

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7101      PCB PKI 17-01      K-12 Education  
**SPONSOR(S):** PreK-12 Innovation Subcommittee, Cortes  
**TIED BILLS:**              **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Innovation Subcommittee	12 Y, 2 N	Dehmer	Healy
1) PreK-12 Appropriations Subcommittee		Seifert	Potvin
2) Education Committee			

### SUMMARY ANALYSIS

The bill:

- requires sponsors to use the standard charter contract developed by the Department of Education (DOE) without any alterations;
- removes the cap on high-performing charter schools that wish to replicate in low-performing areas;
- provides a high-performing charter school whose application for replication has been denied a hearing through the Charter School Appeals Commission;
- provides for a streamlined application for a high-performing charter school system wishing to replicate schools;
- clarifies that student performance data from eligible students attending an alternative charter school shall be included in the calculation of the home school's grade as well as high school students who transfer to a private school for which the school district subsidizes, in whole or in part, the enrollment fees;
- includes the charter school in the waiver of sovereign immunity in cases of tort liability;
- requires school districts to share the discretionary millage with charter-schools-in-a-municipality if the school is owned and directly operated by the municipality;
- clarifies administrative fees for charter schools, high-performing charter schools and charter school systems;
- removes the requirement that the online learning portion of a blended learning model be in a classroom setting at the charter school;
- clarifies that charter school cooperatives may form to further educational, operational and administrative initiatives;
- specifies that a not-for-profit or municipal entity operating a charter school may use unrestricted surplus or net assets of their charter school(s) for K-12 educational purposes in their other schools;
- extends the option for local education agency status to other charter schools by redefining "charter school system;"
- requires the DOE to develop and administer a survey for charter schools to report on the timeliness and effectiveness of administrative services provided by sponsors;
- changes the charter school application deadline from August 1 to February 1;
- deletes language regarding federal funds that conflicts with federal requirements for distribution of such funds; and
- deletes the charter school student achievement comparison report.

The bill has no fiscal impact on the state.

The bill takes effect July, 1 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Charter School Applications**

###### **Present Situation**

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”<sup>1</sup> The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.<sup>2</sup> 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.”<sup>3</sup>

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.<sup>4</sup> The school must be operated by a Florida College System (FCS) institution, municipality or nonprofit organization. While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.<sup>5</sup> A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.<sup>6</sup>

A person or entity seeking to open a charter school must submit an application using the model application form prepared by the Department of Education (DOE).<sup>7</sup> A sponsor must receive and review all charter school applications using an evaluation instrument developed by the DOE. The deadline for submission of charter school applications is August 1 of each year for schools to be opened the following year. An applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft application is timely submitted, the sponsor must review and provide feedback as to material deficiencies in the application by July 1. The applicant then has until August 1 to resubmit a revised and final application. The sponsor may approve the draft application.<sup>8</sup>

###### **Effect of Proposed Changes**

The bill revises the date a sponsor must receive all charter school applications from August 1, to February 1, for a charter school to open 18 months later or at a time agreed to by the applicant and the sponsor.

The bill removes the provision allowing a charter school applicant to submit a draft application to a sponsor for review.<sup>9</sup> The bill increases the amount of time the sponsor has to approve or deny an application from 60 to 90 days.

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<sup>1</sup> Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

<sup>2</sup> Section 1002.33(2)(b)3. and (16), F.S.

<sup>3</sup> Section 1002.33(2)(a)1., F.S.

<sup>4</sup> Section 1002.33(3)(a), F.S.

<sup>5</sup> Section 1002.33(12)(i), F.S.

<sup>6</sup> Section 1002.33(5)(a)1., F.S.

<sup>7</sup> Section 1002.33(6)(a), F.S.

<sup>8</sup> Section 1002.33(6)(b), F.S.

<sup>9</sup> Note: The number of draft applications submitted declined from 43 in 2014 to 22 in 2015, *see* Annual Authorizer Reports, *available at* <http://www.fldoe.org/schools/school-choice/charter-schools/authorizers/annual-authorizer-reports.shtml>.

## **Charter School Contract**

### **Present Situation**

Once an application is approved, the major issues involving the operation of a charter school, which are outlined in current law, must be considered in advance and written into the charter.<sup>10</sup> The Department of Education (DOE) was required to create, through state board rule,<sup>11</sup> a standard charter contract in consultation with both school districts and charter schools, and sponsors are required to use this standard contract.<sup>12</sup> However, as a result of negotiations with stakeholders, the contract is used as "...the basis for the initial draft contract..." and may be amended.<sup>13</sup>

### **Effect of Proposed Changes**

The bill requires the sponsor and the charter school governing board to use the standard charter contract which incorporates the approved application and any addenda approved with the application. The standard contract cannot be altered in any way and any term or condition of a proposed contract that differs from the standard contract shall be presumed a limitation on charter school flexibility.

## **High Performing Charter Schools**

### **Present Situation**

A high-performing charter school is a charter school that during each of the three previous years:

- received at least two school grades of "A" and no school grade below "B;"
- has received an unqualified opinion on each annual financial audit; and
- has not received an annual financial audit that reveals a financial emergency condition.<sup>14</sup>

A high-performing charter school may, in any school district in the state, submit an application to establish a new charter school that replicates its educational program. The application must indicate that the charter school is "high-performing" and include the commissioner's eligibility letter.<sup>15</sup> Such applications may only be denied under certain circumstances.<sup>16</sup> A high-performing charter school may only establish one charter school in a year. A subsequent application to establish a charter school may only be submitted when each charter school established through replication achieves high-performing charter school status.<sup>17</sup>

If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons supporting the denial and must provide the letter of denial and supporting documentation to the applicant and to the DOE. The

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<sup>10</sup> Section 1002.33(7), F.S.

<sup>11</sup> Section 1002.33(28), F.S.

<sup>12</sup> Section 1002.33(21)(a), F.S.

<sup>13</sup> See Rule 6A-6.0786(3), F.A.C., available at <https://www.flrules.org/gateway/ruleNo.asp?id=6A-6.0786>.

<sup>14</sup> Section 1002.331(1), F.S. 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 or make employer contributions to social security or pensions; or failure for one pay period to pay wages, salaries, and retirement benefits owed. Section 218.503(1), F.S. A charter school in the workplace satisfies audit requirements if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition. Section 1002.331(1)(c), F.S. A "deteriorating financial condition" is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1), F.S. Section 1002.345(1)(a)3., F.S.

<sup>15</sup> Section 1002.331(3)(a), F.S.

<sup>16</sup> Section 1002.33(6)(b)3.b., F.S.

<sup>17</sup> Section 1002.331(3)(b), F.S.

applicant may appeal the sponsor's denial of the application directly to the State Board of Education (SBE).<sup>18</sup>

### **Effect of Proposed Changes**

The bill allows a high-performing charter school to establish more than one charter school a year only if it chooses to operate in and serve students from an area where a school is subject to differentiated accountability.<sup>19</sup>

The bill provides a high-performing charter school whose application has been denied a hearing by requiring that an appeal of such denial be brought before the Charter School Appeals Commission. The commission will make a recommendation to the SBE in accordance with current law.

### **High-Performing Charter School System**

#### **Present Situation**

A high-performing charter school system is an entity that:

- operated at least three high-performing charter schools in the state during each of the previous 3 school years;
- operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools and no charter school earned a school grade of “D” or “F” in any of the previous 3 school years regardless of whether the entity currently operates the charter school, with specified exceptions; and
- did not receive a financial audit that revealed one or more of the financial emergency conditions for any charter school assumed or established by the entity in the most recent 3 fiscal years for which such audits are available.<sup>20</sup>

A high-performing charter school system may replicate its high-performing charter schools using the current application process outlined in law.<sup>21</sup>

### **Effect of Proposed Changes**

The bill clarifies that a high-performing system may replicate a school in any district in the state and establishes a streamlined high-performing standard application form for replicating a high-performing charter school.

The bill requires the high-performing standard application form to:

- contain goals and objectives for improving and measuring student learning, including the expected amount of student yearly academic improvement, methods for evaluating success and the specific results to be attained through instruction;
- contain an annual financial plan for each year requested by the charter for operation of the school for up to 5 years;
- discloses the name of each applicant, governing board member and all proposed education services providers, the name and sponsor of any charter school operated by each applicant, each governing board member and each proposed education services provider that has closed and the reasons for the closure and the academic and financial history of such charter schools, which the sponsor shall consider in deciding whether to approve or deny the application.

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<sup>18</sup> Section 1002.33(6)(b)3.c., F.S.

<sup>19</sup> See s. 1008.33, F.S.

<sup>20</sup> Section 1002.332(1)(b), F.S.

<sup>21</sup> Section 1002.332(2), F.S.

The bill requires the review, approval, denial and appeals process for standard high-performing replication applications to comply with current processes in law.

### **Charter School Cooperatives**

#### **Present Situation**

The law authorizes charter schools to enter into cooperative agreements with other charter schools to provide planning and development, direct instructional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.<sup>22</sup>

#### **Effect of Proposed Changes**

The bill deletes the list of specific services that cooperative agreements may provide and instead allows charter schools to enter into cooperative agreements to further any educational, operational or administrative purposes in which participating charter schools share common interests. This change expands the ability of charter schools to collaborate and pool resources for shared objectives.

### **Distribution of Student Funding**

#### **Present Situation**

Charter schools are funded through the Florida Education Finance Program (FEFP) the same as traditional public schools based on the number of students. Each charter school reports student enrollment to its sponsor<sup>23</sup> for inclusion in the district's report of student enrollment.<sup>24</sup> The following chart summarizes how a charter school's share of FEFP funds is determined:

<b>Calculating a Charter School's Share of FEFP Funds<sup>25</sup></b>
Sum of the school district's operating funds from the FEFP as provided in s. 1011.62, F.S., and the General Appropriations Act, including the district's gross state and local funds, discretionary lottery funds, and funds from the district's current operating discretionary tax levies.
÷ The total funded weighted full-time equivalent (FTE) students in the district.
x The weighted FTE students for the charter school.

A charter school is also entitled to receive its proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.<sup>26</sup> Categorical funds must be spent for specified purposes, which include student transportation, safe schools, supplemental academic instruction, research-based reading, instructional materials, digital classrooms, classroom supplies and class-size

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<sup>22</sup> Section 1002.33(13), F.S.

<sup>23</sup> A sponsor can be a district school board that approves the charter and holds the contract. Section 1002.33(5)(a)1., F.S.

<sup>24</sup> Section 1002.33(17)(a)-(b), F.S. To reflect any changes in enrollment, the charter school's funding is recalculated during the school year, based upon the October and February FTE enrollment surveys. See s. 1002.33(17)(b), F.S.

<sup>25</sup> Section 1002.33(17)(b) and (c), F.S.

<sup>26</sup> Section 1002.33(17)(b), F.S.

reduction operating funds.<sup>27</sup> Sponsors are prohibited from requiring charter schools to adopt the school district's reading curriculum as a condition of receiving the research-based reading allocation.<sup>28</sup>

## **Effect of Proposed Changes**

The bill authorizes a nonprofit organization or municipality that operates a charter school to use unrestricted surplus or unrestricted net assets from that school for K-12 educational purposes in other schools they operate in the state.

## **Sponsor Services and Fees**

### **Present Situation**

A sponsor must provide various administrative services to charter schools in their district including contract management; FTE and student achievement data reporting; exceptional student education program administration; eligibility and reporting for federal school lunch programs; test administration, including payment of the costs of state- or school district-required assessments; processing of teacher certification data and student information services.<sup>29</sup> As compensation for services provided, a sponsor may withhold an administrative fee of up to 5 percent of each charter school's total operating funds, based upon weighted FTE students.<sup>30</sup> A sponsor may only withhold the administrative fee for the first 250 students enrolled in each charter school.<sup>31</sup> A sponsor may withhold a 5 percent administrative fee for the first 500 students enrolled within a system of charter schools if the system:

- includes both conversion charter schools and nonconversion charter schools;
- has all schools located in the same county;
- has a total enrollment exceeding the total enrollment of at least one school district in the state;
- has the same governing board; and
- does not contract with a for-profit service provider for management of school operations.<sup>32</sup>

If the system meets these criteria and also qualifies for high-performing charter school system status, it may receive a reduction in the administrative fees from 5 percent to 2 percent for enrollments up to and including 500 students per system.<sup>33</sup> The total administrative fee for high-performing charter schools is up to 2 percent for enrollment up to and including 250 students per school.<sup>34</sup>

When 75 percent or more of the students enrolled in the charter school are exceptional students, including gifted students, the 5 percent administrative fee is calculated based upon unweighted FTE students.<sup>35</sup> For virtual charter schools, the sponsor may withhold a fee of up to 5 percent of the school's total operating funds; however, the fee must be used to cover the cost of sponsor-provided services

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<sup>27</sup> See, e.g., s. 1011.62(1)(f), F.S. (supplemental academic instruction); s. 1011.62(6), F.S. (general categoricals), s. 1011.67, F.S. (instructional materials), s. 1011.62(12), F.S. (digital classrooms); s. 1011.68, F.S. (student transportation), s. 1011.685, F.S. (class size reduction), and s. 1012.71, F.S. (Florida Teachers Classroom Supply Assistance Program).

<sup>28</sup> Section 1002.33(17)(b), F.S.

<sup>29</sup> Section 1002.33(20)(a)1., F.S. See also, *Florida Attorney General Opinion, AGO 2013-04, stating that the administrative fee includes costs to administer state district assessments, available at*

<http://www.myfloridalegal.com/ago.nsf/Opinions/D20AD30420BB793B85257B3C0052B3A6>.

<sup>30</sup> Section 1002.33(20)(a)2., F.S.

<sup>31</sup> Section 1002.33(20)(a)2., F.S. When a charter school's enrollment exceeds 250 students, it must reserve an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld for capital outlay purposes. *Id.*

<sup>32</sup> Section 1002.33(20)(a)4., F.S. When the enrollment within a system of charter schools exceeds 500 students, an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld may only be used for instructional, administrative, or capital outlay purposes. Section 1002.33(20)(a)5., F.S.

<sup>33</sup> Section 1002.33(20)(a)4. and 6., F.S.

<sup>34</sup> Section 1002.33(20)(a)3., F.S.

<sup>35</sup> Section 1002.33(20)(a)2., F.S.

and for implementation of the school district's digital classrooms plan.<sup>36</sup> Sponsors are prohibited from imposing additional fees or surcharges for services provided.<sup>37</sup>

## **Effect of Proposed Changes**

The bill specifies language regarding administrative fees for charter schools, high-performing charter schools and charter school systems and removes the restrictions on eligible expenditures of the funds resulting from the difference between the total calculated amount of administrative fees and the amount the district may withhold.

The bill also requires charter schools to annually complete and submit a survey to rate the timeliness and effectiveness of administrative services provided by sponsors. The Department of Education must develop and administer the survey, compile the results by district and include them in the annual authorizer report.

## **Public Information on Charter Schools**

### **Present Situation**

The Department of Education (DOE) must annually provide a statewide analysis and comparison of charter school students and traditional public school students, as measured by the statewide assessment program and information reported in each school's annual progress report.<sup>38</sup> The DOE's analysis compares the overall performance of charter school and traditional public school students and that of student subgroups, e.g, demographics, low income and students with disabilities. Comparison data must also be broken down by the following grade groupings:

- Grades 3 through 5
- Grades 6 through 8 and
- Grades 9 through 11.<sup>39</sup>

The report analyzes the assessment results of charter and traditional public schools in 177 different comparisons in terms of proficiency, learning gains and achievement gap.<sup>40</sup>

## **Effect of Proposed Changes**

The bill removes the provision that charter school student performance data be compared to student performance data of traditional public schools.

## **Local Educational Agency Status for Certain Charter School Systems**

### **Present Situation**

A system of charter schools may serve as a local education agency (LEA) if the governing board adopts and files a resolution with its sponsor and the Department of Education (DOE) in which the governing board accepts the full responsibility for all LEA requirements and the system of charter schools:

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<sup>36</sup> Section 1002.33(20)(a)8., F.S.

<sup>37</sup> Section 1002.33(20)(a)7., F.S.

<sup>38</sup> Section 1002.33(23), F.S.

<sup>39</sup> Section 1002.33(21)(b)3.a., F.S.

<sup>40</sup> Florida Department of Education, *Student Achievement in Florida's Charter Schools: A Comparison of the Performance of Charter School Students with Traditional Public School Students*, at v (June 2015), available at [http://www.fldoe.org/core/fileparse.php/7778/urlt/Charter Student Achievement Report 1314.pdf](http://www.fldoe.org/core/fileparse.php/7778/urlt/Charter+Student+Achievement+Report+1314.pdf).

- includes both conversion charter schools and nonconversion charter schools;
- has all schools located in the same county;
- has a total enrollment exceeding the total enrollment of at least one school district in the state;
- has the same governing board; and
- does not contract with a for-profit service provider for management of school operations.<sup>41</sup>

## Effect of Proposed Changes

The bill revises LEA eligibility status by removing the requirements that a system of charter schools include both conversion charter schools and nonconversion charter schools and the system does not contract with a for-profit service provider for management of school operations.

## School Grades

### Present Situation

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.<sup>42</sup> School grades are also used to determine whether a school must select or implement a turnaround option<sup>43</sup> or whether a school is eligible for school recognition funds as appropriated by the Legislature.<sup>44</sup>

An alternative school may opt for a school improvement rating instead of a school grade.<sup>45</sup> The school improvement rating is calculated using student learning gains on statewide, standardized English language arts and Math assessments for all eligible students who are enrolled in the school and who have assessment scores or comparable scores for the preceding school year.<sup>46</sup> Schools that improve their ratings by at least one level or maintain a "commendable" rating are eligible for school recognition awards.<sup>47</sup> The school improvement rating identifies an alternative school as having one of the following ratings:

- **Commendable:** a significant percentage of the students attending the school are making learning gains
- **Maintaining:** a sufficient percentage of the students attending the school are making learning gains
- **Unsatisfactory:** an insufficient percentage of the students attending the school are making learning gains<sup>48</sup>

Current law requires that the student performance data for eligible students attending alternative schools that provide dropout prevention and academic intervention are included in the calculation of the home school's grade.<sup>49</sup> Likewise, student performance data for eligible students in Exceptional Student Education (ESE) Centers are included in the calculation of the home school grade.<sup>50</sup>

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<sup>41</sup> Section 1002.33(25), F.S.

<sup>42</sup> Section 1008.34(1), F.S. If there are fewer than 10 eligible students with data for a component, the component is not included in the calculation. Section 1008.34(3)(a), F.S.

<sup>43</sup> Section 1008.33(4), F.S.

<sup>44</sup> Section 1008.26, F.S.

<sup>45</sup> School improvement ratings, which do not include an academic achievement component but instead focus on learning gains, are offered to alternative schools because the students at these schools are often enrolled in more than one school within the school year. All alternative students' learning gains scores are included in either the alternative school or home school accountability report. *See ESEA Flexibility Request* at 67, note 34, *supra*.

<sup>46</sup> Section 1008.341(3), F.S.

<sup>47</sup> Section 1008.341(2), F.S. (flush left provisions at the end of the subsection).

<sup>48</sup> Section 1008.341(2)(a)-(c), F.S.

<sup>49</sup> Section 1008.34(3)(d)1., F.S.

<sup>50</sup> Section 1008.3415, F.S.



## **Effect of Proposed Changes**

The bill provides that student performance data from eligible students attending an alternative charter school shall be included in the calculation of the home school's grade, as well as a high school student who transfers to a private school with which the school district has a contractual agreement. The bill also allows the use of concordant scores, in addition to assessment scores or comparable scores, in determining an alternative school's school improvement rating.

## **Facilities**

### **Present Situation**

Any facility or portion of a facility, used to house a charter school is exempt from ad valorem taxes, and specified entities, including a library, community service, museum, performing arts, theatre, cinema, church, Florida College System institution, college, and university may provide space to charter schools within their facilities under their preexisting zoning and land use designations.<sup>51</sup>

## **Effect of Proposed Changes**

The bill clarifies that the entities listed above may provide space to charter schools, and the charter school shall not have to obtain any special exception, rezoning, land use charter or other approval.

## **Charter School Capital Outlay Funding**

### **Present Situation**

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

- have been in operation for at least two years;
- be governed by a governing board established in Florida for three or more years which operates both charter schools and conversion charter schools within the state;
- be part of an expanded feeder chain<sup>52</sup> with an existing charter school in the district that is currently receiving charter school capital outlay funds;
- be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; or
- serve students in facilities that are provided by a business partner for a charter school-in-the-workplace.

In addition, a charter school must;

- have an annual audit that does not reveal a financial emergency for the most recent fiscal year for which such audit results are available;<sup>53</sup>
- have satisfactory student achievement based upon the state accountability standards applicable to charter schools;
- have received final approval from its sponsor for operation during that fiscal year; and
- serve students in facilities that are not provided by the charter school sponsor.<sup>54</sup>

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<sup>51</sup> Section 1002.33(18)(c), F.S.

<sup>52</sup> A charter school may be considered a part of an expanded feeder chain under s. 1013.62, F.S., if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding pursuant to s. 1013.62, F.S. Rule 6A-2.0020(1), F.A.C.

<sup>53</sup> The definition of financial emergency is provided in s. 218.503(1), F.S.

## **Effect of Proposed Changes**

The bill removes the requirement that a charter school have satisfactory student achievement based upon the state accountability standards applicable to charter schools to be eligible for charter school capital outlay funding.

## **Blended Learning**

### **Present Situation**

Florida law authorizes brick-and-mortar charter schools to offer blended learning courses. Blended learning courses are provided at the charter school's physical location and consist of both traditional classroom and online instruction. Blended learning courses may be provided by part-time or full-time employees of the charter school or by contracted instructional providers. Instructors must be certified in the subject area of the course. The online portion of a blended learning course may be provided from a remote location.<sup>55</sup> Students in a blended learning course must be full-time students at the charter school and receive the online instruction in a classroom setting at the charter school.

## **Effect of Proposed Changes**

The bill removes the requirement that students receive online instruction in a classroom setting in order to be eligible for a blended learning course.

## **College-Preparatory Boarding Academy**

### **Present Situation**

In 2011, the Legislature created the College-Preparatory Boarding Academy Pilot Program for the purpose of providing unique educational opportunities to dependent or at-risk children who are academic underperformers but who have the potential to progress from at-risk to college-bound.<sup>56</sup>

An "eligible student" is a student who:

- is a resident of the state and entitled to attend school in a participating school district;
- is at risk of academic failure;
- is currently enrolled in grade 5 or 6;
- is from a family whose gross income is at or below 200 percent of the federal poverty guidelines;
- is eligible for benefits or services funded by Temporary Assistance for Needy Families (TANF) or Title IV-E of the Social Security Act; and
- meets at least one of the following additional risk factors:
  - The child is in foster care or has been declared an adjudicated dependent by a court.
  - The student's head of household is not the student's custodial parent.
  - The student resides in a household that receives a housing voucher or has been determined eligible for public housing assistance.
  - A member of the student's immediate family has been incarcerated.

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<sup>54</sup> Section 1013.62(1)(a), F.S. A conversion charter school, i.e., a charter school created by the conversion of an existing public school to charter status, is not eligible for capital outlay funding if it operates in facilities provided by its sponsor at no charge or for a nominal fee or if it is directly or indirectly operated by the school district. Section 1013.62(1)(d), F.S.

<sup>55</sup> Section 1002.33(7)(a)2.b., F.S.

<sup>56</sup> Section 1002.3305(1), F.S.

- The child is covered under the terms of the state's Child Welfare Waiver Demonstration project with the United States Department of Health and Human Services.<sup>57</sup>

## Effect of Proposed Changes

The requirement that a student be currently enrolled in grade 5 or 6 limits the operator from enrolling students in another grade level, even if a space is available. The bill revises this requirement and allows any student currently enrolled in grades 5-12 to be eligible to enter the program, if the operator determines that a seat is available.

## Other Provisions

The bill also:

- clarifies that charter schools and their governing boards are subject to the same waiver of sovereign immunity in tort actions as the state, state agencies and or subdivisions;
- deletes language regarding federal funds that conflicts with federal requirements for the distribution of such funds;
- removes the requirement that an eligible dual enrollment program be located and chartered in Florida and revises eligibility requirements for postsecondary institutions to participate in dual enrollment by requiring that the institution be accredited by any regional or national accrediting agency recognized by the U.S. DOE rather than only the Commission of Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools;
- requires school boards to share the discretionary millage with charter-schools-in-a-municipality and provides a calculation methodology for distribution of such funds to charter schools; and
- requires sponsors to notify a charter school if they intend to not renew a contract and provide the charter school with a hearing.

## B. SECTION DIRECTORY:

**Section 1.** Amends s. 1002.33, F.S., relating to charter schools.

**Section 2.** Amends s. 1002.3305, F.S., relating to the College-Preparatory Boarding Academy Pilot Program.

**Section 3.** Amends s. 1002.331, F.S., relating to high-performing charter schools.

**Section 4.** Amends s. 1002.332, F.S., relating to high-performing charter school systems.

**Section 5.** Amends s. 1008.34, F.S., relating to school grading system, school report cards and district grades.

**Section 6.** Amends s. 1008.341, F.S., relating to the designation of school improvement ratings.

**Section 7.** Amends s. 1011.62, F.S., relating to the basic operating funding calculation.

**Section 8.** Amends s. 1011.71, F.S., relating to district school tax.

**Section 9.** Amends s. 1013.62, F.S., relating to charter school capital outlay funding.

**Section 10.** Provides an effective date of July 1, 2017.

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<sup>57</sup> Section 1002.3305(2)(b), F.S.  
**STORAGE NAME:** h7101.PKA  
**DATE:** 4/2/2017

## **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:**

The bill authorizes a nonprofit organization or municipality that operates a charter school to use unrestricted surplus or unrestricted net assets of the charter school identified in an annual financial audit for K-12 educational purposes for charter schools operated by the not-for-profit or municipal entity organizing or operating the charter school with the surplus. Surplus operating funds shall be used in accordance with s. 1011.62, and surplus capital outlay funds shall be used in accordance with s. 1013.62(2).

The bill establishes the calculation methodology to determine the amount of the discretionary 1.5 millage revenue a school district would be required to distribute to each eligible charter school-in-a-municipality. The methodology includes reducing the total discretionary millage revenue by the school district's annual debt service obligation incurred as of March 1, 2017. Then, divide the sum of the school district's adjusted discretionary millage revenue by the school district's total capital outlay full-time equivalent membership and the total number of unweighted full-time equivalent students of each eligible charter school-in-a-municipality to determine a capital outlay appropriation allocation per full-time equivalent student. Then, multiply the capital outlay allocation per full-time equivalent student by the total number of full-time equivalent students of each eligible charter school-in-a-municipality to determine the capital outlay allocation for each charter school-in-a-municipality.

Adjust the 1.5 millage capital outlay allocation for each charter school-in-a-municipality by the total amount of state funds allocated to each charter school-in-a-municipality to determine the maximum calculated capital outlay allocation.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.