

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 109 Charter Schools
SPONSOR(S): Choice & Innovation Subcommittee
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 246

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Choice & Innovation Subcommittee		Blalock	Sleap

SUMMARY ANALYSIS

Conversion charter schools are traditional public schools that have been converted to charter schools. The school must have operated for at least two years as a traditional public school, including a school-within-a-school, before submitting an application to convert to charter status. An application for a conversion charter school may be made by the district school board, the principal, teachers, parents, and/or the school advisory council. The application must demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to vote participate in the ballot process.

The bill authorizes a municipality to submit an application to convert to charter status any or all of the public schools within the municipality’s jurisdictional boundary as part of a single application for approval.

The bill removes the requirement that a conversion charter school application must demonstrate the support of at least 50 percent of the teachers employed at the school.

The bill authorizes the Charter School Review Commission (CSRC) to solicit and review applications for conversion charter schools. Similar to a district school board, if the CSRC denies an application for a conversion charter school, the bill requires the CSRC to provide written notice of the denial, including specific reasons and supporting documentation, to the applicants within ten days after the meeting at which the application was denied.

The bill requires the Department of Education and the Department of Management Services to designate vacant school district real property as surplus if the school district has experienced a decline in student enrollment of one percent or more for at least two consecutive years. Upon the designation of such real property as surplus, the school district must make it available to approved charter schools and charter school governing boards within the school district. The school district must transfer control and operation of the property to a charter school or charter school governing board without charging any rental, leasing, or other usage fees and any charter school receiving surplus real property is prohibited from selling or disposing of the property without the written permission of the charters’ sponsor.

The bill provides that if within six months after being designated as surplus, the real property is not used by a charter school or charter school governing board, the property must be made available for affordable housing within the county.

The bill does not appear to have a fiscal impact.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Charter Schools

All charter schools in Florida are tuition-free public schools within the state's public education system.¹ Charter schools are nonsectarian and operate under a performance contract with a sponsor.² This performance contract is known as a "charter."³ The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.⁴ One of the guiding principles of charter schools is to "meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system."⁵

In Florida, several types of entities may authorize or "sponsor" charter schools:

- School districts, Florida College System (FCS) institutions, and state universities may sponsor charter schools.⁶
- State universities may sponsor charter lab schools.⁷
- School districts, FCS institutions, or a consortium of one or more of each may sponsor a charter technical career center.⁸

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under Florida law.⁹ The school must be organized as, or be operated by, a nonprofit organization, municipality,¹⁰ or other public entity authorized under the law.¹¹ While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.¹²

During the 2022-23 school year, over 382,367 students were enrolled in 726 charter schools in 46 of Florida's 67 school districts.¹³

Conversion Charter Schools

Conversion charter schools are traditional public schools that have been converted to charter schools.¹⁴ The school must have operated for at least two years as a traditional public school, including a school-within-a-school, before submitting an application to convert to charter status. An application for a

¹ Section 1002.33(1), F.S. Florida's first charter school law was enacted in 1996. Chapter 96-186, L.O.F., *initially codified at s. 228.056, F.S., re-designated in 2002 as s. 1002.33, F.S.*

² Section 1002.33(1), (7), and (9)(a), F.S.

³ Section 1002.33(7) and (9)(c), F.S.

⁴ Section 1002.33(2)(b)3. and (16), F.S.

⁵ Section 1002.33(2)(a)1., F.S.

⁶ Section 1002.33(5)(a)1.-3., F.S.; In 2021, the Legislature authorized Florida's state universities and FCS institutions to solicit applications and sponsor charter schools upon approval by the Department of Education. A state university or FCS institution may, at its discretion, deny an application for a charter school. S. 1002.33(5)(a)3.c., F.S.

⁷ Sections 1002.32(2) and 1002.33(5)(a)2., F.S.

⁸ Section 1002.34(3)(a)-(b), F.S.

⁹ Section 1002.33(3)(a), F.S.

¹⁰ Section 180.01, F.S. The term "municipality" is defined in statute as any city, town, or village duly incorporated under the laws of the state. *See also* s. 1002.33(15), F.S.

¹¹ Section 1002.33(12)(i), F.S.

¹² *Id.*

¹³ Florida Department of Education, Office of Independent Education & Parental Choice, *Fact Sheet: Florida's Charter Schools* (Oct. 2023), available at <https://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2022.pdf>.

¹⁴ Section 1002.33(3)(b), F.S.

conversion charter school may be made by the district school board, the principal, teachers, parents, and/or the school advisory council.¹⁵

In 2013, in response to an inquiry from the Town Council of the Town of White Springs, Florida, the Attorney General issued an opinion that while a municipality may apply for a new charter school, as specified in state statute, a municipality may not apply for a conversion charter school, since municipalities are not among those specifically authorized to do so in statute.¹⁶

An application submitted proposing to convert an existing public school to a charter school must demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to vote participate in the ballot process, according to rules adopted by the State Board of Education (SBE).¹⁷ To initiate a ballot process, the applicant may submit a request in writing to the school administrator to conduct a vote for conversion, and the administrator must complete the ballot process within 60 days of receipt of the written request. Written notification of a ballot must be provided to teachers and parents at least 30 days prior to conducting the ballot and only one vote per calendar year may be held. For parent voting, each household receives one ballot regardless of the number of students residing in the household. If a student has two households, the household of the enrolling parent will receive the ballot.¹⁸ If a majority of teachers employed at the school and a majority of voting parents support the charter proposal, the conversion charter application must be submitted during the same calendar year the vote is held. If a district school board denies an application for a conversion charter school, it must provide written notice of the denial, including specific reasons and supporting documentation, to the applicants within ten days after the meeting at which the application was denied.¹⁹

The charter for a conversion charter school must identify the alternative arrangements that will be used for current students who choose not to attend the charter school and current teachers who choose not to teach in the charter school after it is converted.²⁰ Upon conversion, the school must give an enrollment preference to students who would otherwise be assigned to the school. The district school board must consult and negotiate with the conversion charter school every three years to determine whether realignment of the conversion charter school's attendance zone is appropriate in order to ensure that students residing closest to the charter school are provided with an enrollment preference.²¹ The employees of a conversion charter school remain public employees for all purposes, unless they choose otherwise.²²

For an existing public school converting to charter status, no rental or leasing fee for the existing facility or for the property normally inventoried to the conversion school may be charged by the district school board to the parents and teachers organizing the charter school. The charter school shall agree to reasonable maintenance provisions in order to maintain the facility in a manner similar to district school board standards.²³ A conversion charter school is not eligible for charter school capital outlay funding if it operates in facilities provided by its sponsor for a nominal fee or at no charge, or if it is directly or indirectly operated by the school district.²⁴

¹⁵ Rule 6A-0786, F.A.C. A person or entity submitting a charter school application must use form IEPC-M1, Model Florida Charter School Application. The form requires a schoolseeking approval to convert an existing public school to charter status to show evidence of the voting requirements under s. 1002.33(3)(b), F.S.

¹⁶ Op. Att'y Gen. Fla. 13-06 (2013); see ss. 1002.33(3)(a)-(b), F.S.

¹⁷ *Id.*

¹⁸ *Id.*; see rule 6A-6.0787, F.A.C.

¹⁹ Section 1002.33(3)(b), F.S.

²⁰ Section 1002.33(7)(a)17., F.S. Alternative arrangements for current teachers who choose not to teach in the charter school after conversion are made in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement.

²¹ Section 1002.33(10)(c), F.S.

²² Section 1002.33(12)(c), F.S.; see s. 1002.33(12)(d), F.S.

²³ Section 1002.33((18)(e), F.S.

²⁴ Section 1013.62(1)(b), F.S.

During the 2022-2023 school year, 23 conversion charter schools operated in Florida, representing approximately 3 percent of the total number of charter schools in the state.²⁵

Charter School Review Commission

In 2022, the Legislature established the Charter School Review Commission (CSRC) within Florida's Department of Education (DOE), subject to an appropriation, to assist in the review and approval of charter school applications.²⁶ The CSRC consists of seven members who have charter school experience, selected by the SBE and subject to confirmation by the Senate.²⁷ The CSRC is authorized to solicit and review charter school applications. Upon the CSRC approving an application, the district school board that oversees the school district in which the charter school will be located must serve as its sponsor.²⁸

The DOE must contract with a college or university to provide administrative and technical assistance to the CSRC by reviewing and providing an analysis of charter school applications submitted to the CSRC.²⁹ To have an application considered during a meeting of the CSRC, an applicant must submit a completed application to the entity selected by the DOE at least 90 days prior to the date the CSRC is scheduled to meet, as well as a Standard Letter of Intent for Commission Review.³⁰ Within three calendar days after an applicant submits an application, the applicant must also provide a copy of the application to the school district in which the proposed charter school will be located.³¹

Within 30 calendar days after receiving a copy of the application, the school district may provide input to the entity selected by the DOE. The input from the district must be considered in reviewing the application. The entity must complete its application review and submit its recommendation to the CSRC no later than 30 days prior to the scheduled meeting of the CSRC at which the application will be considered and voted upon. After reviewing the application, the relevant documents, the recommendations of the DOE and the designated entity, and considering the information presented at the meeting, the Commission must then proceed by majority vote to either approve or deny the charter school application.³² If the application is denied, the applicant may appeal the CSRC's decision to the SBE within 30 calendar days after written notification of the decision.³³

The school board of the district in which the proposed charter school will be located is considered the sponsor for the new charter school and must provide an initial proposed charter contract to the school within 30 calendar days after the CSRC's decision to grant approval.³⁴

Charter School Facilities

A charter school must use facilities which comply with the Florida Building Code (FBC)³⁵ and Florida Fire Prevention Code,³⁶ but are exempt from compliance with the State Requirements for Educational Facilities (SREF).³⁷ Conversion charter schools must use facilities that comply with SREF provided that the school district and the charter school have entered into a mutual management plan for the

²⁵ Email, Florida Department of Education, Legislative Affairs (Dec. 14, 2023). Out of 726 currently active charters in the state, 23 are conversion charter schools.

²⁶ Section 2, ch. 2022-144, L.O.F., *codified at* s. 1002.3301, F.S. For Fiscal Year 2023-2024, the CSRC received an appropriation of \$455,000 under Specific Appropriation 134, Contracted Services. *see* s. 2, ch. 2023-239, L.O.F.

²⁷ Section 1002.3301(1), F.S. *see* State Board of Education, *Selection of Members to the Charter School Review Commission* (Oct. 18, 2023), available at <https://www.fldoe.org/core/fileparse.php/20680/urlt/20-1.pdf>.

²⁸ Sections 1002.33(5)(a)3.d. and 1002.3301(2) and (4), F.S.

²⁹ Section 1002.3301(3), F.S.; *see* rule 6A-6.0792, F.A.C.

³⁰ Rule 6A-6.0792, F.A.C. The Standard Letter of Intent for Commission Review may be obtained electronically on the DOE's website at <http://www.floridaschoolchoice.org>.

³¹ *Id.*

³² *Id.*

³³ Section 1002.3301(6), F.S.; *see* s. 1002.33(6)(c), F.S. and rule 6A-6.0792, F.A.C.

³⁴ Section 1002.3301(4), F.S.; *see* s. 1002.33(7)(b), F.S. and rule 6A-6.0792, F.A.C.

³⁵ Section 553.73, F.S.

³⁶ Section 633.208, F.S.

³⁷ Section 1002.33(18)(a)-(b), F.S. *see also* s. 1013.37, F.S.

reasonable maintenance of such facilities. The mutual management plan must contain a provision by which the district school board agrees to maintain charter school facilities in the same manner as its other public schools within the district. Charter schools, with the exception of conversion charter schools, are not required to comply, but may choose to comply, with SREF and the FBC.³⁸

A local governing authority is prohibited from adopting or imposing on a charter school any local building requirements or site-development restrictions, such as parking and site-size criteria, student enrollment, and occupant load, that are addressed by and more stringent than those found in SREF or the FBC. A local governing authority must treat charter schools equitably in comparison to similar requirements, restrictions, and site planning processes imposed upon public schools that are not charter schools, including such provisions that are established by interlocal agreement. An interlocal agreement entered into by a school district for the development of only its own schools, including provisions relating to the extension of infrastructure, may be used by charter schools. A charter school may not be subject to any land use regulation requiring a change to a local government comprehensive plan or requiring a development order or development permit³⁹ that would not be required for a public school in the same location.⁴⁰

If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it must be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the sponsor may not sell or dispose of such property without written permission from its sponsor. Similarly, for an existing public school converting to charter status, no rental or leasing fee for the existing facility or for the property normally inventoried to the conversion school may be charged by the district school board to the parents and teachers organizing the charter school. The charter school must agree to reasonable maintenance provisions in order to maintain the facility in a manner similar to district school board standards. The Public Education Capital Outlay maintenance funds or any other maintenance funds generated by the facility operated as a conversion school shall remain with the conversion school.⁴¹

As part of its 5-year work plan, each school district must annually provide the DOE with the number of existing vacant classrooms in each school that the district does not intend to use or does not project will be needed for educational purposes for the following school year. The DOE may recommend that a district make such space available to an appropriate charter school.⁴²

District School Board Land

A district school board is authorized to use portions of school sites purchased within the guidelines of SREF, land deemed not usable for educational purposes because of location or other factors, or land declared as surplus by the school board to provide sites for affordable housing for teachers and other district personnel and, in areas of critical state concern, for other essential services personnel as defined by local affordable housing eligibility requirements, independently or in conjunction with other agencies as described in statute.⁴³

Effect of Proposed Changes

The bill authorizes a municipality to make an application for a conversion charter school. The application may be submitted for conversion for any or all of the public schools within the municipality's jurisdictional boundary as part of a single application for approval.

The bill removes the requirement that a conversion charter school application must demonstrate the support of at least 50 percent of the teachers employed at the school. The requirement to demonstrate

³⁸ Section 1002.33(18)(a), F.S.

³⁹ Section 163.3164, F.S.

⁴⁰ Section 1002.33(18)(a), F.S.

⁴¹ Section 1002.33(18)(e), F.S.

⁴² Section 1002.33(18)(g), F.S.

⁴³ Section 1001.43(12), F.S.; see s. 1001.43(5), F.S.

the support of at least 50 percent of the parents voting whose children are enrolled at the school, with a majority of the parents eligible to vote participating in the ballot process, is still in effect.

The bill authorizes the CSRC to solicit and review applications for conversion charter schools. Similar to a district school board, if the CSRC denies an application for a conversion charter school, the bill requires the CSRC to provide written notice of the denial, including specific reasons and supporting documentation, to the applicants within ten days after the meeting at which the application was denied.

The bill requires the DOE and the Department of Management Services to designate vacant school district real property as surplus if the school district has experienced a decline in student enrollment of one percent or more for at least two consecutive years. Upon the designation of such real property as surplus, the school district must make it available to approved charter schools and charter school governing boards within the school district.

The school district must transfer the control and operation of such real property to the charter school or charter school governing board without charging any rental, leasing, or other usage fees. A charter school receiving surplus real property may not sell or dispose of the property without written permission from its sponsor.

If a charter school or charter school governing board within the school district does not request the use of the surplus real property within six months after the property is designated as surplus the property must be made available for affordable housing within the county.

B. SECTION DIRECTORY:

Section 1: Amends s. 1002.33, F.S., revising the requirements for an application for a conversion charter school; authorizing municipalities to apply for the conversion of specified public schools to charter schools; authorizing the Charter School Review Commission to solicit and review applications for conversion charter schools; requiring certain school district real property to be designated as surplus by the Department of Education and Department of Management Services; requiring such surplus real property to be available to certain charter schools and governing boards; providing requirements for the transfer of such real property; requiring such real property to be made available for affordable housing under certain circumstances.

Section 2: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide any additional rulemaking authority, however, rules adopted under existing authority will need to be amended to conform with the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.