



PreK-12 Appropriations Committee

Friday, March 26, 2010
8:30 a.m. – 11:00 a.m.
404 House Office Building

Meeting Packet



The Florida House of Representatives

PreK-12 Appropriations Committee

Larry Cretul
Speaker

Anitere Flores
Chair

Meeting Agenda

Friday, March 26, 2010
8:30 a.m. to 11:00 a.m.
404 House Office Building

- I. Call to Order
- II. Roll Call
- III. **CS/HB 623** relating to Instructional Materials for K-12 Public Education by PreK-12 Policy Committee, Burgin
- IV. **CS/HB 1061** relating to Suicide Prevention Education by PreK-12 Policy Committee, Heller
- V. **HB 1233** relating to Educational Plant Surveys by Jenne
- VI. **CS/HB 1505** relating to John M. McKay Scholarships for Students with Disabilities Program by PreK-12 Policy Committee, Flores
- VII. **CS/HB 1569** relating to Charter Schools by PreK-12 Policy Committee, Stargel
- VIII. Adjournment

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Instructional Materials Findings

State funding for instructional materials is provided annually in the General Appropriations Act as a separate line item earmarked specifically for instructional materials as part of the calculation of the Florida Education Finance Program (FEFP).¹ Once the funds are distributed to the district school boards, each board must use at least 50 percent of the funds allocated for instructional materials to purchase instructional materials on the state-adopted list.² A district school board may use up to 50 percent of the annual allocation to purchase instructional materials, including library and reference books and nonprint materials, not included on the state-adopted list and for the repair and renovation of textbooks and library books.³ A district school board may use 100 percent of the annual allocation designated for the purchase of instructional materials for kindergarten, and 75 percent of the annual allocation designated for the purchase of instructional materials for the first grade, to purchase materials not listed on the state-adopted list.⁴ Under current law, state-adopted instructional materials and non state-adopted instructional materials have similar meanings. However, both definitions explicitly exclude the purchase of electronic or computer hardware even if such hardware is bundled with software or other electronic media, and exclude equipment and supplies.⁵

¹ The Florida Education Finance Program (FEFP) is the mechanism used by the state to fund the operating costs of Florida's school districts. *See* s. 1011.67, F.S. and s. 1011.67(1), F.S.

² For purposes of state adoption, instructional materials means items having intellectual content that, by design, serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software. The term does not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, nor does it include equipment or supplies. s. 1006.29(4), F.S., and s. 1006.40(3)(a), F.S.

³ Items not on the state-adopted list must be used to purchase instructional materials or other items having intellectual content which assist in the instruction of a subject or course. These items may include replacements for items which were part of previously purchased instructional materials and other commonly accepted instructional tools as prescribed by district board rule. s. 1006.40(4), F.S., and s. 1006.40(3)(b), F.S.

⁴ s. 1006.40(3)(c), F.S.

⁵ s. 1006.29(4), F.S.

Funding of Instructional Materials

The table below provides the amount of funding allocated to Florida's school districts during fiscal years 2007-2008, 2008-2009, and 2009-2010.

Instructional Materials Funding ⁶	
Fiscal Year	Amount (Millions)
2007-2008	\$266.4
2008-2009	\$253.9
2009-2010	\$246.4 ⁷

Currently, school districts purchase computer equipment with state FEFP and capital outlay funds.⁸ In addition, federal entitlement funds are provided through the No Child Left Behind Title IID – Enhancing Education Through Technology program to school districts based on their Title I allocation.⁹

On March 4, 2010, Florida was named a finalist in phase 1 of the \$4.35-billion federal Race to the Top¹⁰ education reform competition.¹¹ If funded, fifty percent of the state's total award will be distributed to participating school districts according to a federal funding formula, and the remaining 50 percent will fund state-level projects designed to benefit all school districts statewide.¹² A requirement of the Memorandum of Understanding between the DOE and participating school districts is to ensure that each school possesses the technology, including hardware, connectivity, and other necessary infrastructure to provide teachers and students sufficient access to strategic tools for improved classroom instruction and computer-based assessment.¹³

District School Board Responsibilities

A district school board has the duty to provide adequate instructional materials for all students. "Adequate instructional materials" means a sufficient number of instructional materials for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature,

⁶ Chapters 2007-072, 2007-326, 2008-001, 2008-152, 2009-001, and 2009-081, L.O.F.

⁷ Funding for fiscal year 2009-2010 includes \$30.3 million for education technology from the federal American Recovery and Reinvestment Act of 2009 appropriated through the state's 2009-2010 General Appropriations Act. The DOE is directed to implement a technology grant program for school districts to demonstrate the use of technology in teacher professional development and student instruction in science, technology, engineering, and mathematics (STEM) content areas. The student portion should incorporate the use of classroom laptops and personal learning devices that are mobile and able to extend learning beyond the classroom day. The teacher portion should combine the use of laptops and personal learning devices and should include the development and delivery of professional development linked to the newly adopted math and science standards. Ch. 2009-081, L.O.F.

⁸ The Discretionary Capital Outlay Levy is a statutorily authorized discretionary property tax that district school boards may levy without approval of the electorate. See s. 1011.71(2), F.S.

⁹ Department of Education analysis of HB 623, January 12, 2010.

¹⁰ Through the federal Race to the Top competitive grant program, the U.S. Department of Education encourages and rewards states to propose education reforms focused on helping struggling schools, elevating the effectiveness of teaching professionals and education leaders, building internationally recognized education standards and assessments, and improving state education data systems. American Recovery and Reinvestment Act of 2009, Section 14006(c), Public Law 111-5. See <http://www2.ed.gov/programs/racetothetop/eligibility.html>.

¹¹ Press Release issued March 4, 2010, *Florida Announces as Finalist in \$4.35-Billion Race to the Top Competition*, Office of the Governor. See <http://www.flgov.com/release/11409>.

¹² American Recovery and Reinvestment Act of 2009, Public Law 111-5. See <http://www2.ed.gov/programs/racetothetop/eligibility.html>.

¹³ Florida Department of Education, *Florida's Race to the Top Application – Participating Local Education Agency Memorandum of Understanding*, p.8, December 9, 2009. See <http://www.fldoe.org/ARRA/RacetoeTheTop.asp>.

except for instruction for which the school advisory council approves the use of a program that does not include a textbook as a major tool of instruction.¹⁴ The term does not include electronic or computer hardware.

Specifically, a district school board must:

- Adopt courses of study for use in schools of the district.
- Provide for the requisitioning, distribution, accounting, storage, care, and use of all instructional materials furnished by the state and furnish such other instructional materials as necessary.
- Provide other teaching accessories and aides as needed for the school district's educational program.
- Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such traveling or circulating libraries needed for the proper operation of the district school system.¹⁵

Effect of Proposed Changes

A district school board has the duty to provide adequate instructional materials for all students. The term "adequate instructional materials" does not include the provision of computer hardware. The bill amends the definition of "adequate instructional materials" to include computer hardware. In addition, a district school board has the duty, among other things, to provide "other instructional materials" such as teaching accessories and aides as are needed for the school district's educational program. The CS adds to teaching accessories and aides, the provision of technology.

A district school board must use at least 50 percent of its instructional materials allocation to purchase instructional materials on the state-adopted list and up to 50 percent of the allocation to purchase instructional materials not on the state-adopted list. The bill authorizes a district school board to purchase computer hardware with the portion of the funds used to purchase materials not on the state-adopted list when the hardware is provided for the sole purpose of delivering instructional materials content in an electronic format.

B. SECTION DIRECTORY:

Section 1: Amends s. 1006.28, F.S., relating to duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.

Section 2: Amends s. 1006.40, F.S., relating to use of instructional materials allocation; instructional materials, library books, and reference books.

Section 3: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

¹⁴ s. 1006.28(1), F.S.

¹⁵ s. 1006.28(1)(a)-(d), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If school districts choose to purchase computer hardware with a portion of their instructional materials allocation to be used for non state-adopted materials, then textbook publishing companies could be negatively affected.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 10, 2010, the PreK-12 Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute (CS). The difference between the CS and the House Bill is as follows:

The bill authorizes a district school board to purchase computer hardware with the portion of the funds used to purchase materials not on the state-adopted list when bundled with software or other electronic media. The CS modifies the provision to authorize a district school board to purchase computer hardware with funds used to purchase materials not on the state-adopted list when the computer hardware is provided for the sole purpose of delivering instructional materials content in an electronic format.

1 A bill to be entitled
 2 An act relating to instructional materials for K-12 public
 3 education; amending s. 1006.28, F.S.; including computer
 4 hardware in the definition of the term "adequate
 5 instructional materials"; requiring each district school
 6 board to provide technology as needed for its educational
 7 program; amending s. 1006.40, F.S.; authorizing the use of
 8 certain funds for the purchase of computer hardware by
 9 district school boards; providing restrictions; providing
 10 an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsection (1) of section 1006.28, Florida
 15 Statutes, is amended to read:

16 1006.28 Duties of district school board, district school
 17 superintendent; and school principal regarding K-12
 18 instructional materials.—

19 (1) DISTRICT SCHOOL BOARD.—The district school board has
 20 the duty to provide adequate instructional materials for all
 21 students in accordance with the requirements of this part. The
 22 term "adequate instructional materials" means a sufficient
 23 number of textbooks or sets of materials that are available in
 24 bound, unbound, kit, or package form and may consist of hard-
 25 backed or soft-backed textbooks, consumables, learning
 26 laboratories, manipulatives, electronic media, and computer
 27 hardware, courseware, or software that serve as the basis for
 28 instruction for each student in the core courses of mathematics,

29 language arts, social studies, science, reading, and literature,
 30 except for instruction for which the school advisory council
 31 approves the use of a program that does not include a textbook
 32 as a major tool of instruction. The district school board has
 33 the following specific duties:

34 (a) Courses of study; adoption.—Adopt courses of study for
 35 use in the schools of the district.

36 (b) Textbooks.—Provide for proper requisitioning,
 37 distribution, accounting, storage, care, and use of all
 38 instructional materials furnished by the state and furnish such
 39 other instructional materials as may be needed. The district
 40 school board shall assure that instructional materials used in
 41 the district are consistent with the district goals and
 42 objectives and the curriculum frameworks adopted by rule of the
 43 State Board of Education, as well as with the state and district
 44 performance standards provided for in s. 1001.03(1).

45 (c) Other instructional materials.—Provide such other
 46 technology and teaching accessories and aids as are needed for
 47 the school district's educational program.

48 (d) School library media services; establishment and
 49 maintenance.—Establish and maintain a program of school library
 50 media services for all public schools in the district, including
 51 school library media centers, or school library media centers
 52 open to the public, and, in addition such traveling or
 53 circulating libraries as may be needed for the proper operation
 54 of the district school system.

55 Section 2. Subsection (4) of section 1006.40, Florida
 56 Statutes, is amended to read:

57 | 1006.40 Use of instructional materials allocation;
58 | instructional materials, library books, and reference books;
59 | repair of books.-

60 | (4) The funds described in subsection (3) which district
61 | school boards may use to purchase materials not on the state-
62 | adopted list shall be used for the purchase of instructional
63 | materials or other items having intellectual content which
64 | assist in the instruction of a subject or course. These items
65 | may be available in bound, unbound, kit, or package form and may
66 | consist of hardbacked or softbacked textbooks, replacements for
67 | items which were part of previously purchased instructional
68 | materials, consumables, learning laboratories, manipulatives,
69 | electronic media, computer hardware, courseware, or software,
70 | and other commonly accepted instructional tools as prescribed by
71 | district school board rule. The funds available to district
72 | school boards for the purchase of materials not on the state-
73 | adopted list may not be used to purchase electronic or computer
74 | hardware unless even if such hardware is provided for the sole
75 | purpose of delivering instructional materials content in an
76 | electronic format. The funds provided for instructional
77 | materials bundled with software or other electronic media, nor
78 | may not such funds be used to purchase equipment or supplies.
79 | However, when authorized to do so in the General Appropriations
80 | Act, a school or district school board may use a portion of the
81 | funds available to it for the purchase of materials not on the
82 | state-adopted list to purchase science laboratory materials and
83 | supplies.

84 | Section 3. This act shall take effect July 1, 2010.

Amendment No. 01

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Council/Committee hearing bill: PreK-12 Appropriations
2 Committee
3 Representative Burgin offered the following:
4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
7 Section 1. Subsection (1) of section 1006.28, Florida
8 Statutes, is amended to read:

9 1006.28 Duties of district school board, district school
10 superintendent; and school principal regarding K-12
11 instructional materials.—

12 (1) DISTRICT SCHOOL BOARD.—The district school board has
13 the duty to provide adequate instructional materials for all
14 students in accordance with the requirements of this part. The
15 term "adequate instructional materials" means a sufficient
16 number of textbooks or sets of materials that are available in
17 bound, unbound, kit, or package form and may consist of hard-
18 backed, ~~or~~ soft-backed, or electronic textbooks, consumables,
19 learning laboratories, manipulatives, electronic media, and

Amendment No. 01

20 computer courseware or software that serve as the basis for
21 instruction for each student in the core courses of mathematics,
22 language arts, social studies, science, reading, and literature,
23 except for instruction for which the school advisory council
24 approves the use of a program that does not include a textbook
25 as a major tool of instruction. The district school board has
26 the following specific duties:

27 (a) Courses of study; adoption.—Adopt courses of study for
28 use in the schools of the district.

29 (b) Textbooks.—Provide for proper requisitioning,
30 distribution, accounting, storage, care, and use of all
31 instructional materials furnished by the state and furnish such
32 other instructional materials as may be needed. The district
33 school board shall assure that instructional materials used in
34 the district are consistent with the district goals and
35 objectives and the curriculum frameworks adopted by rule of the
36 State Board of Education, as well as with the state and district
37 performance standards provided for in s. 1001.03(1).

38 (c) Other instructional materials.—Provide such other
39 technology and teaching accessories and aids as are needed for
40 the school district's educational program.

41 (d) School library media services; establishment and
42 maintenance.—Establish and maintain a program of school library
43 media services for all public schools in the district, including
44 school library media centers, or school library media centers
45 open to the public, and, in addition such traveling or
46 circulating libraries as may be needed for the proper operation
47 of the district school system.

Amendment No. 01

48 Section 2. Subsection (4) of section 1006.40, Florida
49 Statutes, is amended to read:

50 1006.40 Use of instructional materials allocation;
51 instructional materials, library books, and reference books;
52 repair of books.-

53 (4) The funds described in subsection (3) which district
54 school boards may use to purchase materials not on the state-
55 adopted list shall be used for the purchase of instructional
56 materials or other items having intellectual content which
57 assist in the instruction of a subject or course. These items
58 may be available in bound, unbound, kit, or package form and may
59 consist of hardbacked, ~~or~~ softbacked, or electronic textbooks,
60 replacements for items which were part of previously purchased
61 instructional materials, consumables, learning laboratories,
62 manipulatives, electronic media, computer courseware or
63 software, and other commonly accepted instructional tools as
64 prescribed by district school board rule. Beginning with the
65 2012-2013 fiscal year, the funds available to district school
66 boards for the purchase of materials not on the state-adopted
67 list may not be used to purchase electronic or computer hardware
68 unless even if such hardware is provided for the sole purpose of
69 delivering instructional materials content in an electronic
70 format. The funds provided for instructional materials ~~bundled~~
71 with software or other electronic media, nor may not such funds
72 be used to purchase equipment or supplies. However, when
73 authorized to do so in the General Appropriations Act, a school
74 or district school board may use a portion of the funds
75 available to it for the purchase of materials not on the state-

Amendment No. 01

76 adopted list to purchase science laboratory materials and
77 supplies.

78 Section 3. This act shall take effect July 1, 2010.
79

80

81

82

T I T L E A M E N D M E N T

83

Remove the entire title and insert:

84



A bill to be entitled

85

An act relating to instructional materials for K-12 public
86 education; amending s. 1006.28, F.S.; including electronic
87 textbooks in the definition of the term "adequate instructional
88 materials"; requiring each district school board to provide
89 technology as needed for its educational program; amending s.
90 1006.40, F.S.; authorizing the use of certain funds for the
91 purchase of electronic textbooks by district school boards;
92 providing for the purchase of hardware under certain conditions;
93 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1061 Suicide Prevention Education
SPONSOR(S): Heller
TIED BILLS: **IDEN./SIM. BILLS:** SB 434

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Policy Committee	12 Y, 0 N, As CS	Duncan	Ahearn
2) PreK-12 Appropriations Committee		Seifert 	Heflin 
3) Education Policy Council			
4)			
5)			

SUMMARY ANALYSIS

The Committee Substitute for HB 1061 amends the district school board duties relating to student discipline and school safety to require each board, beginning with the 2010-2011 school year, to provide access to suicide prevention educational resources to all instructional and administrative personnel, as part of the school district's professional development system. District school boards must use resources approved by the Statewide Office of Suicide Prevention.

This bill does not appear to have a fiscal impact on state or local government revenues or expenditures.

The bill provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Florida Suicide Prevention Strategy

In 2008, suicide was the third leading cause of death for Florida's youth ages 15-24.¹ One of the state's long-term goals is to decrease the incidence of teen suicide in Florida by one-third, from approximately 9.5 per 100,000 in 2001 to approximately 6.3 per 100,000 by the end of 2010.²

Florida's strategy for suicide prevention includes school interventions. Schools in partnership with families and communities are in a unique position to identify youth at risk of suicide. Prevention, education, intervention and follow-up are keys to reducing the number of young people who take their own lives.³ Schools offer both the opportunity for recognition of suicide ideation⁴ and a process for response. At school, students have the greatest exposure to potential responders such as teachers, counselors, coaches, staff and classmates who have the opportunity to help.⁵

School Community Professional Development Act

The School Community Professional Development Act (Act) directs the Department of Education (DOE), public postsecondary educational institutions, public school districts, public schools, and professional organizations to establish a coordinated system of professional development.⁶ Each school district is required to develop a professional development system which must include inservice activities for instructional personnel focused on:⁷

- Analysis of student achievement data.
- Ongoing formal and informal assessments of student achievement.

¹ Florida Suicide Prevention Coalition. See http://www.floridasuicideprevention.org/the_facts.htm.

² *Florida Suicide Prevention Strategy, 2005-2010*, Office of Drug Control, Statewide Office of Suicide Prevention, Executive Office of the Governor, January 2005 at p. I. See <http://www.flgov.com/pdfs/SP-FlaSuicidePreventionStrategy.pdf>.

³ *Id.* at p. 4-11.

⁴ Suicide ideation is the process of fantasizing, planning, practicing, and motivating oneself to commit suicide. *Id.* at pp. 2-3 and 2-16.

⁵ *Florida Suicide Prevention Strategy, 2005-2010*, Office of Drug Control, Statewide Office of Suicide Prevention, Executive Office of the Governor, January 2005 at p. 4-11. See <http://www.flgov.com/pdfs/SP-FlaSuicidePreventionStrategy.pdf>.

⁶ s. 1012.98(1), F.S.

⁷ s. 1012.98(4)(b)3., F.S., and Rule 6A-5.071, F.A.C.

- Identification and use of instructional strategies that emphasize rigor, relevance, and reading in the content areas.
- Enhancement of subject content expertise.
- Integrated use of classroom technology that enhances teaching and learning.
- Classroom management, parent involvement, and school safety.

The school district's professional development system must include a master plan for inservice activities for all district employees pursuant to the rules of the State Board of Education. The district school board must update and approve the plan annually to be in compliance with the Act. The district school board must submit the verification of its approval to the Commissioner of Education annually.⁸ The DOE is required to approve a school district's development system, but does not approve or recommend specific inservice programs or courses to satisfy local inservice needs. Each school district and developmental research school has staff development directors who supervise and direct district inservice activities for instructional and non-instructional personnel.⁹

School Safety

District school boards are required to provide for the proper accounting of students, the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students.¹⁰ District school boards are required to adopt rules for the control and discipline of students; adopt codes of student conduct for elementary, middle and high schools; implement a student crime watch program; formulate and prescribe policies and procedures for emergency drills and actual emergencies; provide educational services in detention facilities; and use safety and security best practices.¹¹

Effect of Proposed Changes

The bill amends the district school board duties relating to student discipline and school safety to require each board, beginning with the 2010-2011 school year, to provide access to suicide prevention educational resources to all instructional and administrative personnel as part of the school district's professional development system. Participating personnel will be eligible for inservice credit hours. District school boards must use resources approved by the Statewide Office of Suicide Prevention.¹²

B. SECTION DIRECTORY:

Section 1: amends s. 1006.07, F.S., district school board duties relating to student discipline and school safety.

Section 2: provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

⁸ s. 1012.98(4)(b)4., F.S., and Rule 6A-5.071, F.A.C.

⁹ s. 1012.98(4)(b)1., F.S. See <http://www.fldoe.org/profdev/inserv.asp>.

¹⁰ s. 1006.07, F.S.

¹¹ s. 1006.07(1) - (6), F.S.

¹² The Statewide Office of Suicide Prevention is located in the Executive Office of the Governor.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 10, 2010, the PreK-12 Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute (CS). The difference between the CS and the House Bill is as follows:

The CS clarifies that the suicide prevention educational resources, as approved by the Office of Suicide Prevention, will be provided to all instructional and administrative personnel *as part of the school district's professional development system.*

1 A bill to be entitled
 2 An act relating to suicide prevention education; amending
 3 s. 1006.07, F.S.; requiring that district school boards
 4 provide access to suicide prevention educational resources
 5 to all instructional and administrative personnel as part
 6 of the school district professional development system;
 7 providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Subsection (7) is added to section 1006.07,
 12 Florida Statutes, to read:

13 1006.07 District school board duties relating to student
 14 discipline and school safety.—The district school board shall
 15 provide for the proper accounting for all students, for the
 16 attendance and control of students at school, and for proper
 17 attention to health, safety, and other matters relating to the
 18 welfare of students, including:

19 (7) SUICIDE PREVENTION EDUCATION.—Beginning with the 2010-
 20 2011 school year, provide access to suicide prevention
 21 educational resources, as approved by the Statewide Office of
 22 Suicide Prevention, to all instructional and administrative
 23 personnel as part of the school district professional
 24 development system under s. 1012.98.

25 Section 2. This act shall take effect July 1, 2010.

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Council/Committee hearing bill: PreK-12 Appropriations
2 Committee
3 Representative Heller offered the following:
4

5 **Amendment (with title amendment)**

6 Between lines 10 and 11, insert:

7 Section 1. Paragraph (a) of subsection (2) of section
8 14.20195, Florida Statutes, is amended to read:

9 14.20195 Suicide Prevention Coordinating Council;
10 creation; membership; duties.—There is created within the
11 Statewide Office for Suicide Prevention a Suicide Prevention
12 Coordinating Council. The council shall develop strategies for
13 preventing suicide.

14 (2) MEMBERSHIP.—The Suicide Prevention Coordinating
15 Council shall consist of 28 voting members.

16 (a) Fourteen members shall be appointed by the director of
17 the Office of Drug Control and shall represent the following
18 organizations:

Amendment No. 1

- 19 1. The Substance Abuse and Mental Health Corporation
20 described in s. 394.655.
- 21 2. The Florida Association of School Psychologists.
- 22 3. The Florida Sheriffs Association.
- 23 4. The Suicide Prevention Action Network USA.
- 24 5. The Florida Initiative of Suicide Prevention.
- 25 6. The Florida Suicide Prevention Coalition.
- 26 7. The American Foundation for Suicide Prevention
27 ~~Alzheimer's Association.~~
- 28 8. The Florida School Board Association.
- 29 9. The National Council for Suicide Prevention Volunteer
30 ~~Florida.~~
- 31 10. The state chapter of AARP.
- 32 11. The Florida Alcohol and Drug Abuse Association.
- 33 12. The Florida Council for Community Mental Health.
- 34 13. The Florida Counseling Association.
- 35 14. NAMI Florida.

T I T L E A M E N D M E N T

Remove line 2 and insert:

An act relating to suicide prevention; amending s. 14.20195,
F.S.; revising the membership of the Suicide Prevention
Coordinating Council; amending

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1233
SPONSOR(S): Jenne and others
TIED BILLS:

Educational Plant Surveys

IDEN./SIM. BILLS: SB 2356

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Appropriations Committee		Seifert <i>JS</i>	Heflin <i>(Act)</i>
2) PreK-12 Policy Committee			
3) Full Appropriations Council on Education & Economic Development			
4)			
5)			

SUMMARY ANALYSIS

The bill amends s. 1031.31, F.S., to:

- Authorize an extension of the education plant survey submission deadline for local school districts through a formal application, to be developed by the Department of Education (DOE).
- Provide restrictions on school district construction during the extension period.
- Provide rule-making authority to the State Board of Education.

See FISCAL COMMENTS section of this analysis.

The bill provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

The Educational Plant Survey is a systematic study that aids in the formulation of plans for housing the educational program and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus. The survey, which may be conducted by agency staff or an agency employed by the board, must be conducted at least every five (5) years. A copy of the survey must be submitted to the Department of Education, Office of Educational Facilities, for review and validation.¹

Sections 1013.03 and 1013.64, F.S. and State Requirements for Educational Facilities (SREF), Section 3.1, FAC, guide the components of the district educational plant surveys to include:²

- Correct inventory data
- Appropriate inventory changes; i.e., satisfactory to unsatisfactory, etc.
- New square footage within normal allocation limits
- Cost projections that are within state required cost limits
- Distribution of state-generated enrollment projections (K-12)
- Facility lists that are within normal limits
- Uniform utilization factors
- Survey recommendations for existing and new plants
- Summary of cost for survey recommendations
- Documented need of programs offered per site
- Documented approval of vocational and adult programs by the Division of Workforce Development
- Assigned student stations to required areas
- Documentation showing utilization of plants based on regular and extended day/year round operation
- Capacity of existing satisfactory facilities - Permanent and relocatables
- Past and projected membership trends
- Financial trends in assessed valuation
- Required local millage contribution

¹ Florida Department of Education Office of Educational Facilities website <http://www.fldoe.org/edfacil/k12survey.asp>

² *Id.*

- Current tax levies on non-exempt property
- Debt service obligations
- Anticipated state revenue allocations
- Plan for financing the proposed facility program

There is no statute or rule guiding the extension of the educational plant survey submission deadline process for school districts.

A school district superintendent may provide a formal written request to the Commissioner of Education for a survey submission deadline extension. In most cases, a request for extension is approved if reasons submitted by the district are strong, objective, and logical.³

Effect of Proposed Changes

The bill adds a new subparagraph to authorize the DOE to grant an extension of time for a local school district to submit the educational plant survey upon request by the superintendent and concurrence of all members of the school board. The bill provides an extension for the educational plant survey submission deadline for up to six months, not to exceed a total of four consecutive extensions per survey.

The extension request must be made to the DOE no later than three months prior to the most current submission deadline. In order to be considered by the DOE, the request must contain the following information:

- A letter from the district superintendent to the Commissioner of Education, and approved by the local school board, formally requesting an extension and explaining why there is a need for such an extension.
- An application form, to be created by the DOE that describes the purpose for requesting the extension. The application must include data that clearly and objectively support the need for the extension, as based on criteria defined by the DOE. The application will require signatures of all active district school board members and the signature of department personnel overseeing the facility planning, design, and construction for the district.

The bill provides that during the extension period, a school district shall not contract for new construction projects, except those funded with local bonds or voter-approved ½ cent sales tax.⁴

The bill authorizes the DOE to adopt implementing rules.

B. SECTION DIRECTORY:

Section 1: amends s. 1013.31, F.S., requiring educational plant survey; localized need assessment; PECO project funding.

Section 2: provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

³ Department of Education Analysis of HB 1233, March 5, 2010.

⁴ s. 212.055(6), F.S.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

A school district may incur a cost associated with preparing the extension application.

The Florida DOE may incur a cost associated with rulemaking to create the application form and adopting criteria for evaluating an extension application.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Education rule making authority to establish criteria in determining eligibility for an extension and to approve an extension application form.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to educational plant surveys; amending s.
 3 1013.31, F.S.; authorizing an extension to a school
 4 district educational plant survey submission deadline;
 5 providing requirements for the submission of a request for
 6 an extension to the Department of Education and requiring
 7 department approval; providing restrictions on school
 8 district construction during the extension period;
 9 requiring the State Board of Education to adopt rules;
 10 providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Paragraph (e) is added to subsection (1) of
 15 section 1013.31, Florida Statutes, to read:

16 1013.31 Educational plant survey; localized need
 17 assessment; PECO project funding.—

18 (1) At least every 5 years, each board shall arrange for
 19 an educational plant survey, to aid in formulating plans for
 20 housing the educational program and student population, faculty,
 21 administrators, staff, and auxiliary and ancillary services of
 22 the district or campus, including consideration of the local
 23 comprehensive plan. The Department of Education shall document
 24 the need for additional career and adult education programs and
 25 the continuation of existing programs before facility
 26 construction or renovation related to career or adult education
 27 may be included in the educational plant survey of a school
 28 district or community college that delivers career or adult

29 | education programs. Information used by the Department of
 30 | Education to establish facility needs must include, but need not
 31 | be limited to, labor market data, needs analysis, and
 32 | information submitted by the school district or community
 33 | college.

34 | (e) Request for extension.-

35 | 1. Upon request by a district school superintendent to the
 36 | Department of Education and upon approval by the department, an
 37 | extension to a survey submission deadline may be granted for up
 38 | to 180 days, not to exceed a total of four consecutive
 39 | extensions per survey. A request for an extension to a survey
 40 | submission deadline shall be submitted to the department no
 41 | later than 90 days prior to the current submission deadline. A
 42 | request shall contain the following:

43 | a. A letter from the district school superintendent to the
 44 | department, submitted on behalf of the district school board and
 45 | on district school board letterhead, formally requesting an
 46 | extension which cites the specific need for the extension.

47 | b. A formal application, developed by the department, that
 48 | includes sections for the following information: the purpose for
 49 | requesting the extension; data that clearly and objectively
 50 | supports the need for the extension; the signatures of all
 51 | current district school board members; and the signature of the
 52 | director of the department responsible for oversight of the
 53 | educational facility planning, design, and construction for the
 54 | school district, if one exists.

55 | 2. School districts shall not contract for new
 56 | construction projects, except for local bonded projects and

HB 1233

2010

57 | those financed with the voter-approved one-half-cent cent sales
 58 | surtax for public school capital outlay authorized by s.
 59 | 212.055(6), during the extension period.

60 | 3. The State Board of Education shall adopt rules pursuant
 61 | to ss. 120.536(1) and 120.54 to implement this paragraph.

62 | Section 2. This act shall take effect July 1, 2010.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1233 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: PreK-12 Appropriations
2 Committee
3 Representative(s) Flores offered the following:

4
5 **Amendment**

6 Remove lines 38 and 39 and insert:
7 to 180 days. No more than four consecutive extensions shall be
8 granted per survey. A request for an extension to a survey

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1505


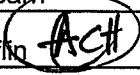
John M. McKay Scholarships for Students with Disabilities

Program

SPONSOR(S): Flores and others

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Policy Committee	12 Y, 0 N, As CS	Duncan	Ahearn
2) PreK-12 Appropriations Committee		Seifert 	Heflin 
3) Education Policy Council			
4)			
5)			

SUMMARY ANALYSIS

The Committee Substitute for HB 1505 (CS/HB 1505) changes student eligibility requirements for the McKay Scholarship Program. Specifically, a student is eligible for the program if the student was enrolled and reported by a school district for funding during *any* previous October and February FEFP surveys during the same school year in kindergarten through grade 12 or was enrolled and reported by the Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in grades kindergarten through grade 12.

The bill also opens eligibility to kindergarten students who would not previously have met the prior year attendance requirement. The bill requires a child with a developmental delay who has received early intervention services under the Voluntary Prekindergarten Education Program to be reevaluated before entering kindergarten. An Individual Education Plan must be developed if he or she is eligible for the Exceptional Student Education Program.

CS/HB 1505 provides an exception to the requirement that a McKay Scholarship recipient have regular and direct contact with his or her private school teachers at the school's physical location by authorizing the use of an alternative site for instruction and services if the student's parent provides a notarized statement from the licensed physician or psychologist treating the student's disability certifying that the student's welfare or the welfare of other students in the classroom will be jeopardized if the student is required to regularly attend class at the physical location of the school. The notarized statement must be provided annually to the Department of Education at least 60 days prior to the date of the first scholarship payment for each school year and based on an annual review of the student's disability by the student's physician or psychologist.

The bill authorizes the Commissioner of Education (COE) to deny, suspend, or revoke a private school's participation in the scholarship program if the COE determines that an owner or operator of the private school is operating, or has operated, an educational institution in this state or another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public. The bill provides factors that the COE may consider in making such a determination.

This bill has an indeterminate fiscal impact on the state and school districts. See FISCAL COMMENTS section of this analysis.

The bill provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Educational Services for Students with Disabilities

An "exceptional student" is defined as any student who has been determined eligible for a special program in accordance with the rules adopted by the State Board of Education (SBE).¹ District school boards are statutorily required to provide exceptional students in grades K-12 with special education services, also known as exceptional student education (ESE), which include related services such as transportation, appropriate diagnosis, evaluation, special instruction, facilities, and services such as physical and occupational therapy.² Special instruction, classes, and services may be provided within the district school system, in cooperation with other district school systems, or through contractual arrangements with approved private schools or community facilities that meet certain standards.³

If a student is eligible for an ESE program, an education plan is developed for the student. This plan is referred to as an:

- Individual educational plan (IEP) for students with disabilities ages three through 21.⁴
- Individualized family support plan (IFSP) for children ages birth through two (and may also be used for children ages three through five years in lieu of an IEP).⁵
- Educational plan (EP) for gifted students.⁶

¹The term exceptional student includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; an other health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including, but not limited to dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions identified in the SBE rules. s. 1003.01(3)(a), F.S.

² s. 1003.01(3)(b), F.S.

³ s. 1003.57(1), F.S.

⁴ Rule 6A-6.03028, F.A.C.

⁵ Rule 6A-6.03029, F.A.C.

⁶ Rule 6A-6.030191, F.A.C.

Parents participate in the development of the plans, which cannot be implemented until the parent provides written consent for initial placement in the ESE program.⁷

Within 30 days of determining a student's eligibility to receive ESE or related services by a school district or other state agency, an EP, IEP, or IFSP team must meet to develop a plan to address the student's needs.⁸ The multidisciplinary team includes school and district staff, parents, and other experts, if necessary. The IEP must be reviewed at least annually and reevaluated at least once every three years, unless the school district, parent, or teacher requests a reevaluation, to ensure eligibility to receive special education and related services.⁹

The John M. McKay Scholarships for Students with Disabilities Program

The John M. McKay Scholarships for Students with Disabilities Program was originally created in 1999 as a pilot program.¹⁰ The program provides the option for a student with a disability for whom an IEP has been written in accordance with rules of the State Board of Education (SBE), to attend a public school other than the one to which the student is assigned, or to accept a scholarship to a private school of choice.

Students with disabilities include K-12 students who are documented as having: an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; an other health impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay;¹¹ or autism spectrum disorder.¹²

Student Eligibility and Prior-Year Public School Attendance

Any parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive a McKay Scholarship in order for the child to enroll in and attend a private school. The student must have spent "the prior school year in attendance" at a Florida public school or the Florida School for the Deaf and the Blind and be accepted for admission to an eligible private school. The parent must request a scholarship from the Department of Education (DOE) at least 60 days prior to the date of the first scholarship payment.¹³ The DOE must notify the school district of the parent's intent upon the receipt of the parent's request and is required to, in cooperation with the school district, determine the student's eligibility for a McKay Scholarship.¹⁴

"Prior school year in attendance" means the student was enrolled and reported by:

- A school district for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys¹⁵ in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the FEFP;

⁷ Rule 6A-6.0331(9), F.A.C.

⁸ Rule 6A-6.03028(3)(f), F.A.C. and Rule 6A-6.030191(6)(b), F.A.C.

⁹ Rule 6A-6.03028(3)(f), F.A.C. and Rule 6A-6.0331(7), F.A.C.

¹⁰ s. 3, Ch. 99-398, L.O.F. The pilot program was in the Sarasota school district.

¹¹ A child who is developmentally delayed is 3 through 5 years of age and is delayed in one or more of the following areas: adaptive or self-help development, cognitive development, social or emotional development, and physical development including fine, or gross, or perceptual motor. Rule 6A-6.03027(1)(a)-(e), F.A.C.

¹² s. 1002.39(1), F.S.

¹³ McKay Scholarship payments to an eligible private school are required to be made in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the scholarship is in force. s. 1002.39(10)(e), F.S. and Rule 6A-6.0970(5), F.A.C.

¹⁴ s. 1002.39(2), F.S., and Rule 6A-6.0970(1)(b), F.A.C.

¹⁵ The Florida Education Finance Program (FEFP) is the mechanism used by the state to fund the operating costs of Florida's school districts. The FEFP bases financial support for education upon individual students participating in certain education programs. FEFP funds are primarily generated by multiplying the number of full-time equivalent (FTE) students in each of the funded education

- The Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12; or
- A school district for funding during the preceding October and February FEFP surveys, was at least 4 years old when the student was enrolled and reported, and was eligible for services under the school attendance requirements for prekindergarten aged children with disabilities.¹⁶

However, a dependent child of a member of the United States Armed Forces who transfers to a Florida school from out of state or from a foreign country pursuant to a parent's permanent change of station orders is exempt from these requirements, but must meet all other eligibility requirements to participate in the McKay Scholarship Program.

The "prior school year in attendance" requirement limits eligibility to students who are identified and confirmed by the school district as having a disability and received special education services during the prior year.¹⁷ During the September and November 2009 and February 2010 payment periods, 941 private schools serving 20,524 students participated in the McKay Scholarship Program. Of that number, 592 private schools are sectarian and 349 are non-sectarian.¹⁸

McKay Scholarship Prohibitions

A student is not eligible for a McKay Scholarship while he or she is:¹⁹

- Enrolled in a Department of Juvenile Justice commitment program or the Florida School for the Deaf and the Blind;
- Receiving a Florida Tax Credit Scholarship,²⁰

programs by cost factors to obtain weighted FTE students. During each of several school weeks, including scheduled intercessions of a year-round school program during the fiscal year, a program membership survey of each school must be made by each district by aggregating the FTE student membership of each program by school and by district. The Department of Education establishes the number and interval of membership calculations. s. 1011.62(1)(a), F.S. For 2009-2010, the Florida Department of Education will conduct four surveys: July 2009, October 2009, February 2010, and June 2010. <http://www.fldoe.org/fefp> FTE Survey Dates (last visited February 22, 2010).

¹⁶ Although not required to attend a public school, children with disabilities who have attained the age of 3 years are eligible for admission to public special education programs and related services. *See* s. 1003.21(1)(e), F.S.

¹⁷ However, in a recent decision, *Forest Grove School District v. T.A.*, the United States Supreme Court ruled that, under certain circumstances, a court or hearing officer can require a school district to reimburse a parent of a student with a disability for the cost of private school, even if the student had not previously received special education services from the school district. *Forest Grove School District v. T.A.* 557 U.S. ____ (2009). The Individuals with Disabilities Education Act (IDEA) allows a court or hearing officer to require the school district to reimburse the parent for the cost of the private school if the court or hearing officer finds that the school district did not provide a free appropriate public education to the child in a timely manner. More particularly, 20 U.S.C. § 1412(a)(10)(C)(ii) provides: "If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary school or secondary school without the consent of or referral by the public agency, a court or hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment." The U.S. Supreme Court held that the provision relating to the student previously receiving special education services did not categorically bar students who had not received such services from receiving reimbursement, if the court or hearing officer determined that the school district had not appropriately provided services. In this case, the school district did not diagnose the student as having a disability and did not provide special education services. The student was subsequently diagnosed by a private specialist and provided special education services at a private school.

¹⁸ Florida Department of Education, Office of Independent Education and School Choice, John M. McKay Scholarship Program Quarterly Report, February 2010. http://www.floridaschoolchoice.org/Information/McKay/quarterly_reports.asp (last visited February 22, 2010).

¹⁹ s. 1002.39(3), F.S.

²⁰ s. 220.187, F.S.

- Participating in a home education program²¹ or private tutoring program;²²
- Participating in a state-funded virtual school, correspondence school, or distance learning program unless the participation is limited to no more than two courses per school year; or
- Not receiving *regular and direct contact*²³ with a classroom teacher at the private school's physical location.²⁴

A McKay Scholarship remains available until the student returns to a public school, graduates from high school, or reaches the age of 22, whichever occurs first.²⁵

Regular and Direct Contact

In 2006, the Legislature made a number of changes to the McKay Scholarship Program in response to recommendations from the Senate Task Force on McKay Scholarship Program Accountability and Senate Interim Projects.²⁶ One of the changes was to require a student who receives a McKay Scholarship to have regular and direct contact with private school teachers at the school's physical location.²⁷

The Coalition of McKay Scholarship Schools estimated that 50 to 90 students with disabilities who received McKay Scholarships during the 2005-2006 school year became ineligible for McKay Scholarships the following school year because of the "regular and direct contact" requirement.²⁸ In response, there has been some effort to provide an exception from this requirement for students who meet certain criteria.²⁹ The requirement for regular and direct contact prohibits students who are homebound or hospitalized from meeting the eligibility requirements for a McKay Scholarship.

Commissioner of Education Authority

The Commissioner of Education (COE) has the authority to deny, suspend, or revoke a private school's participation in the McKay Scholarship Program if it is determined that the private school has failed to comply with the provisions governing the program. When noncompliance can be corrected within a reasonable amount of time and the health, safety, or welfare of the students is not threatened, the COE may issue a notice of noncompliance. The notice must give the private school a timeframe within which to provide evidence of compliance prior to the COE taking action to suspend or revoke the private school's participation in the program.³⁰

²¹ A "home education program" means the sequentially progressive instruction of a student directed by his or her parent in order to satisfy specific attendance requirements. s. 1002.01(1), F.S.

²² Regular school attendance as defined by state law may be achieved by attendance in a private tutoring program if the person tutoring holds a valid Florida certificate to teach the subjects or grades in which instruction is given, keeps all records and makes all reports required by the state and district school board, and makes regular reports on the attendance of students required under s. 1003.23(2), F.S.; and requires students to be in actual attendance for the minimum length of time prescribed by s. 1011.60(2), F.S. and s. 1002.43, F.S.

²³ "Regular and direct contact" is defined as "a program of instruction that provides for a minimum of 170 actual school instruction days with the required instructional hours under the direct instruction of the private school teacher." Rule 6A-6.03315(1)(c), F.A.C.

²⁴ "School's physical location" is defined as "the location where regular and direct contact with the private school teacher occurs and must meet applicable state and local health, safety, and welfare laws, codes, and rules." Rule 6A-6.03315(1)(d), F.A.C.

²⁵ s. 1002.39(4)(a), F.S.

²⁶ Senate Staff Analysis, CS/CS/SB 256 (2006), Government Efficiency Appropriations Committee.

²⁷ s. 1, Ch. 2006-75, L.O.F., codified as s. 1002.39(3)(h), F.S.

²⁸ House of Representatives Staff Analysis, HB 7153 (2008), Healthcare Council.

²⁹ In the 2009 Regular Session, HB 353 and HB 1385 both contained an exception allowing a student to receive special education and services at an alternate location if that student's parent submits a note from a medical doctor or psychologist certifying that the welfare of the student or other students in the classroom would be jeopardized by the student's regular attendance at the school's physical location. In addition, the bills required a private school to employ a case manager to monitor the student's instruction and required school personnel to submit documentation of any instruction or services provided to the student at the alternate location. Neither bill became law.

³⁰ s. 1002.39(7), F.S.

Since 2006, 61 schools have been removed from the McKay Scholarship Program. Most of those schools failed to provide compliance documentation by the statutory deadlines and some of those schools returned to the program after a year of removal.³¹

Private School Eligibility

Participation in the McKay Scholarship Program is open to all sectarian and nonsectarian private schools that:

- Comply with all requirements for private schools participating in state school choice scholarship programs.³²
- Annually provide the parent with a written explanation of the student's progress.
- Cooperate with a student whose parent chooses to have the student participate in the statewide assessment tests.
- Submit all documentation to the DOE required for a student's participation, including the private school's and student's fee schedules, at least 30 days prior to the first quarterly scholarship payment.
- Maintain a physical location in Florida where a scholarship student regularly attends classes.³³

Failure to meet these requirements, as determined by the DOE, constitutes a basis for a private school to become ineligible to participate in the program.³⁴

Effect of Proposed Changes

Student Eligibility and Prior-Year Public School Attendance

The bill changes the student eligibility requirements under the McKay Scholarship Program. Specifically, a student is eligible for the program if the student was enrolled and reported by a school district for funding during *any* previous October and February FEFP surveys during the same school year in kindergarten through grade 12 or was enrolled and reported by the Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12.

The bill also opens eligibility to kindergarten students who would not previously have met the prior year public school attendance requirement. To conform with this provision, the bill deletes the stipulation for eligibility that requires a student to be at least 4 years old when enrolled and reported by a school district for funding in the October and February FEFP surveys.

The bill requires a child with a developmental delay³⁵ who has received early intervention services under the Voluntary Prekindergarten Education Program (VPK) to be reevaluated before entering kindergarten. An IEP must be developed if he or she is eligible for the Exceptional Student Education Program.³⁶

³¹ Email correspondence from Department of Education staff, March 4, 2010.

³² Private schools participating in state school choice scholarship programs are required to comply with statutorily-specified fiscal and operational accountability requirements. s. 1002.421, F.S.

³³ s. 1002.39(8), F.S.

³⁴ *Id.*

³⁵ See *supra* note 11.

³⁶ See *supra* text accompanying fn 11 and s. 1003.57, F.S.

Regular and Direct Contact

The bill provides an exception to the requirement that a McKay Scholarship recipient have regular and direct contact with his or her private school teachers at the school's physical location by authorizing the use of an alternative site for instruction and services. The bill does not identify any specific alternative location or sites which could include a hospital or home.³⁷

Under the exception, the student eligible for a McKay Scholarship may receive direct instruction and services from a private school at a site other than the physical location of the school if:

- The student's parent provides a notarized statement from the licensed physician or psychologist treating the student's disability certifying that the student's welfare or the welfare of other students in the classroom will be jeopardized if the student is required to regularly attend class at the physical location of the school. The bill does not identify any specific criteria that the physician or psychologist must use in making this determination.
- The notarized statement is provided annually to the DOE at least 60 days prior to the date of the first scholarship payment for each school year and based on an annual review of the student's disability by the student's physician or psychologist.

The private school serving the student must:

- Employ or contract with a case manager³⁸ who coordinates and monitors the student's instruction and services, reviews and maintains documentation submitted by the student's physician or psychologist and provides the student's parent and private school with monthly reports on the student's progress.
- Require private school employees or contracted personnel who provide regular and direct instruction or services to a student at a site other than the private school's physical location to submit to the case manager documentation of the instruction, services, and progress of the student. It is not clear as to how a student's attendance would be recorded and monitored to ensure attendance requirements are being met.
- Notify the DOE of each student receiving instruction and services at an alternative site.

Commissioner of Education Authority

For purposes of private school compliance, the bill provides that "owner or operator" includes an owner, operator, superintendent, or principal of, or a person with equivalent decision making authority over, a private school participating in the scholarship program.

The bill authorizes the COE to deny, suspend, or revoke a private school's participation in the scholarship program if the COE determines that an owner or operator of the private school is operating or has operated an educational institution in this state or another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public.

³⁷ Students who are hospitalized or homebound are defined as exceptional students and eligible to receive exceptional student education. A homebound or hospitalized student is a student who has a medically diagnosed physical or psychiatric condition which is acute or catastrophic in nature, or a chronic illness, or a repeated intermittent illness due to a persisting medical problem and which confines the student to home or hospital, and restricts activities for an extended period of time. The medical diagnosis must be made by a licensed physician. s. 1003.01(3)(a) and (b), F.S., and Rule 6A-6.03020(1), F.A.C.

³⁸ "Case manager" is not defined in HB 1505; however, the term is defined in Florida law to mean an individual who works with clients, and their families and significant others, to provide case management (s. 394.4573, F.S.) or a person who is responsible for participating in the development of and implementing a services plan, linking service providers to a child or adolescent and his or her family, monitoring the delivery of services, providing advocacy services, and collecting information to determine the effect of services and treatment (s. 394.492, F.S.)

In making the determination, the COE may consider factors that include:

- Acts or omissions by an owner or operator that led to a previous denial or revocation of participation in an education scholarship program;
- An owner's or operator's failure to reimburse the DOE for scholarship funds improperly received or retained by a school;
- Imposition of a prior criminal sanction related to an owner's or operator's management or operation of an educational institution;
- Imposition of a civil fine, administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to an owner's or operator's management or operation of an educational institution; or
- Other types of criminal proceedings in which the owner or operator was found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense involving fraud, deceit, dishonesty, or moral turpitude.

B. SECTION DIRECTORY:

Section 1: amends s. 1002.39, F.S., relating to the John M. McKay Scholarships for Students with Disabilities Program.

Section 2: amends s. 1002.20, F.S., relating to K-12 student and parent rights.

Section 3: provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

DOE Comments:

The bill would require school districts to reevaluate children who are developmentally delayed prior to entering kindergarten. It is not clear as to the

extent to which districts may need to reevaluate and provide an updated IEP for students who have been homeschooled with learning disabilities and students with disabilities currently in private school, without a McKay scholarship, who may have been in public school at some point and reported in an October and February FTE survey. However, there is the potential of increasing school district expenditures if it is necessary to hire more staff to conduct the evaluations and develop student IEPs. The fiscal impact on school districts is indeterminate since the number of students who would need to be evaluated is unknown.

It is anticipated that the proposed bill would increase the number of students who meet eligibility requirements for participation in the scholarship program. New eligible populations would include all currently homeschooled students with learning disabilities and all students with disabilities currently in private school, without a McKay scholarship, who may have at some point been reported in a public school in Florida in an October and February survey. Further, the exception to the "regular and direct contact" requirement to allow a student to attend a site other than a private school's physical location could have a slight impact on program participation. However, the overall impact of the bill on scholarship program participation is currently indeterminate since there is no way to know for certain how many students in these groups exist or how many would choose to avail themselves of the scholarship option.

It is anticipated that the proposed bill would increase the number of students who meet eligibility requirements for participation in the scholarship program and then enroll in private schools. However, the number of students in this group is unknown and the fiscal impact on private schools is indeterminate.

The bill establishes a requirement that a child who is eligible to enter kindergarten, and is developmentally delayed, must have a re-evaluation to determine if a disability continues to exist that would require the development of an IEP and provision of special education services. This may establish a requirement that would result in conducting unnecessary evaluations – with associated fiscal and work load impact for school districts. [See (2)(a)1.] For example, if a child had an evaluation, was determined eligible, and had an IEP developed in December during the year prior to kindergarten, it would appear that another evaluation would be required closer to entry to kindergarten.

The bill extends eligibility for a McKay Scholarship to a student who was enrolled and reported for funding during any previous [rather than the preceding as currently established] October and February FEFP surveys during the same school year. This would create significant issues for students who have been withdrawn from public school for an extended period of time. Given that the student had been withdrawn from public school, eligibility for services as a student with a disability would need to be re-determined. For example, a student who may have received speech or language services as a kindergartener, may no longer meet eligibility requirements as a student with a disability as a fourth grader. Given recent revisions to State Board of Education Rules, determination of eligibility now requires the review of the research-based instruction and interventions provided to the student through a problem-solving process which has been implemented to address the struggling learner's needs. This framework requires significantly greater data gathering and analysis on the part of staff and presents some unique challenges when the student is enrolled in a private school or is home schooled. No longer is the determination of eligibility based solely upon administration of formal testing instruments.

Additionally, the matrix of service would have to be developed and aligned to the current IEP in order to establish the amount of funding.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No new specific authority is granted. However, the State Board of Education would have to modify the McKay Scholarship Program rule if the bill becomes law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DOE Comments:

The bill allows a physician or psychologist to provide a notarized statement certifying that the student's welfare or the welfare of other students in the classroom will be jeopardized if the student is required to regularly attend class at the school's physical location; however, the language does not develop a framework or identify factors necessary for physicians or psychologists to consider when making such decisions.

Private schools are required to meet all applicable state and local health, safety, and welfare laws for fire safety and building safety. This legislation does not require other locations where students are educated to meet the same health and safety requirements. While it is likely that the other location will be a residential home or apartment where the child lives, that has not been clarified.

Private schools are subject to the compulsory attendance requirements for children between the ages of 6 and 16 years old. Rule 6A-1.09512, Florida Administrative Code, provides that in order to meet the compulsory attendance requirements, a child must maintain regular attendance for a minimum of 170 actual school days with the required instructional hours as determined by grade level. If instruction and services are provided to students at alternative sites instead of at the school's physical location, there is concern that an adequate number of school days and instructional hours may not be provided.

The bill also does not specify whether the "contracted personnel" providing the child's education could include the child's parents which would allow the school to pay the parents some of the scholarship money for home schooling the child.

The bill provisions regarding contracting with a case manager who will document instruction and services and provide monthly progress reports to the student's parent will require rulemaking to establish a procedure for private schools to follow in annually notifying the department of each student subject to this exception and providing a notarized statement.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the PreK-12 Policy Committee adopted two amendments and reported the bill favorably as a Committee Substitute (CS). The difference between the CS and the House Bill is as follows:

HB 1505 included the phrase "has spent the prior year in attendance at a Florida Public school or the Florida School for the Deaf and the Blind" regarding student eligibility for a McKay Scholarship. The CS clarifies that a student "has attended a Florida Public school or the Florida School for the Deaf and the Blind" regarding student eligibility for a McKay Scholarship.

HB 1505 required a private school to notify DOE of "each student subject to this subsection." The CS clarifies that a private school must notify DOE of "each student *receiving services* under this subsection."

29 Statutes, are amended, subsections (11), (12), and (13) are
30 renumbered as subsections (12), (13), and (14), respectively,
31 and a new subsection (11) is added to that section, to read:

32 1002.39 The John M. McKay Scholarships for Students with
33 Disabilities Program.—There is established a program that is
34 separate and distinct from the Opportunity Scholarship Program
35 and is named the John M. McKay Scholarships for Students with
36 Disabilities Program.

37 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a
38 ~~public school~~ student with a disability ~~who is dissatisfied with~~
39 ~~the student's progress~~ may request and receive from the state a
40 John M. McKay Scholarship for the child to enroll in and attend
41 a private school in accordance with this section if:

42 (a) The student:

43 1. Is eligible to enter kindergarten. A child identified
44 with a developmental delay who has received early intervention
45 services under the Voluntary Prekindergarten Education Program
46 must be reevaluated prior to entering kindergarten so that an
47 individual education plan shall be developed if he or she is
48 deemed eligible for the exceptional student education program;

49 or

50 2. Has attended ~~spent the prior school year in attendance~~
51 ~~at~~ a Florida public school or the Florida School for the Deaf
52 and the Blind. For purposes of this subparagraph, Prior school
53 ~~year in attendance~~ means that the student was+

54 ~~1.~~ enrolled and reported by:

55 a. A school district for funding during any prior the
56 ~~preceding~~ October and February Florida Education Finance Program

CS/HB 1505

2010

57 | surveys during the same school year in kindergarten through
58 | grade 12, which shall include time spent in a Department of
59 | Juvenile Justice commitment program if funded under the Florida
60 | Education Finance Program; or

61 | ~~b.2. Enrolled and reported by~~ The Florida School for the
62 | Deaf and the Blind during the preceding October and February
63 | student membership surveys in kindergarten through grade 12. ~~or~~

64 | ~~3. Enrolled and reported by a school district for funding~~
65 | ~~during the preceding October and February Florida Education~~
66 | ~~Finance Program surveys, was at least 4 years old when so~~
67 | ~~enrolled and reported, and was eligible for services under s.~~
68 | ~~1003.21(1)(c).~~

69 |
70 | However, a dependent child of a member of the United States
71 | Armed Forces who transfers to a school in this state from out of
72 | state or from a foreign country pursuant to a parent's permanent
73 | change of station orders is exempt from this paragraph but must
74 | meet all other eligibility requirements to participate in the
75 | program.

76 | (b) The parent has obtained acceptance for admission of
77 | the student to a private school that is eligible for the program
78 | under subsection (8) and has requested from the department a
79 | scholarship at least 60 days prior to the date of the first
80 | scholarship payment. The request must be through a communication
81 | directly to the department in a manner that creates a written or
82 | electronic record of the request and the date of receipt of the
83 | request. The Department of Education must notify the district of
84 | the parent's intent upon receipt of the parent's request.

85 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is
 86 not eligible for a John M. McKay Scholarship while he or she is:

87 (h) Not having regular and direct contact with his or her
 88 private school teachers at the school's physical location,
 89 except as provided in subsection (11).

90 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.—

91 (a) For purposes of continuity of educational choice, a
 92 John M. McKay Scholarship shall remain in force until the
 93 student enrolls in ~~returns to~~ a public school, graduates from
 94 high school, or reaches the age of 22, whichever occurs first.

95 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

96 (a)1. The Commissioner of Education shall deny, suspend,
 97 or revoke a private school's participation in the scholarship
 98 program if it is determined that the private school has failed
 99 to comply with the provisions of this section. However, in
 100 instances in which the noncompliance is correctable within a
 101 reasonable amount of time and in which the health, safety, or
 102 welfare of the students is not threatened, the commissioner may
 103 issue a notice of noncompliance which shall provide the private
 104 school with a timeframe within which to provide evidence of
 105 compliance prior to taking action to suspend or revoke the
 106 private school's participation in the scholarship program.

107 2.a. For purposes of this subparagraph, the term "owner or
 108 operator" includes an owner, operator, superintendent, or
 109 principal of, or a person with equivalent decisionmaking
 110 authority over, a private school participating in the
 111 scholarship program.

112 b. The Commissioner of Education may deny, suspend, or

113 revoke a private school's participation in the scholarship
 114 program if the commissioner determines that an owner or operator
 115 of the private school is operating or has operated an
 116 educational institution in this state or another state or
 117 jurisdiction in a manner contrary to the health, safety, or
 118 welfare of the public. In making this determination, the
 119 commissioner may consider factors that include, but are not
 120 limited to: acts or omissions by an owner or operator that led
 121 to a previous denial or revocation of participation in an
 122 education scholarship program; an owner's or operator's failure
 123 to reimburse the Department of Education for scholarship funds
 124 improperly received or retained by a school; imposition of a
 125 prior criminal sanction related to an owner's or operator's
 126 management or operation of an educational institution;
 127 imposition of a civil fine or administrative fine, license
 128 revocation or suspension, or program eligibility suspension,
 129 termination, or revocation related to an owner's or operator's
 130 management or operation of an educational institution; or other
 131 types of criminal proceedings in which an owner or operator was
 132 found guilty of, regardless of adjudication, or entered a plea
 133 of nolo contendere or guilty to, any offense involving fraud,
 134 deceit, dishonesty, or moral turpitude.

135 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be
 136 eligible to participate in the John M. McKay Scholarships for
 137 Students with Disabilities Program, a private school may be
 138 sectarian or nonsectarian and must:

139 (d) Maintain ~~in this state~~ a physical location in this
 140 state where a scholarship student regularly attends classes or

CS/HB 1505

2010

141 | provide instruction and services pursuant to subsection (11).

142

143 | The inability of a private school to meet the requirements of
144 | this subsection shall constitute a basis for the ineligibility
145 | of the private school to participate in the scholarship program
146 | as determined by the department.

147 | (10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

148 | (a)1. The maximum scholarship granted for an eligible
149 | student with disabilities shall be a calculated amount
150 | equivalent to the base student allocation in the Florida
151 | Education Finance Program multiplied by the appropriate cost
152 | factor for the educational program that would have been provided
153 | for the student in the district school to which he or she was
154 | assigned, multiplied by the district cost differential.

155 | 2. In addition, a share of the guaranteed allocation for
156 | exceptional students shall be determined and added to the
157 | calculated amount. The calculation shall be based on the
158 | methodology and the data used to calculate the guaranteed
159 | allocation for exceptional students for each district in chapter
160 | 2000-166, Laws of Florida. Except as provided in subparagraphs
161 | 3. and 4., the calculation shall be based on the student's
162 | grade, matrix level of services, and the difference between the
163 | 2000-2001 basic program and the appropriate level of services
164 | cost factor, multiplied by the 2000-2001 base student allocation
165 | and the 2000-2001 district cost differential for the sending
166 | district. Also, the calculated amount shall include the per-
167 | student share of supplemental academic instruction funds,
168 | instructional materials funds, technology funds, and other

169 categorical funds as provided for such purposes in the General
170 Appropriations Act.

171 3. The calculated scholarship amount for a student who is
172 eligible under sub-subparagraph (2) (a)2.b. ~~subparagraph (2) (a)2.~~
173 shall be calculated as provided in subparagraphs 1. and 2.
174 However, the calculation shall be based on the school district
175 in which the parent resides at the time of the scholarship
176 request.

177 4. Until the school district completes the matrix required
178 by paragraph (5) (b), the calculation shall be based on the
179 matrix that assigns the student to support level I of service as
180 it existed prior to the 2000-2001 school year. When the school
181 district completes the matrix, the amount of the payment shall
182 be adjusted as needed.

183 (c)1. The school district shall report all students who
184 are attending a private school under this program. The students
185 with disabilities attending private schools on John M. McKay
186 Scholarships shall be reported separately from other students
187 reported for purposes of the Florida Education Finance Program.

188 2. For program participants who are eligible under sub-
189 subparagraph (2) (a)2.b. ~~subparagraph (2) (a)2.~~, the school
190 district that is used as the basis for the calculation of the
191 scholarship amount as provided in subparagraph (a)3. shall:

192 a. Report to the department all such students who are
193 attending a private school under this program.

194 b. Be held harmless for such students from the weighted
195 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b.
196 during the first school year in which the students are reported.

197 (d) Following notification on July 1, September 1,
 198 December 1, or February 1 of the number of program participants,
 199 the department shall transfer, from General Revenue funds only,
 200 the amount calculated under paragraph (b) from the school
 201 district's total funding entitlement under the Florida Education
 202 Finance Program and from authorized categorical accounts to a
 203 separate account for the scholarship program for quarterly
 204 disbursement to the parents of participating students. Funds may
 205 not be transferred from any funding provided to the Florida
 206 School for the Deaf and the Blind for program participants who
 207 are eligible under sub-subparagraph (2) (a) 2.b. ~~subparagraph~~
 208 ~~(2) (a) 2.~~ For a student exiting a Department of Juvenile Justice
 209 commitment program who chooses to participate in the scholarship
 210 program, the amount of the John M. McKay Scholarship calculated
 211 pursuant to paragraph (b) shall be transferred from the school
 212 district in which the student last attended a public school
 213 prior to commitment to the Department of Juvenile Justice. When
 214 a student enters the scholarship program, the department must
 215 receive all documentation required for the student's
 216 participation, including the private school's and student's fee
 217 schedules, at least 30 days before the first quarterly
 218 scholarship payment is made for the student.

219 (11) ALTERNATIVE SITES FOR INSTRUCTION AND SERVICES.-A
 220 student eligible for a scholarship under this section may
 221 receive regular and direct instruction and services from a
 222 private school at a site other than the physical location of the
 223 school if the following criteria are met:

224 (a) The student's parent must provide a notarized

CS/HB 1505

2010

225 statement from an individual treating the student's disability
226 who is a physician licensed under chapter 458 or chapter 459 or
227 a psychologist licensed under chapter 490, which certifies that
228 the student's welfare or the welfare of other students in the
229 classroom will be jeopardized if the student is required to
230 regularly attend class at the physical location of the school.

231 The notarized statement must be:

232 1. Annually provided to the department at least 60 days
233 prior to the date of the first scholarship payment for each
234 school year.

235 2. Based on an annual review of the student's disability
236 by the physician or psychologist treating the student's
237 disability.

238 (b) The private school serving the student must:

239 1. Employ or contract with a case manager who coordinates
240 and monitors the student's instruction and services, reviews and
241 maintains the documentation submitted under subparagraph 2., and
242 provides the student's parent and the private school with
243 monthly reports on the student's progress.

244 2. Require private school employees or contracted
245 personnel who provide regular and direct instruction or services
246 to a student at a site other than the private school's physical
247 location to submit to the case manager documentation of the
248 instruction, services, and progress of the student.

249 3. Notify the department of each student receiving
250 services under this subsection.

251 Section 2. Paragraph (b) of subsection (6) of section
252 1002.20, Florida Statutes, is amended to read:

CS/HB 1505

2010

253 1002.20 K-12 student and parent rights.—Parents of public
254 school students must receive accurate and timely information
255 regarding their child's academic progress and must be informed
256 of ways they can help their child to succeed in school. K-12
257 students and their parents are afforded numerous statutory
258 rights including, but not limited to, the following:

259 (6) EDUCATIONAL CHOICE.—

260 (b) Private school choices.—Parents of public school
261 students may seek private school choice options under certain
262 programs.

263 1. Under the Opportunity Scholarship Program, the parent
264 of a student in a failing public school may request and receive
265 an opportunity scholarship for the student to attend a private
266 school in accordance with the provisions of s. 1002.38.

267 2. Under the McKay Scholarships for Students with
268 Disabilities Program, the parent of a ~~public school~~ student with
269 a disability ~~who is dissatisfied with the student's progress~~ may
270 request and receive a McKay Scholarship for the student to
271 attend a private school in accordance with the provisions of s.
272 1002.39.

273 3. Under the Florida Tax Credit Scholarship Program, the
274 parent of a student who qualifies for free or reduced-price
275 school lunch may seek a scholarship from an eligible nonprofit
276 scholarship-funding organization in accordance with the
277 provisions of s. 220.187.

278 Section 3. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS



BILL #: CS/HB 1569

Charter Schools

SPONSOR(S): Stargel

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	12 Y, 0 N, As CS	Beagle	Ahearn
2)	PreK-12 Appropriations Committee		Seifert 	Heflin 
3)	Education Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The bill revises various statutory provisions related to charter schools. The bill:

- Creates the designation of “high performing charter school” status for a charter school that meets specified academic and financial benchmarks for three consecutive years. Such schools are entitled to an automatic 15-year charter renewal; an increase in enrollment beyond the maximum enrollment specified in its charter; an automatic qualification for startup grants; receipt of capital outlay funds in the first year it receives a high-performing designation; and an extension of the deadline to submit an initial application to replicate a successful charter school.
- Requires a charter school’s governing board to submit quarterly, rather than monthly, financial statements to its sponsor.
- Authorizes a charter school-in-the-workplace to receive charter school capital outlay funding.
- Prohibits school districts from imposing facilities restrictions on charter schools that are more stringent than those imposed by local governments.
- Exempts charter schools from concurrency exactions imposed by local ordinance.
- Deletes provisions requiring certain charter schools to report student assessment data and relaxes restrictions on the employment of relatives by charter schools.
- Adds furniture, equipment, and computer hardware, software, and network systems as allowable expenditures of charter school fixed capital outlay funding.
- Requires OPPAGA to conduct a study comparing the funding of charter schools with traditional public schools.

The bill does not appear to have a fiscal impact on state government, but the bill will reduce the amount of revenue local governments receive from concurrency exactions due to the bill’s exemption of charter schools from the payment of concurrency exactions imposed by local ordinance. See *infra* “Fiscal Analysis & Economic Impact Statement.”

The bill presents a number of drafting and other issues. See *infra* “Drafting Issues or Other Comments.”

The bill provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter Schools Overview

In 1996, the Legislature enacted Florida's first charter school law.¹ Charter schools are nonsectarian, public schools that operate under a performance contract, referred to as a "charter," with its sponsor. The charter frees the school from many regulations applicable to traditional public schools in order to encourage the use of innovative learning methods, while holding the school accountable for academic and financial results.² Charter schools may be sponsored by a district school board, community college or state university, municipality or, in the case of a charter lab school, by a state university.³ Each charter school is administered by a governing board.⁴

Charter schools are subject to the same academic performance accountability requirements applicable to traditional public schools. Charter school students must take the Florida Comprehensive Assessment Test (FCAT) and the schools are graded annually.⁵

Since 1996, the number of charter schools in Florida has grown from five to 389 during the 2008-2009 school year. Charter schools served 118,169 students during the 2008-2009 school year.⁶

High-Performing Charter Schools

Present Situation

Florida law does not currently include a program for designating charter schools as "high-performing charter schools" based on academic performance and financial stability. However, academic performance and financial stability are factors in awarding charter school capital outlay funding and 15-year charter renewal. A charter school may receive charter school capital outlay funding if, among other things, it demonstrates satisfactory student performance and financial stability.⁷

¹ Chapter 96-186, L.O.F., *initially codified* as § 228.056, F.S., *redesignated in 2002* as § 1002.33, F.S.

² Section 1002.33(1), (2), (7), (9), (16), & (17), F.S.

³ Section 1002.33(5)(a), F.S.

⁴ Section 1002.33(9)(i), F.S.

⁵ Section 1002.33(7)(a)4. & (9)(k)1., F.S.

⁶ Florida Department of Education, *Charter Schools Program*, (October 2009) *available at*: http://www.floridaschoolchoice.org/information/charter_schools/files/fast_facts_charter_schools.pdf.

⁷ Section 1013.62(1), F.S.

The required term of a charter is four or five years.⁸ Florida law provides opportunities for charter schools that demonstrate strong academic performance and fiscal stability to be granted a 15-year charter. In order to facilitate long-term financing for charter school construction, a sponsor:

1. May grant a 15-year charter renewal to a charter school: (a) that has operated for at least three years; (b) that demonstrates exemplary academic programming and fiscal management; and (c) for which none of the grounds for nonrenewal have been documented.⁹ Such a long-term charter is subject to annual review and may be terminated during its term.¹⁰
2. Must grant a 15-year charter renewal to a charter school that meets the requirements expressed in Number 1, receives a school grade of "A" or "B" in three out of four years, and is not in a state of financial emergency or deficit position.¹¹ If granted, a long-term charter is subject to annual review and may only be terminated for specified reasons.¹²

Charter schools may also receive federal grant funding. Charter School Program (CSP) Grant funds are offered on an as available, competitive basis to:

- Newly-approved charter schools during the first three years of operation. The funds may be used for planning, design, and initial implementation of the school.
- Charter schools that have successfully been in operation for at least three consecutive years. These funds may be used for support activities that help open new public schools, including charter schools, or share lessons learned by charter schools with other public schools.

Charter schools may apply for these funds through the Department of Education (DOE), which acts as the state educational authority for purposes of the CSP.¹³

The deadline for submitting an application to establish a new charter school is August 1 of each year. Unless otherwise agreed upon by the applicant and sponsor, the opening date of the charter school is the beginning of the next full school year.¹⁴ The student capacity of a charter school is annually determined by the governing board, in conjunction with the sponsor.¹⁵

Effect of Proposed Changes

The bill authorizes a charter school to be designated as a high-performing charter school if it meets the following conditions for three consecutive years:

- Receives a school grade of "A" or "B";
- Receives unqualified opinions on its annual audited financial statements; and
- Maintains positive fund balances.

The bill provides that a high-performing charter school is entitled to the following:

- Automatic renewal of its charter for 15 years.
- Ability to increase enrollment in excess of the maximum enrollment specified in its charter.
- Automatic qualification for startup grants for new applicants.

⁸ Section 1002.33(7)(a)12., F.S.

⁹ Section 1002.33(7)(b)1., F.S.

¹⁰ Section 1002.33(7)(b)1., F.S. A charter may be terminated or not renewed for: 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; violation of law; or other good cause shown. Section 1002.33(8)(a), F.S.

¹¹ Section 1002.33(7)(b)2., F.S..

¹² *Id.*

¹³ U.S. Department of Education, *Charter Schools Program*, <http://www2.ed.gov/programs/charter/index.html> (last visited Mar. 14, 2010).

¹⁴ Section 1002.33(6)(b), F.S.

¹⁵ Section 1002.33(10)(h), F.S.

- Receipt of capital outlay funds beginning with the first year it receives a high-performing designation.
- Extension until January 1 to submit an initial application to replicate a successful charter school.

The bill does not specify a procedure for reviewing a charter school's status as "high-performing." It is unclear whether high performing charter school status can be reviewed or terminated. See *infra* "Drafting Issues & Other Comments."

Financial Monitoring

Present Situation

Legislation enacted in 2009 requires each charter school to provide a monthly financial statement to its sponsor.¹⁶ Monthly financial statements enable sponsors to closely monitor the financial health of sponsored charter schools. If a monthly financial statement indicates a deteriorating financial condition¹⁷ or financial emergency condition,¹⁸ the sponsor and governing board must develop a corrective action plan.¹⁹

Effect of Proposed Changes

The bill changes the requirement for monthly financial statements to a quarterly requirement, with the exception that charter schools in a state of financial emergency will still be required to provide monthly financial statements.

Charter Schools-in-the-Workplace

Present Situation

Charter schools-in-the-workplace are sponsored by local school districts in partnership with a company or business. In order to establish a charter school-in-the-workplace, a business partner must, among other things, provide the school facility to be used.²⁰ Any portion of a facility used for a public charter school is exempt from ad valorem taxes as long as it is used as a public school.²¹

Effect of Proposed Changes

The bill relaxes the requirement that a business partner provide the school facility for a charter school-in-the-workplace by allowing the business partner to provide one of the following:

- Access to a school facility to be used;
- Resources that materially reduce the cost of constructing a school facility;
- Land for a school facility; or
- Resources to maintain a school facility.

The bill also provides that a charter school-in-the workplace is eligible for capital outlay funding. See *infra* "Drafting Issues & Other Comments."

¹⁶ Section 7, ch. 2009-214, L.O.F.; § 1002.33(10)(g), F.S.

¹⁷ "Deteriorating financial condition" means a circumstance that significantly impairs the ability of a charter school or a charter technical career center to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1)." Section 1002.345(1)(a)3., F.S.

¹⁸ A financial emergency condition includes: failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes; failure for one pay period to pay, wages, salaries, and retirement benefits owed; a fund balance or total net assets deficit. Section 218.503(1), F.S.

¹⁹ Section 1002.345(1)(a) & (c), F.S.

²⁰ Section 1002.33(15)(b), F.S.

²¹ Section 1002.33(15)(b), F.S. (flush-left provisions at end of paragraph).

Charter School Facilities

Present Situation

Concurrency is a growth management procedure designed to accommodate the impacts of new growth on the availability of public facilities and services. Concurrency is essentially a timing mechanism. Under concurrency, public services must be available to serve new development within statutorily established time frames.²² District school boards and local governments achieve school concurrency when there are adequate school facilities available to accommodate increases in student enrollment resulting from new development.²³

When school capacity is unavailable to support the impacts of a particular development proposal, such development is precluded from proceeding. "Proportionate-share-mitigation" enables a developer to execute a legally binding commitment to provide mitigation to offset the demand on public school facilities created by the development so that it may proceed. Options for proportionate-share mitigation are established locally in the public school facilities element of the comprehensive plan and interlocal agreement.²⁴

Construction of a charter school that meets the statutory requirements for charter school facilities is one of four mitigation options provided in statute.²⁵ If the educational facilities plan²⁶ and the public school facilities element of the comprehensive plan authorize the construction of a charter school as the proportionate share mitigation option, the local government must credit the developer towards any impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.²⁷

Charter schools are exempt from compliance with the State Requirements for Educational Facilities, but are required to comply with the Florida Building Code and the Florida Fire Prevention Code. A local governing authority may not impose local building requirements on charter schools that are more stringent than the Florida Building Code.²⁸ For purposes of inspection of a facility and issuance of a certificate of occupancy, the agency with jurisdiction is the local municipality or, if in an unincorporated area, the county governing authority.²⁹

Florida law provides several fee exemptions that financially benefit charter schools. Charter schools are exempt from assessments of fees for building permits, building and occupational licenses, impact fees, service availability fees, and assessments for special benefits.³⁰ Charter schools are not currently exempt from exactions imposed by local ordinance related to school concurrency.

²² Section 163.3180(2), F.S.

²³ Florida Department of Community Affairs, *Best Practices for School Concurrency*, p. 8 (April 2007) available at <http://www.dca.state.fl.us/fdcp/DCP/SchoolPlanning/Files/schoolsbp.pdf>.

²⁴ Section 163.3180(13)(e), F.S. Local government entities, i.e., counties and municipalities, must adopt comprehensive plans that guide future growth and development. Section 163.3177, F.S. Each local government comprehensive plan must contain chapters or "elements" that address various development issues, including public schools. Section 163.3177(12), F.S. The county and each municipality within a school district must enter into an agreement with the school board which jointly establishes a process for coordinating school board educational facilities plans and the local government comprehensive plans. Section 163.31777(1)(a), F.S.

²⁵ Section 163.3180(13)(e), F.S.; *See* Section 1002.33(18), F.S. (charter school facilities requirements). The other three mitigation options are the contribution of land or payment for land acquisition; mitigation banking, which allows the developer to contribute mitigation that exceeds the actual impact of its development in exchange for proportionate share credits toward impact fees or future development; and construction or payment for construction of a public school facility. *See also* Florida Department of Community Affairs, *Proportionate Share Mitigation for School Concurrency* (May 2006) available at <http://www.dca.state.fl.us/fdcp/DCP/SchoolPlanning/Files/ProportionateShareMitigation.pdf>.

²⁶ An educational facilities plan is a comprehensive planning document that is adopted annually by the district school board. The plan includes long-range planning for facilities needs over 5-year, 10-year, and 20-year periods. The plan must be developed in coordination with local governments and be consistent with the local government comprehensive plans. Section 1013.35(1)-(2), F.S.

²⁷ Section 163.3180(13)(e)2., F.S.

²⁸ Section 1002.33(18)(a) & (b), F.S.

²⁹ Section 1002.33(18)(a), F.S.

³⁰ Section 1002.33(18)(d), F.S.

Effect of Proposed Changes

The bill prohibits a school district from imposing more stringent facilities restrictions on charter schools than those imposed by the local municipality or county governing authority. The bill also provides that charter school facilities are exempt from exactions imposed by local ordinance related to school concurrency.

Public Information on Charter Schools

Present Situation

Legislation enacted in 2009 requires DOE to report student assessment data to charter schools that do not receive a school grade or a school improvement rating, but which serve at least 10 students who are tested on the FCAT. A charter school is then required to report such information to the parent of a student attending the charter school, the parent of a child on the charter school's waiting list, the district in which the charter school is located, and the governing board of the charter school.³¹ Each charter school is required to provide such information on its internet website and also provide notice to the public at large.³² Reporting of data must comply with federal law governing education records privacy.³³

Effect of Proposed Changes

The bill removes the requirement that charter schools that are too small to receive a school grade must provide the school's student achievement data to parents, parents on the waiting list, the district, and the governing board. Such schools are still required to provide student assessment data information at the school's facility and on the school's website if they have one.

Restriction of Employment of Relatives

Present Situation

Legislation enacted in 2009 prohibits personnel in a charter school operated by a private entity from appointing, employing, promoting, or advancing, or advocating for the appointment, employment, promotion, or advancement of a relative in the school in which the personnel works or exercises jurisdiction or control. Furthermore, the law prohibits an individual from being appointed, employed, promoted, or advanced in or to a position in the charter school if such action has been advocated by the individual's relative who serves in or exercises jurisdiction or control over the charter school, or if such appointment, employment, promotion, or advancement is made by the governing board of which a relative of the individual is a member.³⁴

Effect of Proposed Changes

The bill relaxes the restrictions on employment of relatives by prohibiting charter school personnel from *knowingly* recommending or engaging in the employment, promotion, or assignment of an individual or employee to a work location if that action will create a situation in which one employee will be responsible for the direct supervision of, or exercise jurisdiction or control over, a relative. The bill provides that the Commissioner or the sponsor may make exceptions to this provision if it would cause undue hardship on students or seriously disrupt a charter school's operations.

Charter School Capital Outlay Funding

Present Situation

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

³¹ Section 7, ch. 2009-214, L.O.F.; § 1002.33(21)(b)1. & 2., F.S.

³² Section 1002.33(21)(b)3.b., F.S.

³³ Section 1002.33(21)(b)2., F.S.; See 20 U.S.C. § 1232g.

³⁴ Section 7, ch. 2009-214, L.O.F.; § 1002.33(24), F.S.

- Have been in operation for at least 3 years; be governed by a governing board established in the state for three or more years which operates both charter schools and conversion charter schools; be part of an expanded feeder chain with an existing charter school in the district; or be accredited by the Southern Association of Colleges and Schools;
- Demonstrate financial stability;
- Have satisfactory student performance;
- Have received final approval from its sponsor; and
- Serve students in facilities not provided by the charter school sponsor.³⁵

Capital outlay funds may be used by a charter school 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 new and replacement equipment, and enterprise resource software applications.
- 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.³⁶

Enterprise resource software applications must be "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."³⁷

Effect of Proposed Changes

The bill adds the purchase of "equipment, furniture, and computer software, hardware, and network systems" to the list of allowable uses of charter school capital outlay funding. School districts and charter schools may currently use capital outlay funding for equipment, furniture, computer enterprise software, hardware, and network systems. School districts may not use capital outlay funds for over-the-counter software purchases. (See Drafting Comments & Other Issues).

Charter School Funding Study

The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study comparing the funding of charter schools and traditional public schools. The study must:

- Identify school districts that distribute to charter schools funds generated by millage for capital improvements and the use of such funds by charter schools.
- Determine the amount of funds that would be available to charter schools if school districts equitably distributed funds generated by millage for capital improvements.
- Examine the costs associated with supervising charter schools and determine if the five percent administrative fee paid for sponsor-provided administrative and educational services covers the cost of such services.

³⁵ Section 1013.62(1), F.S.

³⁶ Section 1013.62(2), F.S.

³⁷ Section 1013.62(2)(f), F.S.

OPPAGA must make recommendations, if warranted, for improving the accountability and equity of the charter school funding system based on the study. The results of the study must be reported to the Governor and Legislature by January 1, 2011.

Technical Correction

Legislation enacted in 2009 requires governing board members of a charter school operated by a municipality or other public entity to make certain financial disclosures. The legislation cross-referenced the wrong section of law, thereby inadvertently subjecting the board members to the financial disclosure requirements for elected constitutional officers, rather than those for local officers. The bill corrects this cross-reference.

B. SECTION DIRECTORY:

Section 1: Amends s. 1002.33, F.S., establishes a high-performing charter school designation; revises financial reporting requirements; revises the requirements for establishment of a charter school-in-the-workplace; prohibits school districts imposing more stringent requirements on charter school facilities than local governments; provides for an exemption from certain exactions; removes a reporting requirement; revises restrictions on the employment of relatives, corrects a cross-reference related to financial disclosures.

Section 2: Amends s. 1013.62, F.S., authorizes additional uses for charter school capital outlay funds.

Section 3: Amends s. 163.3180, F.S., conforms cross-references.

Section 4: Amends s. 1002.32, F.S., conforms cross-references.

Section 5: Amends s. 1002.34, F.S., conforms cross-references.

Section 6: Amends s. 1002.345, F.S., conforms to bill provisions related to financial reporting; conforms cross-references.

Section 7: Amends s. 1011.68, F.S., conforms cross-references.

Section 8: Amends s. 1012.32, F.S., conforms cross-references.

Section 9: Provides for an OPPAGA study.

Section 10: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments may experience a reduction in revenue resulting from the exemption of charter schools from concurrency exactions imposed by local ordinance.

2. Expenditures:

The bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have a fiscal impact for private sector.

D. FISCAL COMMENTS:

The bill also provides that a charter school may receive such funding in the first year it is designated as "high performing." Because this provision could increase the number of charter schools that are eligible for capital outlay funding, the amount that is disbursed to each eligible school may be reduced.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

3. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

High Performing Charter Schools: The bill's creation of "high performing charter school" status presents the following issues:

- The bill specifies that such high performing charter schools are entitled to an "automatic" 15-year charter renewal. Usually, charter renewal occurs at the expiration of the term of the charter. It is unclear whether the 15-year charter renewal is to occur immediately upon being designated as "high performing" or if this means that the charter school will be presumed eligible for such renewal at the expiration of the current charter term.
- The bill authorizes a high performing charter school to increase its enrollment beyond the maximum enrollment specified in its charter. Currently, a charter school's enrollment is jointly determined by the governing board and the sponsor. School districts perform various services for charter schools and serve as the local education agency for the purposes of receipt and distribution of federal funds. Such a unilateral increase in enrollment may impose logistical difficulties on school districts related to providing services and federal funding to charter school students.
- The bill entitles a high performing charter school to automatically qualify for charter school start-up grants. In awarding federal charter school grants, the DOE is required to follow federal regulations and employ a competitive process in determining grantee eligibility. The bill does not address this issue.

- The bill does not specify a procedure for reviewing a charter school's status as "high-performing." It is unclear whether high performing charter school status can be terminated if student performance declines; the school encounters deficit fund balances; or the school receives audit criticism.

Fixed Capital Outlay: The bill authorizes charter schools to use capital outlay funding to purchase furniture; equipment; and computer software, hardware, and network systems. Expenditure of capital outlay funds on equipment is already authorized under current law. Current law specifies limited and defined purposes for use of capital outlay funds.³⁸

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the PreK-12 Policy Committee adopted a strike-all amendment to HB 1569 and reported the bill favorably as a committee substitute. The strike-all amendment removes provisions from the original bill:

- Authorizing private universities and public entities to sponsor charter lab schools.
- Requiring a charter school sponsor to show good cause to the Commissioner of Education before terminating or not renewing a charter school's charter for cause.
- Requiring charter schools to comply with constitutional class size requirements and providing that compliance is to be measured at the school-level.
- Requiring school districts to share discretionary millage for capital improvements with charter schools.

In addition, the strike-all amendment adds provisions requiring OPPAGA to conduct a study comparing the funding of charter schools with traditional public schools. The study must:

- Identify school districts that distribute to charter schools funds generated by millage for capital improvements and the use of such funds by charter schools.
- Determine the amount of funds that would be available to charter schools if school districts equitably distributed funds generated by millage for capital improvements.
- Examine the costs associated with supervising charter schools and determine if the five percent administrative fee for sponsor-provided administrative and educational services covers the cost of such services.

OPPAGA must make recommendations, if warranted, for improving the accountability and equity of the charter school funding system based on the study. The results of the study must be reported to the Governor and Legislature by January 1, 2011.

³⁸ See *supra* text accompanying note 37.
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 DATE: 3/22/2010

1 A bill to be entitled
 2 An act relating to charter schools; amending s. 1002.33,
 3 F.S.; correcting cross-references to high school
 4 graduation requirements; providing eligibility
 5 requirements for designation as a high-performing charter
 6 school; providing that a high-performing charter school is
 7 entitled to certain renewal, increase in enrollment,
 8 startup grants, capital outlay funds, and application
 9 procedures; revising requirements for providing financial
 10 statements to a sponsor; deleting obsolete provisions;
 11 revising requirements for the establishment of a charter
 12 school-in-the-workplace; providing that a charter school-
 13 in-the-workplace is eligible for capital outlay funding;
 14 providing that charter schools shall receive certain
 15 federal funding for which they are eligible; prohibiting a
 16 school district from imposing certain restrictions
 17 relating to charter school facilities; providing for an
 18 exemption from certain exactions; removing a reporting
 19 requirement relating to student assessment data; revising
 20 restrictions on the employment of relatives by charter
 21 school personnel; providing an exception; correcting a
 22 cross-reference relating to the disclosure of financial
 23 interests; conforming cross-references; amending s.
 24 1013.62, F.S.; authorizing additional uses for charter
 25 school capital outlay funds; conforming cross-references;
 26 amending ss. 163.3180, 1002.32, 1002.34, 1002.345,
 27 1011.68, and 1012.32, F.S.; conforming cross-references
 28 and provisions; requiring the Office of Program Policy

29 | Analysis and Government Accountability to conduct a study
 30 | comparing the funding of charter schools with traditional
 31 | public schools and examining certain funding and costs;
 32 | requiring recommendations to the Governor and Legislature,
 33 | if warranted, for improving the accountability and equity
 34 | of the funding system for charter schools; providing an
 35 | effective date.

36 |

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

38 |

39 | Section 1. Subsection (7) of section 1002.33, Florida
 40 | Statutes, is amended, a new subsection (8) is added to that
 41 | section, and present subsections (8) through (26) are renumbered
 42 | as subsections (9) through (27), respectively, and amended, to
 43 | read:

44 | 1002.33 Charter schools.—

45 | (7) CHARTER.—The major issues involving the operation of a
 46 | charter school shall be considered in advance and written into
 47 | the charter. The charter shall be signed by the governing body
 48 | of the charter school and the sponsor, following a public
 49 | hearing to ensure community input.

50 | (a) The charter shall address and criteria for approval of
 51 | the charter shall be based on:

52 | 1. The school's mission, the students to be served, and
 53 | the ages and grades to be included.

54 | 2. The focus of the curriculum, the instructional methods
 55 | to be used, any distinctive instructional techniques to be
 56 | employed, and identification and acquisition of appropriate

57 | technologies needed to improve educational and administrative
58 | performance which include a means for promoting safe, ethical,
59 | and appropriate uses of technology which comply with legal and
60 | professional standards. The charter shall ensure that reading is
61 | a primary focus of the curriculum and that resources are
62 | provided to identify and provide specialized instruction for
63 | students who are reading below grade level. The curriculum and
64 | instructional strategies for reading must be consistent with the
65 | Sunshine State Standards and grounded in scientifically based
66 | reading research.

67 | 3. The current incoming baseline standard of student
68 | academic achievement, the outcomes to be achieved, and the
69 | method of measurement that will be used. The criteria listed in
70 | this subparagraph shall include a detailed description of:

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

73 | b. How these baseline rates will be compared to rates of
74 | academic progress achieved by these same students while
75 | attending the charter school.

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

79 |

80 | The district school board is required to provide academic
81 | student performance data to charter schools for each of their
82 | students coming from the district school system, as well as
83 | rates of academic progress of comparable student populations in
84 | the district school system.

85 4. The methods used to identify the educational strengths
 86 and needs of students and how well educational goals and
 87 performance standards are met by students attending the charter
 88 school. The methods shall provide a means for the charter school
 89 to ensure accountability to its constituents by analyzing
 90 student performance data and by evaluating the effectiveness and
 91 efficiency of its major educational programs. Students in
 92 charter schools shall, at a minimum, participate in the
 93 statewide assessment program created under s. 1008.22.

94 5. In secondary charter schools, a method for determining
 95 that a student has satisfied the requirements for graduation in
 96 s. 1003.428, s. 1003.429, or s. 1003.43.

97 6. A method for resolving conflicts between the governing
 98 body of the charter school and the sponsor.

99 7. The admissions procedures and dismissal procedures,
 100 including the school's code of student conduct.

101 8. The ways by which the school will achieve a
 102 racial/ethnic balance reflective of the community it serves or
 103 within the racial/ethnic range of other public schools in the
 104 same school district.

105 9. The financial and administrative management of the
 106 school, including a reasonable demonstration of the professional
 107 experience or competence of those individuals or organizations
 108 applying to operate the charter school or those hired or
 109 retained to perform such professional services and the
 110 description of clearly delineated responsibilities and the
 111 policies and practices needed to effectively manage the charter
 112 school. A description of internal audit procedures and

CS/HB 1569

2010

113 establishment of controls to ensure that financial resources are
114 properly managed must be included. Both public sector and
115 private sector professional experience shall be equally valid in
116 such a consideration.

117 10. The asset and liability projections required in the
118 application which are incorporated into the charter and shall be
119 compared with information provided in the annual report of the
120 charter school.

121 11. A description of procedures that identify various
122 risks and provide for a comprehensive approach to reduce the
123 impact of losses; plans to ensure the safety and security of
124 students and staff; plans to identify, minimize, and protect
125 others from violent or disruptive student behavior; and the
126 manner in which the school will be insured, including whether or
127 not the school will be required to have liability insurance,
128 and, if so, the terms and conditions thereof and the amounts of
129 coverage.

130 12. The term of the charter which shall provide for
131 cancellation of the charter if insufficient progress has been
132 made in attaining the student achievement objectives of the
133 charter and if it is not likely that such objectives can be
134 achieved before expiration of the charter. The initial term of a
135 charter shall be for 4 or 5 years. In order to facilitate access
136 to long-term financial resources for charter school
137 construction, charter schools that are operated by a
138 municipality or other public entity as provided by law are
139 eligible for up to a 15-year charter, subject to approval by the
140 district school board. A charter lab school is eligible for a

141 charter for a term of up to 15 years. In addition, to facilitate
142 access to long-term financial resources for charter school
143 construction, charter schools that are operated by a private,
144 not-for-profit, s. 501(c)(3) status corporation are eligible for
145 up to a 15-year charter, subject to approval by the district
146 school board. Such long-term charters remain subject to annual
147 review and may be terminated during the term of the charter, but
148 only according to the provisions set forth in subsection (9)
149 ~~(8)~~.

150 13. The facilities to be used and their location.

151 14. The qualifications to be required of the teachers and
152 the potential strategies used to recruit, hire, train, and
153 retain qualified staff to achieve best value.

154 15. The governance structure of the school, including the
155 status of the charter school as a public or private employer as
156 required in paragraph (13) ~~(12)~~ (i).

157 16. A timetable for implementing the charter which
158 addresses the implementation of each element thereof and the
159 date by which the charter shall be awarded in order to meet this
160 timetable.

161 17. In the case of an existing public school that is being
162 converted to charter status, alternative arrangements for
163 current students who choose not to attend the charter school and
164 for current teachers who choose not to teach in the charter
165 school after conversion in accordance with the existing
166 collective bargaining agreement or district school board rule in
167 the absence of a collective bargaining agreement. However,
168 alternative arrangements shall not be required for current

169 | teachers who choose not to teach in a charter lab school, except
 170 | as authorized by the employment policies of the state university
 171 | which grants the charter to the lab school.

172 | 18. Full disclosure of the identity of all relatives
 173 | employed by the charter school who are related to the charter
 174 | school owner, president, chairperson of the governing board of
 175 | directors, superintendent, governing board member, principal,
 176 | assistant principal, or any other person employed by the charter
 177 | school who has equivalent decisionmaking authority. For the
 178 | purpose of this subparagraph, the term "relative" means father,
 179 | mother, son, daughter, brother, sister, uncle, aunt, first
 180 | cousin, nephew, niece, husband, wife, father-in-law, mother-in-
 181 | law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
 182 | stepfather, stepmother, stepson, stepdaughter, stepbrother,
 183 | stepsister, half brother, or half sister.

184 | (b)1. A charter may be renewed provided that a program
 185 | review demonstrates that the criteria in paragraph (a) have been
 186 | successfully accomplished and that none of the grounds for
 187 | nonrenewal established by paragraph (9)~~(8)~~(a) has been
 188 | documented. In order to facilitate long-term financing for
 189 | charter school construction, charter schools operating for a
 190 | minimum of 3 years and demonstrating exemplary academic
 191 | programming and fiscal management are eligible for a 15-year
 192 | charter renewal. Such long-term charter is subject to annual
 193 | review and may be terminated during the term of the charter.

194 | 2. The 15-year charter renewal that may be granted
 195 | pursuant to subparagraph 1. shall be granted to a charter school
 196 | that has received a school grade of "A" or "B" pursuant to s.

CS/HB 1569

2010

197 | 1008.34 in 3 of the past 4 years and is not in a state of
198 | financial emergency or deficit position as defined by this
199 | section. Such long-term charter is subject to annual review and
200 | may be terminated during the term of the charter pursuant to
201 | subsection (9) ~~(8)~~.

202 | (c) A charter may be modified during its initial term or
203 | any renewal term upon the recommendation of the sponsor or the
204 | charter school governing board and the approval of both parties
205 | to the agreement.

206 | (8) HIGH-PERFORMING CHARTER SCHOOLS.—

207 | (a) A charter school is designated as a high-performing
208 | charter school if it meets all of the following criteria:

209 | 1. Has received a school grade of "A" or "B" pursuant to
210 | s. 1008.34 for 3 consecutive years.

211 | 2. Has received unqualified opinions on its annual audited
212 | financial statements for 3 consecutive years.

213 | 3. Has maintained positive fund balances for 3 consecutive
214 | years.

215 | (b) A high-performing charter school is entitled to:

216 | 1. Automatically renew its charter for 15 years.

217 | 2. Increase its enrollment in excess of the maximum
218 | enrollment specified in its charter.

219 | 3. Automatically qualify for startup grants for new
220 | applicants.

221 | 4. Receive capital outlay funds under s. 1013.62 beginning
222 | with the first year it receives a high-performing charter school
223 | designation.

224 | 5. Receive an extension of time until January 1 to submit

225 an initial application pursuant to subsection (6) to replicate a
226 successful charter school.

227 (9)-(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

228 (a) The sponsor may choose not to renew or may terminate
229 the charter for any of the following grounds:

230 1. Failure to participate in the state's education
231 accountability system created in s. 1008.31, as required in this
232 section, or failure to meet the requirements for student
233 performance stated in the charter.

234 2. Failure to meet generally accepted standards of fiscal
235 management.

236 3. Violation of law.

237 4. Other good cause shown.

238 (b) At least 90 days prior to renewing or terminating a
239 charter, the sponsor shall notify the governing body of the
240 school of the proposed action in writing. The notice shall state
241 in reasonable detail the grounds for the proposed action and
242 stipulate that the school's governing body may, within 14
243 calendar days after receiving the notice, request an informal
244 hearing before the sponsor. The sponsor shall conduct the
245 informal hearing within 30 calendar days after receiving a
246 written request.

247 (c) If a charter is not renewed or is terminated pursuant
248 to paragraph (b), the sponsor shall, within 10 calendar days,
249 articulate in writing the specific reasons for its nonrenewal or
250 termination of the charter and must provide the letter of
251 nonrenewal or termination and documentation supporting the
252 reasons to the charter school governing body, the charter school

CS/HB 1569

2010

253 principal, and the Department of Education. The charter school's
254 governing body may, within 30 calendar days after receiving the
255 sponsor's final written decision to refuse to renew or to
256 terminate the charter, appeal the decision pursuant to the
257 procedure established in subsection (6).

258 (d) A charter may be terminated immediately if the sponsor
259 determines that good cause has been shown or if the health,
260 safety, or welfare of the students is threatened. The sponsor's
261 determination is not subject to an informal hearing under
262 paragraph (b) or pursuant to chapter 120. The sponsor shall
263 notify in writing the charter school's governing body, the
264 charter school principal, and the department if a charter is
265 immediately terminated. The sponsor shall clearly identify the
266 specific issues that resulted in the immediate termination and
267 provide evidence of prior notification of issues resulting in
268 the immediate termination when appropriate. The school district
269 in which the charter school is located shall assume operation of
270 the school under these circumstances. The charter school's
271 governing board may, within 30 days after receiving the
272 sponsor's decision to terminate the charter, appeal the decision
273 pursuant to the procedure established in subsection (6).

274 (e) When a charter is not renewed or is terminated, the
275 school shall be dissolved under the provisions of law under
276 which the school was organized, and any unencumbered public
277 funds, except for capital outlay funds and federal charter
278 school program grant funds, from the charter school shall revert
279 to the sponsor. Capital outlay funds provided pursuant to s.
280 1013.62 and federal charter school program grant funds that are

281 unencumbered shall revert to the department to be redistributed
 282 among eligible charter schools. In the event a charter school is
 283 dissolved or is otherwise terminated, all district school board
 284 property and improvements, furnishings, and equipment purchased
 285 with public funds shall automatically revert to full ownership
 286 by the district school board, subject to complete satisfaction
 287 of any lawful liens or encumbrances. Any unencumbered public
 288 funds from the charter school, district school board property
 289 and improvements, furnishings, and equipment purchased with
 290 public funds, or financial or other records pertaining to the
 291 charter school, in the possession of any person, entity, or
 292 holding company, other than the charter school, shall be held in
 293 trust upon the district school board's request, until any appeal
 294 status is resolved.

295 (f) If a charter is not renewed or is terminated, the
 296 charter school is responsible for all debts of the charter
 297 school. The district may not assume the debt from any contract
 298 made between the governing body of the school and a third party,
 299 except for a debt that is previously detailed and agreed upon in
 300 writing by both the district and the governing body of the
 301 school and that may not reasonably be assumed to have been
 302 satisfied by the district.

303 (g) If a charter is not renewed or is terminated, a
 304 student who attended the school may apply to, and shall be
 305 enrolled in, another public school. Normal application deadlines
 306 shall be disregarded under such circumstances.

307 (10)~~(9)~~ CHARTER SCHOOL REQUIREMENTS.—

308 (a) A charter school shall be nonsectarian in its

CS/HB 1569

2010

309 programs, admission policies, employment practices, and
310 operations.

311 (b) A charter school shall admit students as provided in
312 subsection (11) ~~(10)~~.

313 (c) A charter school shall be accountable to its sponsor
314 for performance as provided in subsection (7).

315 (d) A charter school shall not charge tuition or
316 registration fees, except those fees normally charged by other
317 public schools. However, a charter lab school may charge a
318 student activity and service fee as authorized by s. 1002.32(5).

319 (e) A charter school shall meet all applicable state and
320 local health, safety, and civil rights requirements.

321 (f) A charter school shall not violate the
322 antidiscrimination provisions of s. 1000.05.

323 (g) In order to provide financial information that is
324 comparable to that reported for other public schools, charter
325 schools are to maintain all financial records that constitute
326 their accounting system:

327 1. In accordance with the accounts and codes prescribed in
328 the most recent issuance of the publication titled "Financial
329 and Program Cost Accounting and Reporting for Florida Schools";
330 or

331 2. At the discretion of the charter school governing
332 board, a charter school may elect to follow generally accepted
333 accounting standards for not-for-profit organizations, but must
334 reformat this information for reporting according to this
335 paragraph.

336

CS/HB 1569

2010

337 Charter schools shall provide annual financial report and
 338 program cost report information in the state-required formats
 339 for inclusion in district reporting in compliance with s.
 340 1011.60(1). Charter schools that are operated by a municipality
 341 or are a component unit of a parent nonprofit organization may
 342 use the accounting system of the municipality or the parent but
 343 must reformat this information for reporting according to this
 344 paragraph. A charter school shall provide a quarterly ~~monthly~~
 345 financial statement to the sponsor unless the charter school is
 346 determined to be in a state of financial emergency pursuant to
 347 s. 1002.345, in which case the charter school shall provide a
 348 monthly financial statement. The ~~monthly~~ financial statement
 349 required under this paragraph shall be in a form prescribed by
 350 the Department of Education.

351 (h) The governing board of the charter school shall
 352 annually adopt and maintain an operating budget.

353 (i) The governing body of the charter school shall
 354 exercise continuing oversight over charter school operations.

355 (j) The governing body of the charter school shall be
 356 responsible for:

357 1. Ensuring that the charter school has retained the
 358 services of a certified public accountant or auditor for the
 359 annual financial audit, pursuant to s. 1002.345(2), who shall
 360 submit the report to the governing body.

361 2. Reviewing and approving the audit report, including
 362 audit findings and recommendations for the financial recovery
 363 plan.

364 3.a. Performing the duties in s. 1002.345, including

365 monitoring a corrective action plan.

366 b. Monitoring a financial recovery plan in order to ensure
367 compliance.

368 4. Participating in governance training approved by the
369 department which must include government in the sunshine,
370 conflicts of interest, ethics, and financial responsibility.

371 (k) The governing body of the charter school shall report
372 its progress annually to its sponsor, which shall forward the
373 report to the Commissioner of Education at the same time as
374 other annual school accountability reports. The Department of
375 Education shall develop a uniform, online annual accountability
376 report to be completed by charter schools. This report shall be
377 easy to utilize and contain demographic information, student
378 performance data, and financial accountability information. A
379 charter school shall not be required to provide information and
380 data that is duplicative and already in the possession of the
381 department. The Department of Education shall include in its
382 compilation a notation if a school failed to file its report by
383 the deadline established by the department. The report shall
384 include at least the following components:

385 1. Student achievement performance data, including the
386 information required for the annual school report and the
387 education accountability system governed by ss. 1008.31 and
388 1008.345. Charter schools are subject to the same accountability
389 requirements as other public schools, including reports of
390 student achievement information that links baseline student data
391 to the school's performance projections identified in the
392 charter. The charter school shall identify reasons for any

393 | difference between projected and actual student performance.

394 | 2. Financial status of the charter school which must
395 | include revenues and expenditures at a level of detail that
396 | allows for analysis of the charter school's ability to meet
397 | financial obligations and timely repayment of debt.

398 | 3. Documentation of the facilities in current use and any
399 | planned facilities for use by the charter school for instruction
400 | of students, administrative functions, or investment purposes.

401 | 4. Descriptive information about the charter school's
402 | personnel, including salary and benefit levels of charter school
403 | employees, the proportion of instructional personnel who hold
404 | professional or temporary certificates, and the proportion of
405 | instructional personnel teaching in-field or out-of-field.

406 | (l) A charter school shall not levy taxes or issue bonds
407 | secured by tax revenues.

408 | (m) A charter school shall provide instruction for at
409 | least the number of days required by law for other public
410 | schools and may provide instruction for additional days.

411 | (n) The director and a representative of the governing
412 | body of a charter school that has received a school grade of "D"
413 | under s. 1008.34(2) shall appear before the sponsor or the
414 | sponsor's staff at least once a year to present information
415 | concerning each contract component having noted deficiencies.
416 | The sponsor shall communicate at the meeting, and in writing to
417 | the director, the services provided to the school to help the
418 | school address its deficiencies.

419 | (o) Upon notification that a charter school receives a
420 | school grade of "D" for 2 consecutive years or a school grade of

CS/HB 1569

2010

421 "F" under s. 1008.34(2), the charter school sponsor or the
422 sponsor's staff shall require the director and a representative
423 of the governing body to submit to the sponsor for approval a
424 school improvement plan to raise student achievement and to
425 implement the plan. The sponsor has the authority to approve a
426 school improvement plan that the charter school will implement
427 in the following school year. ~~The sponsor may also consider the~~
428 ~~State Board of Education's recommended action pursuant to s.~~
429 ~~1008.33(1) as part of the school improvement plan.~~ The
430 Department of Education shall offer technical assistance and
431 training to the charter school and its governing body and
432 establish guidelines for developing, submitting, and approving
433 such plans.

434 1. If the charter school fails to improve its student
435 performance from the year immediately prior to the
436 implementation of the school improvement plan, the sponsor shall
437 place the charter school on probation and shall require the
438 charter school governing body to take one of the following
439 corrective actions:

440 a. Contract for the educational services of the charter
441 school;

442 b. Reorganize the school at the end of the school year
443 under a new director or principal who is authorized to hire new
444 staff and implement a plan that addresses the causes of
445 inadequate progress; or

446 c. Reconstitute the charter school.

447 2. A charter school that is placed on probation shall
448 continue the corrective actions required under subparagraph 1.

CS/HB 1569

2010

449 | until the charter school improves its student performance from
450 | the year prior to the implementation of the school improvement
451 | plan.

452 | 3. Notwithstanding any provision of this paragraph, the
453 | sponsor may terminate the charter at any time pursuant to
454 | subsection (9) ~~(8)~~.

455 | (p) The director and a representative of the governing
456 | body of a graded charter school that has submitted a school
457 | improvement plan or has been placed on probation under paragraph
458 | (o) shall appear before the sponsor or the sponsor's staff at
459 | least once a year to present information regarding the
460 | corrective strategies that are being implemented by the school
461 | pursuant to the school improvement plan. The sponsor shall
462 | communicate at the meeting, and in writing to the director, the
463 | services provided to the school to help the school address its
464 | deficiencies.

465 | (11)~~(10)~~ ELIGIBLE STUDENTS.-

466 | (a) A charter school shall be open to any student covered
467 | in an interdistrict agreement or residing in the school district
468 | in which the charter school is located; however, in the case of
469 | a charter lab school, the charter lab school shall be open to
470 | any student eligible to attend the lab school as provided in s.
471 | 1002.32 or who resides in the school district in which the
472 | charter lab school is located. Any eligible student shall be
473 | allowed interdistrict transfer to attend a charter school when
474 | based on good cause. Good cause shall include, but is not
475 | limited to, geographic proximity to a charter school in a
476 | neighboring school district.

477 (b) The charter school shall enroll an eligible student
478 who submits a timely application, unless the number of
479 applications exceeds the capacity of a program, class, grade
480 level, or building. In such case, all applicants shall have an
481 equal chance of being admitted through a random selection
482 process.

483 (c) When a public school converts to charter status,
484 enrollment preference shall be given to students who would have
485 otherwise attended that public school. The district school board
486 shall consult and negotiate with the conversion charter school
487 every 3 years to determine whether realignment of the conversion
488 charter school's attendance zone is appropriate in order to
489 ensure that students residing closest to the charter school are
490 provided with an enrollment preference.

491 (d) A charter school may give enrollment preference to the
492 following student populations:

493 1. Students who are siblings of a student enrolled in the
494 charter school.

495 2. Students who are the children of a member of the
496 governing board of the charter school.

497 3. Students who are the children of an employee of the
498 charter school.

499 (e) A charter school may limit the enrollment process only
500 to target the following student populations:

501 1. Students within specific age groups or grade levels.

502 2. Students considered at risk of dropping out of school
503 or academic failure. Such students shall include exceptional
504 education students.

CS/HB 1569

2010

505 3. Students enrolling in a charter school-in-the-workplace
506 or charter school-in-a-municipality established pursuant to
507 subsection (16) ~~(15)~~.

508 4. Students residing within a reasonable distance of the
509 charter school, as described in paragraph (21)~~(20)~~(c). Such
510 students shall be subject to a random lottery and to the
511 racial/ethnic balance provisions described in subparagraph
512 (7)(a)8. or any federal provisions that require a school to
513 achieve a racial/ethnic balance reflective of the community it
514 serves or within the racial/ethnic range of other public schools
515 in the same school district.

516 5. Students who meet reasonable academic, artistic, or
517 other eligibility standards established by the charter school
518 and included in the charter school application and charter or,
519 in the case of existing charter schools, standards that are
520 consistent with the school's mission and purpose. Such standards
521 shall be in accordance with current state law and practice in
522 public schools and may not discriminate against otherwise
523 qualified individuals.

524 6. Students articulating from one charter school to
525 another pursuant to an articulation agreement between the
526 charter schools that has been approved by the sponsor.

527 (f) Students with disabilities and students served in
528 English for Speakers of Other Languages programs shall have an
529 equal opportunity of being selected for enrollment in a charter
530 school.

531 (g) A student may withdraw from a charter school at any
532 time and enroll in another public school as determined by

533 district school board rule.

534 (h) The capacity of the charter school shall be determined
 535 annually by the governing board, in conjunction with the
 536 sponsor, of the charter school in consideration of the factors
 537 identified in this subsection.

538 (12) ~~(11)~~ PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR
 539 ACTIVITIES.—A charter school student is eligible to participate
 540 in an interscholastic extracurricular activity at the public
 541 school to which the student would be otherwise assigned to
 542 attend pursuant to s. 1006.15(3)(d).

543 (13) ~~(12)~~ EMPLOYEES OF CHARTER SCHOOLS.—

544 (a) A charter school shall select its own employees. A
 545 charter school may contract with its sponsor for the services of
 546 personnel employed by the sponsor.

547 (b) Charter school employees shall have the option to
 548 bargain collectively. Employees may collectively bargain as a
 549 separate unit or as part of the existing district collective
 550 bargaining unit as determined by the structure of the charter
 551 school.

552 (c) The employees of a conversion charter school shall
 553 remain public employees for all purposes, unless such employees
 554 choose not to do so.

555 (d) The teachers at a charter school may choose to be part
 556 of a professional group that subcontracts with the charter
 557 school to operate the instructional program under the auspices
 558 of a partnership or cooperative that they collectively own.
 559 Under this arrangement, the teachers would not be public
 560 employees.

561 (e) Employees of a school district may take leave to
562 accept employment in a charter school upon the approval of the
563 district school board. While employed by the charter school and
564 on leave that is approved by the district school board, the
565 employee may retain seniority accrued in that school district
566 and may continue to be covered by the benefit programs of that
567 school district, if the charter school and the district school
568 board agree to this arrangement and its financing. School
569 districts shall not require resignations of teachers desiring to
570 teach in a charter school. This paragraph shall not prohibit a
571 district school board from approving alternative leave
572 arrangements consistent with chapter 1012.

573 (f) Teachers employed by or under contract to a charter
574 school shall be certified as required by chapter 1012. A charter
575 school governing board may employ or contract with skilled
576 selected noncertified personnel to provide instructional
577 services or to assist instructional staff members as education
578 paraprofessionals in the same manner as defined in chapter 1012,
579 and as provided by State Board of Education rule for charter
580 school governing boards. A charter school may not knowingly
581 employ an individual to provide instructional services or to
582 serve as an education paraprofessional if the individual's
583 certification or licensure as an educator is suspended or
584 revoked by this or any other state. A charter school may not
585 knowingly employ an individual who has resigned from a school
586 district in lieu of disciplinary action with respect to child
587 welfare or safety, or who has been dismissed for just cause by
588 any school district with respect to child welfare or safety. The

589 | qualifications of teachers shall be disclosed to parents.

590 | (g)1. A charter school shall employ or contract with
591 | employees who have undergone background screening as provided in
592 | s. 1012.32. Members of the governing board of the charter school
593 | shall also undergo background screening in a manner similar to
594 | that provided in s. 1012.32.

595 | 2. A charter school shall disqualify instructional
596 | personnel and school administrators, as defined in s. 1012.01,
597 | from employment in any position that requires direct contact
598 | with students if the personnel or administrators are ineligible
599 | for such employment under s. 1012.315.

600 | 3. The governing board of a charter school shall adopt
601 | policies establishing standards of ethical conduct for
602 | instructional personnel and school administrators. The policies
603 | must require all instructional personnel and school
604 | administrators, as defined in s. 1012.01, to complete training
605 | on the standards; establish the duty of instructional personnel
606 | and school administrators to report, and procedures for
607 | reporting, alleged misconduct by other instructional personnel
608 | and school administrators which affects the health, safety, or
609 | welfare of a student; and include an explanation of the
610 | liability protections provided under ss. 39.203 and 768.095. A
611 | charter school, or any of its employees, may not enter into a
612 | confidentiality agreement regarding terminated or dismissed
613 | instructional personnel or school administrators, or personnel
614 | or administrators who resign in lieu of termination, based in
615 | whole or in part on misconduct that affects the health, safety,
616 | or welfare of a student, and may not provide instructional

CS/HB 1569

2010

617 personnel or school administrators with employment references or
618 discuss the personnel's or administrators' performance with
619 prospective employers in another educational setting, without
620 disclosing the personnel's or administrators' misconduct. Any
621 part of an agreement or contract that has the purpose or effect
622 of concealing misconduct by instructional personnel or school
623 administrators which affects the health, safety, or welfare of a
624 student is void, is contrary to public policy, and may not be
625 enforced.

626 4. Before employing instructional personnel or school
627 administrators in any position that requires direct contact with
628 students, a charter school shall conduct employment history
629 checks of each of the personnel's or administrators' previous
630 employers, screen the instructional personnel or school
631 administrators through use of the educator screening tools
632 described in s. 1001.10(5), and document the findings. If unable
633 to contact a previous employer, the charter school must document
634 efforts to contact the employer.

635 5. The sponsor of a charter school that knowingly fails to
636 comply with this paragraph shall terminate the charter under
637 subsection (9) ~~(8)~~.

638 (h) For the purposes of tort liability, the governing body
639 and employees of a charter school shall be governed by s.
640 768.28.

641 (i) A charter school shall organize as, or be operated by,
642 a nonprofit organization. A charter school may be operated by a
643 municipality or other public entity as provided for by law. As
644 such, the charter school may be either a private or a public

CS/HB 1569

2010

645 employer. As a public employer, a charter school may participate
646 in the Florida Retirement System upon application and approval
647 as a "covered group" under s. 121.021(34). If a charter school
648 participates in the Florida Retirement System, the charter
649 school employees shall be compulsory members of the Florida
650 Retirement System. As either a private or a public employer, a
651 charter school may contract for services with an individual or
652 group of individuals who are organized as a partnership or a
653 cooperative. Individuals or groups of individuals who contract
654 their services to the charter school are not public employees.

655 (14)~~(13)~~ CHARTER SCHOOL COOPERATIVES.—Charter schools may
656 enter into cooperative agreements to form charter school
657 cooperative organizations that may provide the following
658 services: charter school planning and development, direct
659 instructional services, and contracts with charter school
660 governing boards to provide personnel administrative services,
661 payroll services, human resource management, evaluation and
662 assessment services, teacher preparation, and professional
663 development.

664 (15)~~(14)~~ CHARTER SCHOOL FINANCIAL ARRANGEMENTS;
665 INDEMNIFICATION OF THE STATE AND SCHOOL DISTRICT; CREDIT OR
666 TAXING POWER NOT TO BE PLEDGED.—Any arrangement entered into to
667 borrow or otherwise secure funds for a charter school authorized
668 in this section from a source other than the state or a school
669 district shall indemnify the state and the school district from
670 any and all liability, including, but not limited to, financial
671 responsibility for the payment of the principal or interest. Any
672 loans, bonds, or other financial agreements are not obligations

673 of the state or the school district but are obligations of the
 674 charter school authority and are payable solely from the sources
 675 of funds pledged by such agreement. The credit or taxing power
 676 of the state or the school district shall not be pledged and no
 677 debts shall be payable out of any moneys except those of the
 678 legal entity in possession of a valid charter approved by a
 679 district school board pursuant to this section.

680 (16) ~~(15)~~ CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER
 681 SCHOOLS-IN-A-MUNICIPALITY.-

682 (a) In order to increase business partnerships in
 683 education, to reduce school and classroom overcrowding
 684 throughout the state, and to offset the high costs for
 685 educational facilities construction, the Legislature intends to
 686 encourage the formation of business partnership schools or
 687 satellite learning centers and municipal-operated schools
 688 through charter school status.

689 (b) A charter school-in-the-workplace may be established
 690 when a business partner:

691 1. Provides one of the following:

692 a. Access to a the school facility to be used;

693 b. Resources that materially reduce the cost of

694 constructing a school facility;

695 c. Land for a school facility; or

696 d. Resources to maintain a school facility;

697 2. Enrolls students based upon a random lottery that
 698 involves all of the children of employees of that business or
 699 corporation who are seeking enrollment, as provided for in
 700 subsection (11) ~~(10)~~; and

701 | 3. Enrolls students according to the racial/ethnic balance
 702 | provisions described in subparagraph (7) (a)8.

703 |

704 | A charter school-in-the-workplace is eligible for capital outlay
 705 | funding under s. 1013.62. Any portion of a facility used for a
 706 | public charter school shall be exempt from ad valorem taxes, as
 707 | provided for in s. 1013.54, for the duration of its use as a
 708 | public school.

709 | (c) A charter school-in-a-municipality designation may be
 710 | granted to a municipality that possesses a charter; enrolls
 711 | students based upon a random lottery that involves all of the
 712 | children of the residents of that municipality who are seeking
 713 | enrollment, as provided for in subsection (11) ~~(10)~~; and enrolls
 714 | students according to the racial/ethnic balance provisions
 715 | described in subparagraph (7) (a)8. When a municipality has
 716 | submitted charter applications for the establishment of a
 717 | charter school feeder pattern, consisting of elementary, middle,
 718 | and senior high schools, and each individual charter application
 719 | is approved by the district school board, such schools shall
 720 | then be designated as one charter school for all purposes listed
 721 | pursuant to this section. Any portion of the land and facility
 722 | used for a public charter school shall be exempt from ad valorem
 723 | taxes, as provided for in s. 1013.54, for the duration of its
 724 | use as a public school.

725 | (d) As used in this subsection, the terms "business
 726 | partner" or "municipality" may include more than one business or
 727 | municipality to form a charter school-in-the-workplace or
 728 | charter school-in-a-municipality.

729 | (17) ~~(16)~~ EXEMPTION FROM STATUTES.—

730 | (a) A charter school shall operate in accordance with its
731 | charter and shall be exempt from all statutes in chapters 1000-
732 | 1013. However, a charter school shall be in compliance with the
733 | following statutes in chapters 1000-1013:

734 | 1. Those statutes specifically applying to charter
735 | schools, including this section.

736 | 2. Those statutes pertaining to the student assessment
737 | program and school grading system.

738 | 3. Those statutes pertaining to the provision of services
739 | to students with disabilities.

740 | 4. Those statutes pertaining to civil rights, including s.
741 | 1000.05, relating to discrimination.

742 | 5. Those statutes pertaining to student health, safety,
743 | and welfare.

744 | (b) Additionally, a charter school shall be in compliance
745 | with the following statutes:

746 | 1. Section 286.011, relating to public meetings and
747 | records, public inspection, and criminal and civil penalties.

748 | 2. Chapter 119, relating to public records.

749 | (18) ~~(17)~~ FUNDING.—Students enrolled in a charter school,
750 | regardless of the sponsorship, shall be funded as if they are in
751 | a basic program or a special program, the same as students
752 | enrolled in other public schools in the school district. Funding
753 | for a charter lab school shall be as provided in s. 1002.32.

754 | (a) Each charter school shall report its student
755 | enrollment to the sponsor as required in s. 1011.62, and in
756 | accordance with the definitions in s. 1011.61. The sponsor shall

CS/HB 1569

2010

757 include each charter school's enrollment in the district's
758 report of student enrollment. All charter schools submitting
759 student record information required by the Department of
760 Education shall comply with the Department of Education's
761 guidelines for electronic data formats for such data, and all
762 districts shall accept electronic data that complies with the
763 Department of Education's electronic format.

764 (b) The basis for the agreement for funding students
765 enrolled in a charter school shall be the sum of the school
766 district's operating funds from the Florida Education Finance
767 Program as provided in s. 1011.62 and the General Appropriations
768 Act, including gross state and local funds, discretionary
769 lottery funds, and funds from the school district's current
770 operating discretionary millage levy; divided by total funded
771 weighted full-time equivalent students in the school district;
772 multiplied by the weighted full-time equivalent students for the
773 charter school. Charter schools whose students or programs meet
774 the eligibility criteria in law shall be entitled to their
775 proportionate share of categorical program funds included in the
776 total funds available in the Florida Education Finance Program
777 by the Legislature, including transportation. Total funding for
778 each charter school shall be recalculated during the year to
779 reflect the revised calculations under the Florida Education
780 Finance Program by the state and the actual weighted full-time
781 equivalent students reported by the charter school during the
782 full-time equivalent student survey periods designated by the
783 Commissioner of Education.

784 (c) If the district school board is providing programs or

785 | services to students funded by federal funds, any eligible
 786 | students enrolled in charter schools in the school district
 787 | shall be provided federal funds for the same level of service
 788 | provided students in the schools operated by the district school
 789 | board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all
 790 | charter schools shall receive all federal funding for which the
 791 | school is otherwise eligible, including Title I and IDEA
 792 | funding, not later than 5 months after the charter school first
 793 | opens and within 5 months after any subsequent expansion of
 794 | enrollment.

795 | (d) Charter schools shall be included by the Department of
 796 | Education and the district school board in requests for federal
 797 | stimulus funds in the same manner as district school board-
 798 | operated public schools, including Title I and IDEA funds and
 799 | shall be entitled to receive such funds. Charter schools are
 800 | eligible to participate in federal competitive grants that are
 801 | available as part of the federal stimulus funds.

802 | (e) District school boards shall make timely and efficient
 803 | payment and reimbursement to charter schools, including
 804 | processing paperwork required to access special state and
 805 | federal funding for which they may be eligible. The district
 806 | school board may distribute funds to a charter school for up to
 807 | 3 months based on the projected full-time equivalent student
 808 | membership of the charter school. Thereafter, the results of
 809 | full-time equivalent student membership surveys shall be used in
 810 | adjusting the amount of funds distributed monthly to the charter
 811 | school for the remainder of the fiscal year. The payment shall
 812 | be issued no later than 10 working days after the district

CS/HB 1569

2010

813 school board receives a distribution of state or federal funds.
814 If a warrant for payment is not issued within 10 working days
815 after receipt of funding by the district school board, the
816 school district shall pay to the charter school, in addition to
817 the amount of the scheduled disbursement, interest at a rate of
818 1 percent per month calculated on a daily basis on the unpaid
819 balance from the expiration of the 10 working days until such
820 time as the warrant is issued.

821 (19) ~~(18)~~ FACILITIES.—

822 (a) A startup charter school shall utilize facilities
823 which comply with the Florida Building Code pursuant to chapter
824 553 except for the State Requirements for Educational
825 Facilities. Conversion charter schools shall utilize facilities
826 that comply with the State Requirements for Educational
827 Facilities provided that the school district and the charter
828 school have entered into a mutual management plan for the
829 reasonable maintenance of such facilities. The mutual management
830 plan shall contain a provision by which the district school
831 board agrees to maintain charter school facilities in the same
832 manner as its other public schools within the district. Charter
833 schools, with the exception of conversion charter schools, are
834 not required to comply, but may choose to comply, with the State
835 Requirements for Educational Facilities of the Florida Building
836 Code adopted pursuant to s. 1013.37. The local governing
837 authority shall not adopt or impose local building requirements
838 or restrictions that are more stringent than those found in the
839 Florida Building Code. The agency having jurisdiction for
840 inspection of a facility and issuance of a certificate of

841 occupancy shall be the local municipality or, if in an
 842 unincorporated area, the county governing authority. The school
 843 district shall not impose any restrictions that are more
 844 stringent than those of the agency having jurisdiction.

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

849 (c) Any facility, or portion thereof, used to house a
 850 charter school whose charter has been approved by the sponsor
 851 and the governing board, pursuant to subsection (7), shall be
 852 exempt from ad valorem taxes pursuant to s. 196.1983. Library,
 853 community service, museum, performing arts, theatre, cinema,
 854 church, community college, college, and university facilities
 855 may provide space to charter schools within their facilities
 856 under their preexisting zoning and land use designations.

857 (d) Charter school facilities are exempt from assessments
 858 of fees for building permits, except as provided in s. 553.80,
 859 fees for building and occupational licenses, impact fees or
 860 exactions under s. 163.3180(13)(e)2., service availability fees,
 861 and assessments for special benefits.

862 (e) If a district school board facility or property is
 863 available because it is surplus, marked for disposal, or
 864 otherwise unused, it shall be provided for a charter school's
 865 use on the same basis as it is made available to other public
 866 schools in the district. A charter school receiving property
 867 from the school district may not sell or dispose of such
 868 property without written permission of the school district.

CS/HB 1569

2010

869 Similarly, for an existing public school converting to charter
870 status, no rental or leasing fee for the existing facility or
871 for the property normally inventoried to the conversion school
872 may be charged by the district school board to the parents and
873 teachers organizing the charter school. The charter school shall
874 agree to reasonable maintenance provisions in order to maintain
875 the facility in a manner similar to district school board
876 standards. The Public Education Capital Outlay maintenance funds
877 or any other maintenance funds generated by the facility
878 operated as a conversion school shall remain with the conversion
879 school.

880 (f) To the extent that charter school facilities are
881 specifically created to mitigate the educational impact created
882 by the development of new residential dwelling units, pursuant
883 to subparagraph (2)(c)4., some of or all of the educational
884 impact fees required to be paid in connection with the new
885 residential dwelling units may be designated instead for the
886 construction of the charter school facilities that will mitigate
887 the student station impact. Such facilities shall be built to
888 the State Requirements for Educational Facilities and shall be
889 owned by a public or nonprofit entity. The local school district
890 retains the right to monitor and inspect such facilities to
891 ensure compliance with the State Requirements for Educational
892 Facilities. If a facility ceases to be used for public
893 educational purposes, either the facility shall revert to the
894 school district subject to any debt owed on the facility, or the
895 owner of the facility shall have the option to refund all
896 educational impact fees utilized for the facility to the school

897 | district. The district and the owner of the facility may
 898 | contractually agree to another arrangement for the facilities if
 899 | the facilities cease to be used for educational purposes. The
 900 | owner of property planned or approved for new residential
 901 | dwelling units and the entity levying educational impact fees
 902 | shall enter into an agreement that designates the educational
 903 | impact fees that will be allocated for the charter school
 904 | student stations and that ensures the timely construction of the
 905 | charter school student stations concurrent with the expected
 906 | occupancy of the residential units. The application for use of
 907 | educational impact fees shall include an approved charter school
 908 | application. To assist the school district in forecasting
 909 | student station needs, the entity levying the impact fees shall
 910 | notify the affected district of any agreements it has approved
 911 | for the purpose of mitigating student station impact from the
 912 | new residential dwelling units.

913 | (g) Each school district shall annually provide to the
 914 | Department of Education as part of its 5-year work plan the
 915 | number of existing vacant classrooms in each school that the
 916 | district does not intend to use or does not project will be
 917 | needed for educational purposes for the following school year.
 918 | The department may recommend that a district make such space
 919 | available to an appropriate charter school.

920 | (20)~~(19)~~ CAPITAL OUTLAY FUNDING.—Charter schools are
 921 | eligible for capital outlay funds pursuant to s. 1013.62.

922 | (21)~~(20)~~ SERVICES.—

923 | (a) A sponsor shall provide certain administrative and
 924 | educational services to charter schools. These services shall

CS/HB 1569

2010

925 | include contract management services; full-time equivalent and
926 | data reporting services; exceptional student education
927 | administration services; services related to eligibility and
928 | reporting duties required to ensure that school lunch services
929 | under the federal lunch program, consistent with the needs of
930 | the charter school, are provided by the school district at the
931 | request of the charter school, that any funds due to the charter
932 | school under the federal lunch program be paid to the charter
933 | school as soon as the charter school begins serving food under
934 | the federal lunch program, and that the charter school is paid
935 | at the same time and in the same manner under the federal lunch
936 | program as other public schools serviced by the sponsor or the
937 | school district; test administration services, including payment
938 | of the costs of state-required or district-required student
939 | assessments; processing of teacher certificate data services;
940 | and information services, including equal access to student
941 | information systems that are used by public schools in the
942 | district in which the charter school is located. Student
943 | performance data for each student in a charter school,
944 | including, but not limited to, FCAT scores, standardized test
945 | scores, previous public school student report cards, and student
946 | performance measures, shall be provided by the sponsor to a
947 | charter school in the same manner provided to other public
948 | schools in the district. A total administrative fee for the
949 | provision of such services shall be calculated based upon up to
950 | 5 percent of the available funds defined in paragraph
951 | (18)~~(17)~~(b) for all students. However, a sponsor may only
952 | withhold up to a 5-percent administrative fee for enrollment for

953 up to and including 500 students. For charter schools with a
954 population of 501 or more students, the difference between the
955 total administrative fee calculation and the amount of the
956 administrative fee withheld may only be used for capital outlay
957 purposes specified in s. 1013.62(2). Each charter school shall
958 receive 100 percent of the funds awarded to that school pursuant
959 to s. 1012.225. Sponsors shall not charge charter schools any
960 additional fees or surcharges for administrative and educational
961 services in addition to the maximum 5-percent administrative fee
962 withheld pursuant to this paragraph.

963 (b) If goods and services are made available to the
964 charter school through the contract with the school district,
965 they shall be provided to the charter school at a rate no
966 greater than the district's actual cost unless mutually agreed
967 upon by the charter school and the sponsor in a contract
968 negotiated separately from the charter. When mediation has
969 failed to resolve disputes over contracted services or
970 contractual matters not included in the charter, an appeal may
971 be made for a dispute resolution hearing before the Charter
972 School Appeal Commission. To maximize the use of state funds,
973 school districts shall allow charter schools to participate in
974 the sponsor's bulk purchasing program if applicable.

975 (c) Transportation of charter school students shall be
976 provided by the charter school consistent with the requirements
977 of subpart I.E. of chapter 1006 and s. 1012.45. The governing
978 body of the charter school may provide transportation through an
979 agreement or contract with the district school board, a private
980 provider, or parents. The charter school and the sponsor shall

CS/HB 1569

2010

981 cooperate in making arrangements that ensure that transportation
982 is not a barrier to equal access for all students residing
983 within a reasonable distance of the charter school as determined
984 in its charter.

985 (22)~~(21)~~ PUBLIC INFORMATION ON CHARTER SCHOOLS.—

986 (a) The Department of Education shall provide information
987 to the public, directly and through sponsors, on how to form and
988 operate a charter school and how to enroll in a charter school
989 once it is created. This information shall include a standard
990 application format, charter format, evaluation instrument, and
991 charter renewal format, which shall include the information
992 specified in subsection (7) and shall be developed by consulting
993 and negotiating with both school districts and charter schools
994 before implementation. The charter and charter renewal formats
995 shall be used by charter school sponsors.

996 (b)1. The Department of Education shall report student
997 assessment data pursuant to s. 1008.34(3)(c) which is reported
998 to schools that receive a school grade or student assessment
999 data pursuant to s. 1008.341(3) which is reported to alternative
1000 schools that receive a school improvement rating to each charter
1001 school that:

1002 a. Does not receive a school grade pursuant to s. 1008.34
1003 or a school improvement rating pursuant to s. 1008.341; and

1004 b. Serves at least 10 students who are tested on the
1005 statewide assessment test pursuant to s. 1008.22.

1006 ~~2. The charter school shall report the information in~~
1007 ~~subparagraph 1. to each parent of a student at the charter~~
1008 ~~school, the parent of a child on a waiting list for the charter~~

CS/HB 1569

2010

1009 | ~~school, the district in which the charter school is located, and~~
 1010 | ~~the governing board of the charter school. This paragraph does~~
 1011 | ~~not abrogate the provisions of s. 1002.22, relating to student~~
 1012 | ~~records, or the requirements of 20 U.S.C. s. 1232g, the Family~~
 1013 | ~~Educational Rights and Privacy Act.~~

1014 | 2.3.a. Pursuant to this paragraph, the Department of
 1015 | Education shall compare the charter school student performance
 1016 | data for each charter school in subparagraph 1. with the student
 1017 | performance data in traditional public schools in the district
 1018 | in which the charter school is located and other charter schools
 1019 | in the state. For alternative charter schools, the department
 1020 | shall compare the student performance data described in this
 1021 | paragraph with all alternative schools in the state. The
 1022 | comparative data shall be provided by the following grade
 1023 | groupings:

- 1024 | (I) Grades 3 through 5;
- 1025 | (II) Grades 6 through 8; and
- 1026 | (III) Grades 9 through 11.

1027 | b. Each charter school shall provide the information
 1028 | specified in this paragraph on its Internet website and also
 1029 | provide notice to the public at large in a manner provided by
 1030 | the rules of the State Board of Education. The State Board of
 1031 | Education shall adopt rules to administer the notice
 1032 | requirements of this subparagraph pursuant to ss. 120.536(1) and
 1033 | 120.54. The website shall include, through links or actual
 1034 | content, other information related to school performance.

1035 | ~~(23)~~ ~~(22)~~ CHARTER SCHOOL REVIEW PANEL AND LEGISLATIVE
 1036 | REVIEW.—

1037 (a) The Department of Education shall staff and regularly
 1038 convene a Charter School Review Panel in order to review issues,
 1039 practices, and policies regarding charter schools. The
 1040 composition of the review panel shall include individuals with
 1041 experience in finance, administration, law, education, and
 1042 school governance, and individuals familiar with charter school
 1043 construction and operation. The panel shall include two
 1044 appointees each from the Commissioner of Education, the
 1045 President of the Senate, and the Speaker of the House of
 1046 Representatives. The Governor shall appoint three members of the
 1047 panel and shall designate the chair. Each member of the panel
 1048 shall serve a 1-year term, unless renewed by the office making
 1049 the appointment. The panel shall make recommendations to the
 1050 Legislature, to the Department of Education, to charter schools,
 1051 and to school districts for improving charter school operations
 1052 and oversight and for ensuring best business practices at and
 1053 fair business relationships with charter schools.

1054 (b) The Legislature shall review the operation of charter
 1055 schools during the 2010 Regular Session of the Legislature.

1056 ~~(24)~~~~(23)~~ ANALYSIS OF CHARTER SCHOOL PERFORMANCE.—Upon
 1057 receipt of the annual report required by paragraph (10)~~(9)~~(k),
 1058 the Department of Education shall provide to the State Board of
 1059 Education, the Commissioner of Education, the Governor, the
 1060 President of the Senate, and the Speaker of the House of
 1061 Representatives an analysis and comparison of the overall
 1062 performance of charter school students, to include all students
 1063 whose scores are counted as part of the statewide assessment
 1064 program, versus comparable public school students in the

1065 district as determined by the statewide assessment program
 1066 currently administered in the school district, and other
 1067 assessments administered pursuant to s. 1008.22(3).

1068 ~~(25)~~~~(24)~~ RESTRICTION ON EMPLOYMENT OF RELATIVES.—

1069 (a) This subsection applies to charter school personnel in
 1070 a charter school operated by a private entity. As used in this
 1071 subsection, the term:

1072 1. "Charter school personnel" means a charter school
 1073 owner, president, chairperson of the governing board of
 1074 directors, superintendent, governing board member, principal,
 1075 assistant principal, or any other person employed by the charter
 1076 school who has equivalent decisionmaking authority and in whom
 1077 is vested the authority, or to whom the authority has been
 1078 delegated, to appoint, employ, promote, or advance individuals
 1079 or to recommend individuals for appointment, employment,
 1080 promotion, or advancement in connection with employment in a
 1081 charter school, including the authority as a member of a
 1082 governing body of a charter school to vote on the appointment,
 1083 employment, promotion, or advancement of individuals.

1084 2. "Relative" means father, mother, son, daughter,
 1085 brother, sister, uncle, aunt, first cousin, nephew, niece,
 1086 husband, wife, father-in-law, mother-in-law, son-in-law,
 1087 daughter-in-law, brother-in-law, sister-in-law, stepfather,
 1088 stepmother, stepson, stepdaughter, stepbrother, stepsister, half
 1089 brother, or half sister.

1090 (b) Charter school personnel may not knowingly recommend
 1091 or engage in the ~~appoint, employ, promote, or advance, or~~
 1092 ~~advocate for appointment,~~ employment, promotion, or assignment

CS/HB 1569

2010

1093 | of an individual or employee to a work location if that action
 1094 | will create a situation in which one employee will be
 1095 | responsible for the direct supervision of, or exercise
 1096 | ~~advancement, in or to a position in the charter school in which~~
 1097 | ~~the personnel are serving or over which the personnel exercises~~
 1098 | ~~jurisdiction or control over, another employee any individual~~
 1099 | ~~who is a relative. The Commissioner of Education or the sponsor~~
 1100 | ~~may make exceptions to this paragraph if such personnel actions~~
 1101 | ~~would cause undue hardship on students or seriously disrupt a~~
 1102 | ~~charter school's operations. An individual may not be appointed,~~
 1103 | ~~employed, promoted, or advanced in or to a position in a charter~~
 1104 | ~~school if such appointment, employment, promotion, or~~
 1105 | ~~advancement has been advocated by charter school personnel who~~
 1106 | ~~serve in or exercise jurisdiction or control over the charter~~
 1107 | ~~school and who is a relative of the individual or if such~~
 1108 | ~~appointment, employment, promotion, or advancement is made by~~
 1109 | ~~the governing board of which a relative of the individual is a~~
 1110 | ~~member.~~

1111 | (c) The approval of budgets does not constitute
 1112 | "jurisdiction or control" for the purposes of this subsection.

1113 |
 1114 | Charter school personnel in schools operated by a municipality
 1115 | or other public entity are subject to s. 112.3135.

1116 | ~~(26)~~ ~~(25)~~ STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—

1117 | (a) A member of a governing board of a charter school,
 1118 | including a charter school operated by a private entity, is
 1119 | subject to ss. 112.313(2), (3), (7), and (12) and 112.3143(3).

1120 | (b) A member of a governing board of a charter school

CS/HB 1569

2010

1121 | operated by a municipality or other public entity is subject to
 1122 | s. 112.3145 ~~112.3144~~, which relates to the disclosure of
 1123 | financial interests.

1124 | ~~(27)~~~~(26)~~ RULEMAKING.—The Department of Education, after
 1125 | consultation with school districts and charter school directors,
 1126 | shall recommend that the State Board of Education adopt rules to
 1127 | implement specific subsections of this section. Such rules shall
 1128 | require minimum paperwork and shall not limit charter school
 1129 | flexibility authorized by statute. The State Board of Education
 1130 | shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to
 1131 | implement a charter model application form, evaluation
 1132 | instrument, and charter and charter renewal formats in
 1133 | accordance with this section.

1134 | Section 2. Paragraph (e) of subsection (1) and subsections
 1135 | (2) and (3) of section 1013.62, Florida Statutes, are amended to
 1136 | read:

1137 | 1013.62 Charter schools capital outlay funding.—

1138 | (1) In each year in which funds are appropriated for
 1139 | charter school capital outlay purposes, the Commissioner of
 1140 | Education shall allocate the funds among eligible charter
 1141 | schools.

1142 | (e) Unless otherwise provided in the General
 1143 | Appropriations Act, the funding allocation for each eligible
 1144 | charter school is determined by multiplying the school's
 1145 | projected student enrollment by one-fifteenth of the cost-per-
 1146 | student station specified in s. 1013.64(6)(b) for an elementary,
 1147 | middle, or high school, as appropriate. If the funds
 1148 | appropriated are not sufficient, the commissioner shall prorate

1149 | the available funds among eligible charter schools. However, a
 1150 | charter school or charter lab school may not receive state
 1151 | charter school capital outlay funds greater than the one-
 1152 | fifteenth cost per student station formula if the charter
 1153 | school's combination of state charter school capital outlay
 1154 | funds, capital outlay funds calculated through the reduction in
 1155 | the administrative fee provided in s. 1002.33~~(21)~~(20), and
 1156 | capital outlay funds allowed in s. 1002.32(9)(e) and (h) exceeds
 1157 | the one-fifteenth cost per student station formula.

1158 | (2) A charter school's governing body may use charter
 1159 | school capital outlay funds for the following purposes:

1160 | (a) Purchase of real property.

1161 | (b) Construction of school facilities.

1162 | (c) Purchase, lease-purchase, or lease of permanent or
 1163 | relocatable school facilities.

1164 | (d) Purchase of vehicles to transport students to and from
 1165 | the charter school.

1166 | (e) Renovation, repair, and maintenance of school
 1167 | facilities that the charter school owns or is purchasing through
 1168 | a lease-purchase or long-term lease of 5 years or longer.

1169 | (f) Effective July 1, 2008, purchase, lease-purchase, or
 1170 | lease of new and replacement equipment, and enterprise resource
 1171 | software applications that are classified as capital assets in
 1172 | accordance with definitions of the Governmental Accounting
 1173 | Standards Board, have a useful life of at least 5 years, and are
 1174 | used to support schoolwide administration or state-mandated
 1175 | reporting requirements.

1176 | (g) Payment of the cost of premiums for property and

CS/HB 1569

2010

1177 casualty insurance necessary to insure the school facilities.

1178 (h) Purchase, lease-purchase, or lease of driver's
 1179 education vehicles; motor vehicles used for the maintenance or
 1180 operation of plants and equipment; security vehicles; or
 1181 vehicles used in storing or distributing materials and
 1182 equipment.

1183 (i) Purchase of computer software, hardware, and network
 1184 systems.

1185 (j) Purchase of furniture and equipment.

1186

1187 Conversion charter schools may use capital outlay funds received
 1188 through the reduction in the administrative fee provided in s.
 1189 1002.33 (21) ~~(20)~~ for renovation, repair, and maintenance of
 1190 school facilities that are owned by the sponsor.

1191 (3) When a charter school is nonrenewed or terminated, any
 1192 unencumbered funds and all equipment and property purchased with
 1193 district public funds shall revert to the ownership of the
 1194 district school board, as provided for in s. 1002.33 (9) ~~(8)~~ (e)
 1195 and (f). In the case of a charter lab school, any unencumbered
 1196 funds and all equipment and property purchased with university
 1197 public funds shall revert to the ownership of the state
 1198 university that issued the charter. The reversion of such
 1199 equipment, property, and furnishings shall focus on recoverable
 1200 assets, but not on intangible or irrecoverable costs such as
 1201 rental or leasing fees, normal maintenance, and limited
 1202 renovations. The reversion of all property secured with public
 1203 funds is subject to the complete satisfaction of all lawful
 1204 liens or encumbrances. If there are additional local issues such

CS/HB 1569

2010

1205 | as the shared use of facilities or partial ownership of
 1206 | facilities or property, these issues shall be agreed to in the
 1207 | charter contract prior to the expenditure of funds.

1208 | Section 3. Paragraph (e) of subsection (13) of section
 1209 | 163.3180, Florida Statutes, is amended to read:

1210 | 163.3180 Concurrency.—

1211 | (13) School concurrency shall be established on a
 1212 | districtwide basis and shall include all public schools in the
 1213 | district and all portions of the district, whether located in a
 1214 | municipality or an unincorporated area unless exempt from the
 1215 | public school facilities element pursuant to s. 163.3177(12).
 1216 | The application of school concurrency to development shall be
 1217 | based upon the adopted comprehensive plan, as amended. All local
 1218 | governments within a county, except as provided in paragraph
 1219 | (f), shall adopt and transmit to the state land planning agency
 1220 | the necessary plan amendments, along with the interlocal
 1221 | agreement, for a compliance review pursuant to s. 163.3184(7)
 1222 | and (8). The minimum requirements for school concurrency are the
 1223 | following:

1224 | (e) Availability standard.—Consistent with the public
 1225 | welfare, a local government may not deny an application for site
 1226 | plan, final subdivision approval, or the functional equivalent
 1227 | for a development or phase of a development authorizing
 1228 | residential development for failure to achieve and maintain the
 1229 | level-of-service standard for public school capacity in a local
 1230 | school concurrency management system where adequate school
 1231 | facilities will be in place or under actual construction within
 1232 | 3 years after the issuance of final subdivision or site plan

1233 approval, or the functional equivalent. School concurrency is
 1234 satisfied if the developer executes a legally binding commitment
 1235 to provide mitigation proportionate to the demand for public
 1236 school facilities to be created by actual development of the
 1237 property, including, but not limited to, the options described
 1238 in subparagraph 1. Options for proportionate-share mitigation of
 1239 impacts on public school facilities must be established in the
 1240 public school facilities element and the interlocal agreement
 1241 pursuant to s. 163.31777.

1242 1. Appropriate mitigation options include the contribution
 1243 of land; the construction, expansion, or payment for land
 1244 acquisition or construction of a public school facility; the
 1245 construction of a charter school that complies with the
 1246 requirements of s. 1002.33 (19) ~~(18)~~; or the creation of
 1247 mitigation banking based on the construction of a public school
 1248 facility in exchange for the right to sell capacity credits.
 1249 Such options must include execution by the applicant and the
 1250 local government of a development agreement that constitutes a
 1251 legally binding commitment to pay proportionate-share mitigation
 1252 for the additional residential units approved by the local
 1253 government in a development order and actually developed on the
 1254 property, taking into account residential density allowed on the
 1255 property prior to the plan amendment that increased the overall
 1256 residential density. The district school board must be a party
 1257 to such an agreement. As a condition of its entry into such a
 1258 development agreement, the local government may require the
 1259 landowner to agree to continuing renewal of the agreement upon
 1260 its expiration.

CS/HB 1569

2010

1261 2. If the education facilities plan and the public
1262 educational facilities element authorize a contribution of land;
1263 the construction, expansion, or payment for land acquisition;
1264 the construction or expansion of a public school facility, or a
1265 portion thereof; or the construction of a charter school that
1266 complies with the requirements of s. 1002.33(19)~~(18)~~, as
1267 proportionate-share mitigation, the local government shall
1268 credit such a contribution, construction, expansion, or payment
1269 toward any other impact fee or exaction imposed by local
1270 ordinance for the same need, on a dollar-for-dollar basis at
1271 fair market value.

1272 3. Any proportionate-share mitigation must be directed by
1273 the school board toward a school capacity improvement identified
1274 in a financially feasible 5-year district work plan that
1275 satisfies the demands created by the development in accordance
1276 with a binding developer's agreement.

1277 4. If a development is precluded from commencing because
1278 there is inadequate classroom capacity to mitigate the impacts
1279 of the development, the development may nevertheless commence if
1280 there are accelerated facilities in an approved capital
1281 improvement element scheduled for construction in year four or
1282 later of such plan which, when built, will mitigate the proposed
1283 development, or if such accelerated facilities will be in the
1284 next annual update of the capital facilities element, the
1285 developer enters into a binding, financially guaranteed
1286 agreement with the school district to construct an accelerated
1287 facility within the first 3 years of an approved capital
1288 improvement plan, and the cost of the school facility is equal

1289 | to or greater than the development's proportionate share. When
 1290 | the completed school facility is conveyed to the school
 1291 | district, the developer shall receive impact fee credits usable
 1292 | within the zone where the facility is constructed or any
 1293 | attendance zone contiguous with or adjacent to the zone where
 1294 | the facility is constructed.

1295 | 5. This paragraph does not limit the authority of a local
 1296 | government to deny a development permit or its functional
 1297 | equivalent pursuant to its home rule regulatory powers, except
 1298 | as provided in this part.

1299 | Section 4. Paragraph (c) of subsection (9) of section
 1300 | 1002.32, Florida Statutes, is amended to read:

1301 | 1002.32 Developmental research (laboratory) schools.—

1302 | (9) FUNDING.—Funding for a lab school, including a charter
 1303 | lab school, shall be provided as follows:

1304 | (c) All operating funds provided under this section shall
 1305 | be deposited in a Lab School Trust Fund and shall be expended
 1306 | for the purposes of this section. The university assigned a lab
 1307 | school shall be the fiscal agent for these funds, and all rules
 1308 | of the university governing the budgeting and expenditure of
 1309 | state funds shall apply to these funds unless otherwise provided
 1310 | by law or rule of the State Board of Education. The university
 1311 | board of trustees shall be the public employer of lab school
 1312 | personnel for collective bargaining purposes for lab schools in
 1313 | operation prior to the 2002-2003 fiscal year. Employees of
 1314 | charter lab schools authorized prior to June 1, 2003, but not in
 1315 | operation prior to the 2002-2003 fiscal year shall be employees
 1316 | of the entity holding the charter and must comply with the

1317 provisions of s. 1002.33(13)~~(12)~~.

1318 Section 5. Paragraph (c) of subsection (10) and subsection
 1319 (13) of section 1002.34, Florida Statutes, are amended to read:
 1320 1002.34 Charter technical career centers.—

1321 (10) EXEMPTION FROM STATUTES.—

1322 (c) A center must comply with the antidiscrimination
 1323 provisions in s. 1000.05 and the provisions in s.
 1324 1002.33(25)~~(24)~~ which relate to the employment of relatives.

1325 (13) BOARD OF DIRECTORS AUTHORITY.—The board of directors
 1326 of a center may decide matters relating to the operation of the
 1327 school, including budgeting, curriculum, and operating
 1328 procedures, subject to the center's charter. The board of
 1329 directors is responsible for performing the duties provided in
 1330 s. 1002.345, including monitoring the corrective action plan.
 1331 The board of directors must comply with s. 1002.33(26)~~(25)~~.

1332 Section 6. Paragraphs (a) and (d) of subsection (1),
 1333 paragraph (b) of subsection (2), and subsection (6) of section
 1334 1002.345, Florida Statutes, are amended to read:

1335 1002.345 Determination of deteriorating financial
 1336 conditions and financial emergencies for charter schools and
 1337 charter technical career centers.—This section applies to
 1338 charter schools operating pursuant to s. 1002.33 and to charter
 1339 technical career centers operating pursuant to s. 1002.34.

1340 (1) EXPEDITED REVIEW; REQUIREMENTS.—

1341 (a) A charter school or a charter technical career center
 1342 is subject to an expedited review by the sponsor if one of the
 1343 following occurs:

1344 1. Failure to provide for an audit required by s. 218.39.

1345 2. Failure to comply with reporting requirements pursuant
 1346 to s. 1002.33(10)~~(9)~~ or s. 1002.34(11)(f) or (14).

1347 3. A deteriorating financial condition identified through
 1348 an annual audit pursuant to s. 218.39(5) or a ~~monthly~~ financial
 1349 statement pursuant to s. 1002.33(10)~~(9)~~(g) or s. 1002.34(11)(f).

1350 "Deteriorating financial condition" means a circumstance that
 1351 significantly impairs the ability of a charter school or a
 1352 charter technical career center to generate enough revenues to
 1353 meet its expenditures without causing the occurrence of a
 1354 condition described in s. 218.503(1).

1355 4. Notification pursuant to s. 218.503(2) that one or more
 1356 of the conditions specified in s. 218.503(1) have occurred or
 1357 will occur if action is not taken to assist the charter school
 1358 or charter technical career center.

1359 (d) The governing board shall include the corrective
 1360 action plan and the status of its implementation in the annual
 1361 progress report to the sponsor which is required pursuant to s.
 1362 1002.33(10)~~(9)~~(k) or s. 1002.34(14).

1363 (2) FINANCIAL EMERGENCY; REQUIREMENTS.—

1364 (b) The governing board shall include the financial
 1365 recovery plan and the status of its implementation in the annual
 1366 progress report to the sponsor which is required under s.
 1367 1002.33(10)~~(9)~~(k) or s. 1002.34(14).

1368 (6) FAILURE TO CORRECT DEFICIENCIES.—The sponsor may
 1369 decide not to renew or may terminate a charter if the charter
 1370 school or charter technical career center fails to correct the
 1371 deficiencies noted in the corrective action plan within 1 year
 1372 after being notified of the deficiencies or exhibits one or more

CS/HB 1569

2010

1373 financial emergency conditions specified in s. 218.503 for 2
 1374 consecutive years. This subsection does not affect a sponsor's
 1375 authority to terminate or not renew a charter pursuant to s.
 1376 1002.33 (9) ~~(8)~~.

1377 Section 7. Section 1011.68, Florida Statutes, is amended
 1378 to read:

1379 1011.68 Funds for student transportation.—The annual
 1380 allocation to each district for transportation to public school
 1381 programs, including charter schools as provided in s.
 1382 1002.33 (18) ~~(17)~~ (b), of students in membership in kindergarten
 1383 through grade 12 and in migrant and exceptional student programs
 1384 below kindergarten shall be determined as follows:

1385 (1) Subject to the rules of the State Board of Education,
 1386 each district shall determine the membership of students who are
 1387 transported:

1388 (a) By reason of living 2 miles or more from school.

1389 (b) By reason of being students with disabilities or
 1390 enrolled in a teenage parent program, regardless of distance to
 1391 school.

1392 (c) By reason of being in a state prekindergarten program,
 1393 regardless of distance from school.

1394 (d) By reason of being career, dual enrollment, or
 1395 students with disabilities transported from one school center to
 1396 another to participate in an instructional program or service;
 1397 or students with disabilities, transported from one designation
 1398 to another in the state, provided one designation is a school
 1399 center and provided the student's individual educational plan
 1400 (IEP) identifies the need for the instructional program or

CS/HB 1569

2010

1401 service and transportation to be provided by the school
1402 district. A "school center" is defined as a public school
1403 center, community college, state university, or other facility
1404 rented, leased, or owned and operated by the school district or
1405 another public agency. A "dual enrollment student" is defined as
1406 a public school student in membership in both a public secondary
1407 school program and a community college or a state university
1408 program under a written agreement to partially fulfill ss.
1409 1003.435 and 1007.23 and earning full-time equivalent membership
1410 under s. 1011.62(1)(i).

1411 (e) With respect to elementary school students whose grade
1412 level does not exceed grade 6, by reason of being subjected to
1413 hazardous walking conditions en route to or from school as
1414 provided in s. 1006.23. Such rules shall, when appropriate,
1415 provide for the determination of membership under this paragraph
1416 for less than 1 year to accommodate the needs of students who
1417 require transportation only until such hazardous conditions are
1418 corrected.

1419 (f) By reason of being a pregnant student or student
1420 parent, and the child of a student parent as provided in s.
1421 1003.54, regardless of distance from school.

1422 (2) The allocation for each district shall be calculated
1423 annually in accordance with the following formula:
1424 $T = B + EX$. The elements of this formula are defined as follows:
1425 T is the total dollar allocation for transportation. B is the
1426 base transportation dollar allocation prorated by an adjusted
1427 student membership count. The adjusted membership count shall be
1428 derived from a multiplicative index function in which the base

1429 student membership is adjusted by multiplying it by index
 1430 numbers that individually account for the impact of the price
 1431 level index, average bus occupancy, and the extent of rural
 1432 population in the district. EX is the base transportation dollar
 1433 allocation for disabled students prorated by an adjusted
 1434 disabled student membership count. The base transportation
 1435 dollar allocation for disabled students is the total state base
 1436 disabled student membership count weighted for increased costs
 1437 associated with transporting disabled students and multiplying
 1438 it by the prior year's average per student cost for
 1439 transportation. The adjusted disabled student membership count
 1440 shall be derived from a multiplicative index function in which
 1441 the weighted base disabled student membership is adjusted by
 1442 multiplying it by index numbers that individually account for
 1443 the impact of the price level index, average bus occupancy, and
 1444 the extent of rural population in the district. Each adjustment
 1445 factor shall be designed to affect the base allocation by no
 1446 more or less than 10 percent.

1447 (3) The total allocation to each district for
 1448 transportation of students shall be the sum of the amounts
 1449 determined in subsection (2). If the funds appropriated for the
 1450 purpose of implementing this section are not sufficient to pay
 1451 the base transportation allocation and the base transportation
 1452 allocation for disabled students, the Department of Education
 1453 shall prorate the available funds on a percentage basis. If the
 1454 funds appropriated for the purpose of implementing this section
 1455 exceed the sum of the base transportation allocation and the
 1456 base transportation allocation for disabled students, the base

1457 transportation allocation for disabled students shall be limited
 1458 to the amount calculated in subsection (2), and the remaining
 1459 balance shall be added to the base transportation allocation.

1460 (4) No district shall use funds to purchase transportation
 1461 equipment and supplies at prices which exceed those determined
 1462 by the department to be the lowest which can be obtained, as
 1463 prescribed in s. 1006.27(1).

1464 (5) Funds allocated or apportioned for the payment of
 1465 student transportation services may be used to pay for
 1466 transportation of students to and from school on local general
 1467 purpose transportation systems. Student transportation funds may
 1468 also be used to pay for transportation of students to and from
 1469 school in private passenger cars and boats when the
 1470 transportation is for isolated students, or students with
 1471 disabilities as defined by rule. Subject to the rules of the
 1472 State Board of Education, each school district shall determine
 1473 and report the number of assigned students using general purpose
 1474 transportation private passenger cars and boats. The allocation
 1475 per student must be equal to the allocation per student riding a
 1476 school bus.

1477 (6) Notwithstanding other provisions of this section, in
 1478 no case shall any student or students be counted for
 1479 transportation funding more than once per day. This provision
 1480 includes counting students for funding pursuant to trips in
 1481 school buses, passenger cars, or boats or general purpose
 1482 transportation.

1483 Section 8. Paragraph (b) of subsection (2) of section
 1484 1012.32, Florida Statutes, is amended to read:

CS/HB 1569

2010

1485 | 1012.32 Qualifications of personnel.—
1486 | (2)
1487 | (b) Instructional and noninstructional personnel who are
1488 | hired or contracted to fill positions in any charter school and
1489 | members of the governing board of any charter school, in
1490 | compliance with s. 1002.33 (13) ~~(12)~~ (g), must, upon employment,
1491 | engagement of services, or appointment, undergo background
1492 | screening as required under s. 1012.465 or s. 1012.56, whichever
1493 | is applicable, by filing with the district school board for the
1494 | school district in which the charter school is located a
1495 | complete set of fingerprints taken by an authorized law
1496 | enforcement agency or an employee of the school or school
1497 | district who is trained to take fingerprints.
1498 |
1499 | Fingerprints shall be submitted to the Department of Law
1500 | Enforcement for statewide criminal and juvenile records checks
1501 | and to the Federal Bureau of Investigation for federal criminal
1502 | records checks. A person subject to this subsection who is found
1503 | ineligible for employment under s. 1012.315, or otherwise found
1504 | through background screening to have been convicted of any crime
1505 | involving moral turpitude as defined by rule of the State Board
1506 | of Education, shall not be employed, engaged to provide
1507 | services, or serve in any position that requires direct contact
1508 | with students. Probationary persons subject to this subsection
1509 | terminated because of their criminal record have the right to
1510 | appeal such decisions. The cost of the background screening may
1511 | be borne by the district school board, the charter school, the
1512 | employee, the contractor, or a person subject to this

Page 54 of 55

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1569-01-c1

CS/HB 1569

2010

1513 subsection.

1514 Section 9. (1) The Office of Program Policy Analysis and
1515 Government Accountability (OPPAGA) shall conduct a study
1516 comparing the funding of charter schools with traditional public
1517 schools and shall:

1518 (a) Identify the school districts that distribute funds
1519 generated by the capital improvement millage authorized pursuant
1520 to s. 1011.71(2), Florida Statutes, to charter schools and the
1521 use of such funds by the charter schools.

1522 (b) Determine the amount of funds that would be available
1523 to charter schools if school districts equitably distribute to
1524 district schools, including charter schools, funds generated by
1525 the capital improvement millage authorized pursuant to s.
1526 1011.71(2), Florida Statutes.

1527 (c) Examine the costs associated with supervising charter
1528 schools and determine if the 5-percent administrative fee for
1529 administrative and educational services for charter schools
1530 covers the costs associated with the provision of the services.

1531 (2) OPPAGA shall make recommendations, if warranted, for
1532 improving the accountability and equity of the funding system
1533 for charter schools based on the findings of the study. The
1534 results of the study shall be provided to the Governor, the
1535 President of the Senate, and the Speaker of the House of
1536 Representatives no later than January 1, 2011.

1537 Section 10. This act shall take effect July 1, 2010.

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Council/Committee hearing bill: PreK-12 Appropriations
2 Committee

3 Representative Stargel offered the following:
4

5 **Amendment (with title amendment)**

6 Remove lines 822-844 and insert:

7 (a) A startup charter school shall utilize facilities
8 which comply with the Florida Building Code pursuant to chapter
9 553 except for the State Requirements for Educational
10 Facilities. Conversion charter schools shall utilize facilities
11 that comply with the State Requirements for Educational
12 Facilities provided that the school district and the charter
13 school have entered into a mutual management plan for the
14 reasonable maintenance of such facilities. The mutual management
15 plan shall contain a provision by which the district school
16 board agrees to maintain charter school facilities in the same
17 manner as its other public schools within the district. Charter
18 schools, with the exception of conversion charter schools, are
19 not required to comply, but may choose to comply, with any or

Amendment No. 1

20 all components of the State Requirements for Educational
21 Facilities of the Florida Building Code adopted pursuant to s.
22 1013.37. The local governing authority shall not adopt or impose
23 local building requirements or site development restrictions,
24 such as parking and site-size criteria, that are more stringent
25 than those found in the State Requirements for Educational
26 Facilities of the Florida Building Code. The agency having
27 jurisdiction for inspection of a facility and issuance of a
28 certificate of occupancy or use shall be the local municipality
29 or, if in an unincorporated area, the county governing
30 authority.

31

32

33

34

T I T L E A M E N D M E N T

35

Remove lines 15-17 and insert:

36

federal funding for which they are eligible; revising provisions
37 relating to charter school compliance with building codes and
38 requirements; providing for an

38

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Council/Committee hearing bill: PreK-12 Appropriations
2 Committee
3 Representative Stargel offered the following:

Amendment (with title amendment)

6 Remove line 237 and insert:

7 4. Other good cause as defined in rules adopted by the
8 State Board of Education ~~shown~~.

11
12 **T I T L E A M E N D M E N T**

13 Remove line 9 and insert:

14 procedures; requiring other good cause for nonrenewal or
15 termination of a charter to be defined in rule; revising
16 requirements for providing financial

Amendment No. 3

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Council/Committee hearing bill: PreK-12 Appropriations
2 Committee

3 Representative Stargel offered the following:

4
5 **Amendment (with title amendment)**

6 Remove lines 39-44 and insert:

7 Section 1. Paragraph (g) of subsection (6) and subsection
8 (7) of section 1002.33, Florida Statutes, are amended, a new
9 subsection (8) is added to that section, and present subsections
10 (8) through (26) are renumbered as subsections (9) through (27),
11 respectively, and amended, to read:

12 1002.33 Charter schools.—

13 (6) APPLICATION PROCESS AND REVIEW.—Charter school
14 applications are subject to the following requirements:

15 (g)1. The Department of Education shall offer or arrange
16 for training and technical assistance to charter school
17 applicants in developing business plans and estimating costs and
18 income. This assistance shall address estimating startup costs,
19 projecting enrollment, and identifying the types and amounts of

Amendment No. 3

20 state and federal financial assistance the charter school may be
21 eligible to receive. The department may provide other technical
22 assistance to an applicant upon written request.

23 2. A charter school applicant must participate in the
24 training provided by the Department of Education before filing
25 an application. However, a sponsor may require the charter
26 school applicant to attend training provided by the sponsor in
27 lieu of the department's training if the sponsor's training
28 standards meet or exceed the standards developed by the
29 Department of Education. The training shall include instruction
30 in accurate financial planning and good business practices. ~~If
31 the applicant is a management company or other nonprofit
32 organization, the charter school principal and the chief
33 financial officer or his or her equivalent must also participate
34 in the training.~~

35
36 -----
37 **T I T L E A M E N D M E N T**

38 Remove line 3 and insert:

39 F.S.; removing a requirement that certain individuals
40 participate in training prior to the filing of a charter school
41 application; correcting cross-references to high school

Amendment No. 4

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Council/Committee hearing bill: PreK-12 Appropriations
2 Committee

3 Representative Stargel offered the following:
4

5 **Amendment**

6 Remove line 345 and insert:

7 financial statement to the sponsor unless a deteriorating
8 financial condition has been identified or the charter school is