- Serve students in facilities that are not provided by the charter school sponsor.¹⁰⁸

Capital outlay funds may be used by a charter school's governing board for the:

- Purchase of real property;
- Construction of school facilities;
- Purchase, lease-purchase or lease of permanent or relocatable school facilities;
- Purchase of vehicles to transport students to and from the charter school;
- Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of five years or longer;
- 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;
- Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities;
- 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; and
- Payment of the cost of the opening day collection for the library media center of a new school.¹⁰⁹

¹⁰⁵ A charter school may be considered a part of an expanded feeder chain under s. 1013.62, F.S., if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding pursuant to s. 1013.62, F.S. Rule 6A-2.0020 (1), F.A.C.

¹⁰⁶ The definition of financial emergency is provided in s. 218.503(1), F.S.

¹⁰⁷ Section 1013.62(1)(a)3., F.S.; rule 6A-2.0020, F.A.C. A charter school that receives a grade of "F," two consecutive grades lower than a "C" or a school improvement rating of "Unsatisfactory" is not eligible for capital outlay funding. *See also, Florida Assoc. of Independent Charter Schools vs. Florida Dept. of Education, Case No. 17-1986RP (2017), available at <https://www.doah.state.fl.us/ROS/2017/17001986.pdf>.*

¹⁰⁸ Section 1013.62(1)(a), F.S. A conversion charter school, i.e., a charter school created by the conversion of an existing public school to charter status, is not eligible for capital outlay funding if it operates in facilities provided by its sponsor at no charge or for a nominal fee or if it is directly or indirectly operated by the school district. Section 1013.62(1)(b), F.S.

¹⁰⁹ Section 1013.62(4), F.S.

Financial Accountability

Like other charter schools, a school of hope must provide for an annual audit.¹¹⁰ The Auditor General may choose to conduct the audit. If not, the school must arrange for an audit by an independent certified public accountant.¹¹¹ The audit must:

- Examine the school’s financial statements to determine if its financial position and any changes in financial position comply with generally accepted accounting principles;
- Examine the school’s operations to determine compliance with legal and regulatory requirements; and
- Examine any additional financial information necessary to comply with generally accepted accounting principles.¹¹²

Each school of hope must file a copy of its audit report with the sponsor, the district school board, if not the sponsor, the Auditor General and the DOE.¹¹³

Generally, each charter school must also submit a monthly financial statement summary sheet to the charter’s sponsor.¹¹⁴ The monthly summary sheet must include a balance sheet and a statement of revenue, expenditures, and changes in fund balance in a governmental funds format prescribed by the Governmental Accounting Standards Board.¹¹⁵ The sponsor must review the financial statement summary to determine if the school exhibits a deteriorating financial condition.¹¹⁶ The law allows a school of hope to submit its financial statement summary sheet on a quarterly basis, rather than monthly.¹¹⁷

Effect of Proposed Changes

Financial Accountability

The bill specifies that a school of hope operated by a nonprofit entity designated by an LEA is in compliance with financial reporting requirements if the nonprofit submits to each school district a financial statement summary for all its schools of hope in the district, and an annual financial audit of the nonprofit for all schools of hope it operates in the state that complies with s. 218.39, F.S.

¹¹⁰ Sections 218.39(1)(e) and (f) and 1002.33(9)(j)1. and 2., F.S.

¹¹¹ Sections 11.45(3)(c) and 218.39(1)(e) and (f), F.S.

¹¹² Rules of the Auditor General, *Chapter 10.850 Audits of Charter Schools and Charter Technical Career Centers, The Florida Virtual Schools, and Virtual Instruction Program Providers (effective June 30, 2020)*, available at https://flauditor.gov/pages/pdf_files/10_850.pdf.

¹¹³ Section 218.39(10), F.S.

¹¹⁴ Section 1002.33(9)(g)3., F.S. A high-performing charter school may submit quarterly rather than monthly financial statements. Section 1002.331(2)(c), F.S. Pursuant to Rule 6A-1.0081, F.A.C., DOE adopted two monthly financial statement forms for use by charter schools. Florida Department of Education, *Government Accountability and Standards Board (GASB) Monthly Financial Form (Form IEPC-F1) and Non-Profit Monthly Financial Form (Form IEPC-F2)*, <http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-reference> (last visited March 15, 2021).

¹¹⁵ Florida Department of Education, *Government Accountability and Standards Board (GASB) Monthly Financial Form (Form IEPC-F1) and Non-Profit Monthly Financial Form (Form IEPC-F2)*, <http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-reference> (last visited March 15, 2021).

¹¹⁶ Section 1002.33(9)(g)3., F.S.

¹¹⁷ Section 1002.333(6)(h), F.S.

Additionally, the bill modifies s. 1002.333, F.S., by providing that a hope operator, rather than each school of hope it operates, is the entity responsible for providing quarterly financial statements to the school district and meeting annual financial audit requirements.

Persistently Low Performing Schools

The bill modifies s. 1002.333, F.S., by revising the definition of a persistently low-performing school to be a school that has earned three grades lower than a “C” in at least three of the previous five years in which the school received a grade. This change would allow a school to be designated as persistently low performing even if it does not receive a school grade for one or more of the school years during a 5-year period.

Hope Operators

The bill modifies s. 1002.333, F.S., by authorizing a school of hope, which has been designated as a LEA, to report its students to the DOE according to procedures and timelines established by the DOE. A school of hope that has not been designated as a LEA must continue to report its students to the school district.

The bill specifies that a nonprofit entity that operates more than one school of hope may be designated as an LEA by the department.

Facilities

The bill modifies s. 1002.333, F.S., by requiring that the DOE must annually provide to school districts a list of underused, vacant, or surplus facilities operated by the school district as reported in the Florida Inventory of School Houses no later than January 1. The bill also specifies:

- A school district may provide evidence to the DOE that the list contains errors or omissions within 30 days after receipt of the list.
- By each April 1, the DOE must update and publish a final list based on updated information provided by each school district.

Personnel Background Screening

The bill modifies s. 1012.32, F.S., to authorize instructional and non-instructional personnel who are hired or contracted to fill positions in any school of hope to complete background screening requirements by filing with the school a set of fingerprints taken by:

- An authorized law enforcement agency;
- An employee of the charter school or school district who is trained to take fingerprints; or
- A private vendor who maintains an agreement with the Florida Department of Law Enforcement.

Charter School Capital Outlay Funding

The bill modifies s. 1002.333, F.S., to extend the authorization for undisbursed Schools of Hope Program funds to be carried forward from five years to seven years and modifies s. 1013.62, F.S., to authorize a charter school operated as a school of hope to be eligible to receive charter school capital outlay funding.

The bill authorizes a not for profit entity designated by the department as an LEA to use any unrestricted current and capital assets identified in the annual financial audit to be used by any other school of hope operated by the LEA within the same district.

The bill provides for severability.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires that the funds for eligible university or FCS institution sponsored charter school students must be appropriated from state funds in the GAA to the charter school. Currently full-time equivalent students funded in the FEFP are funded with a combination of state and local funds. Since the eligible university or FCS institution sponsored charter school student will only be funded from state funds appropriated in the FEFP, there may need to be additional state funds provided to offset the potential loss of

local funds; however, at this time the individual amounts cannot be determined and would vary based upon the school district and its total amount of local funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.32, 1002.33, 1002.331, 1002.333, 1002.45, 1003.493, 1008.3415, 1012.32, and 1013.62.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on April 19, 2021:

The committee substitute makes the following changes:

- Specifies that the limitation of one lab school per university does not apply to a university that establishes a lab school to serve a military installation within same county.
- Clarifies that the limitation of one lab school per university must not apply to legislatively allowed schools.
- Removes an obsolete authorization date related to charter lab schools.
- Updates Florida Atlantic University Charter Lab to be a K-12 school, instead of 9-12 high school.
- Authorizes all lab schools with permanent high school center to receive sparsity supplement, not just those in operation prior to Sept. 1, 2013.
- Specifies that, for the purpose of assisting the development of a charter school, a school district may enter into a nonexclusive interlocal agreement with federal and state agencies, counties, municipalities, and other government entities.
- Voids an interlocal agreement between a school district and federal or state agency, county, municipality, or other governmental entity that prohibits or limits the creation of a charter school within the geographic border of the school district.
- Authorizes a prevailing party to file an action with the Division of Administrative Hearings to recover reasonable attorney fees and costs incurred during the denial of the application and any appeals.
- Authorizes a charter school to immediately appeal any formal or informal decision by a sponsor in a dispute regarding a charter contract to an administrative law judge. The appeal may occur if either the charter school or the sponsor do not wish to mediate the decision and indicates such a decision in writing.

- Requires a school district that fails to implement the decision affirmed by a district court of appeal to reduce the administrative fees withheld to one percent for all charter schools operating in the school district.
- Requires such school district to file a monthly report detailing the reduction in the amount of administrative fees withheld.
- Specifies that upon execution of the charter, the sponsor can resume withholding the full amount of administrative fees but may not recover any fees that would have accrued during the period of noncompliance.
- Authorizes any charter school that had administrative fees withheld may recover attorney fees and costs to enforce these requirements.
- Specifies that changes to a charter school's curriculum consistent with state standards are deemed approved in terms of modifications to the charter, unless the sponsor determines in writing that the curriculum is inconsistent with state standards.
- In the case of an immediate termination of a charter school, the amendment requires the sponsor to provide the facts and circumstances supporting the termination in writing. The sponsor must demonstrate that an immediate and serious danger exists to the charter school's students, that the immediate and serious danger is likely to continue, and that an immediate termination of the charter is necessary.
- Authorizes an administrative law judge to award reasonable attorney fees and costs to the prevailing party of any injunction, administrative proceeding, or appeal.
- Authorizes a charter school sponsor to seek an injunction in circuit court to prohibit continued operation of a charter school if continued operation of the school would materially threaten the health, safety, or welfare of the students.
- Removes the requirement for a sponsor to assume and continue operation of a charter school pending a hearing on the school's immediate termination.
- Expands the enrollment preference for students who complete the VPK program provided by the charter school to include students who complete the program at a provider with which the charter school has a written agreement.
- Specifies that a nonprofit entity that operates more than one school of hope may be designated as an LEA by the department.
- Clarifies that a charter school is high-performing if the school received at least two consecutive grades of "A" in the most recent two school years for the years that the school received a grade or receives, during its first three years of operation, funding through the National Fund of the Charter School Growth Fund and has not received a grade lower than "C" in the previous three years for the years that the school received a grade.
- Revises the determination of a high-performing charter school facility's capacity so that any expansion of enrollment, regardless of grade level expansion or where a majority of new students will be enrolled, is based on the school's facilities at the time the expansion will take effect.
- Authorizes a not for profit entity designated by the department as an LEA to use any unrestricted current and capital assets identified in the annual financial audit to be used by any other school of hope operated by the LEA within the same district.
- Authorizes a charter school that is an exceptional student education center and receives two consecutive ratings of "maintaining" or higher to replicate its educational program.

- Modifies bill provision to require the Commissioner of Education, upon request by a charter school, to verify that the charter school meets the specified requirements and provide a letter to the charter school and the sponsor stating that the charter school may replicate its educational program in the same manner as a high-performing charter school under s. 1002.331(3).
- Specifies that a school of hope operated by a nonprofit entity designated by an LEA is in compliance with financial reporting requirements if the nonprofit submits to school district a financial statement summary for all its schools of hope in the district, and an annual financial audit of nonprofit for all schools of hope it operates in state that complies with s. 218.39.
- Allows for a virtual charter school to provide part-time instruction.
- Removes the requirement that a virtual provider contact a parent by phone only.
- Provides for severability.

CS by Education on March 23, 2021:

The committee substitute retains the original bill provisions, and:

- Adds hope operators to the list of entities required to perform an annual financial audit.
- Modifies the charter school application process to specify that an application may be submitted at any time, rather than by February 1, for a school opening at a time of the applicant's choosing.
- Adds provisions specifying the charter school sponsor's administrative fee for up to two percent for enrollment of up to and including 250 students in an exceptional student education center.
- Modifies provisions that a high-performing charter school may submit two applications for a charter school within the state to be opened at a time determined by the high-performing charter school.
- Clarifies that a subsequent application may not be submitted unless the applicant commences operations or an application is withdrawn and that the provisions apply to an existing high-performing charter school.
- Specifies each school of hope that has not been designated as local education agency must report its students to the school district. Additionally, each school of hope that has been designated as a local education agency may report its students to the department.
- Clarifies that instructional and noninstructional personnel hired or contracted to fill positions at a school of hope must file with the school of hope, rather than the district school board as for other charter schools, a complete set of fingerprints taken by an authorized law enforcement agency or other recognized entity.
- Requires the DOE to annually provide to school districts, no later than January 1, a list of underused, vacant, or surplus facilities operated by the school district as reported in the Florida Inventory of School Houses, and:
 - A school district may provide evidence to the DOE that the list contains errors or omissions within 30 days after receipt of the list.
 - By each April 1, the DOE must update and publish a final list based on updated information provided by each school district.

- Authorizes a charter school that is an exceptional student education center that receives a rating of “maintaining” or higher may replicate its educational program.
- Requires the Commissioner of Education to verify that the charter school meets the specified requirements and provide a letter to the charter school and sponsor stating that the charter school may replicate its educational program in the same manner as a high-performing charter school.
- Extends the authorization for undispersed Schools of Hope Program funds to be carried forward from five years to seven years.
- Authorizes a charter school operated as a school of hope to be eligible to receive charter school capital outlay funding.

B. Amendments:

None.