

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB KINS 11-03 Charter Schools

**SPONSOR(S):** K-20 Innovation Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-20 Innovation Subcommittee	11 Y, 3 N	Beagle	Sherry

### SUMMARY ANALYSIS

The bill enables charter schools that demonstrate exemplary academic achievement and financial management to be deemed high-performing charter schools. A high-performing charter school is entitled to increase its enrollment once per year by up to 25 percent; add grade levels not already served; receive a 15-year charter; and submit quarterly, rather than monthly, financial statements to its sponsor. A high-performing charter school that fails to sustain academic achievement will lose the benefits of high-performing charter school status. The bill also enables entities which operate at least three high-performing charter schools in Florida and demonstrate sustained academic achievement and financial management by all schools operated by the entity to be deemed a high-performing charter school system. A new application process is established to enable both high-performing charter schools and high-performing charter school systems to replicate their successful charter school models. The bill limits the grounds for denying such applications and provides for an independent review by the State Board of Education on appeal if such an application is denied.

The bill eliminates the informal hearing process currently in place for charter terminations and nonrenewal. Instead, a charter school's governing board may request a formal hearing. The sponsor must provide either a direct hearing or a hearing before an administrative law judge before proceeding with termination or nonrenewal. A final order on termination or nonrenewal is appealable to the District Court of Appeals (DCA).

Currently, a sponsor may immediately terminate a charter based upon good cause or if continued operation of the school threatens student health, safety, or welfare. Written notice of termination must be provided to the charter school's governing board and others. A hearing is not required, but the sponsor's decision may be appealed to the state board. The bill eliminates "good cause" as the basis for immediate termination and instead requires a sponsor to state in the written notice specific facts indicating a danger to student health, safety, and welfare. The bill requires the sponsor to provide a formal hearing, if requested by the charter school's governing board. The hearing may occur after termination and the final order is appealable to the DCA. As in current law, the sponsor must assume operation of a charter school following an immediate termination, unless continued operation of the school would materially threaten student health, safety, or welfare. The bill authorizes attorney's fees and costs to the charter school if the sponsor fails to assume operation of the school and the charter school prevails on appeal.

The bill authorizes three new enrollment preferences for charter schools: (1) a charter school-in-the-workplace may grant a preference to children whose parents are employed by the school's business partner and children whose parents are residents of the municipality in which the school is located; (2) a charter school-in-a-municipality may grant a preference to children whose parents are residents of the municipality; and (3) all charter schools may grant a preference to students who complete a Voluntary Prekindergarten Education program provided by the school or the school's nonprofit governing board.

The Department of Education (DOE) is directed to examine issues related to discretionary millage for capital outlay and federal funding provided to charter schools and sponsor-provided administrative services. DOE must report its findings to the Governor and Legislature.

The bill does not appear have a fiscal impact on state or local governments.

The bill takes effect July 1, 2011.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb03a.KINS

DATE: 3/30/2011

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Charter schools<sup>1</sup> are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”<sup>2</sup> The charter exempts the school from many regulations applicable to traditional public schools in order to encourage the use of innovative learning methods.<sup>3</sup> One of the guiding principles of charter schools is to meet high standards of student achievement and increase parental choice and student learning opportunities.<sup>4</sup>

A charter school may be sponsored by a district school board or, in the case of a charter lab school, by a state university.<sup>5</sup> Each charter school is administered by a governing board.<sup>6</sup> State universities, Florida colleges, municipalities, or private, nonprofit 501(c)(3) status organizations<sup>7</sup> may operate a charter school.<sup>8</sup> In many cases, a charter school’s governing board contracts with a private, for-profit management company to provide management services on its behalf. Management companies provide, among other things, curriculum development, administrative, business, compliance, personnel, and student recruiting services.<sup>9</sup>

#### Charter School Applications

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>10</sup> Charter school applicants must participate in training provided by the Department of Education (DOE) or, under specified circumstances, by the sponsor before filing an application to establish a new charter school.<sup>11</sup> If the applicant is a management company or nonprofit organization, the charter school principal and chief financial officer must participate in the training. The training must include instruction in accurate financial planning and good business practices.<sup>12</sup>

A charter school application must be submitted by August 1st of each year for charter schools to be opened at the beginning of the following school year, unless the sponsor chooses a later date. Among other things, the application must include:

- A detailed curriculum plan aligned with the Next Generation Sunshine State Standards;
- Goals for improving student learning and measuring improvement;

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<sup>1</sup> In the 2009-10 school year, 410 charter schools were operating in 43 of Florida’s 67 school districts and at two state universities. Charter schools served 137,196 students in that year. Florida Department of Education, *Charter Schools Program*, at 1 (Aug. 2010), available at, [https://www.floridaschoolchoice.org/Information/Charter\\_Schools/files/fast\\_facts\\_charter\\_schools.pdf](https://www.floridaschoolchoice.org/Information/Charter_Schools/files/fast_facts_charter_schools.pdf).

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

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

<sup>4</sup> Section 1002.33(2), F.S.

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

<sup>6</sup> Section 1002.33(9)(h)-(j), F.S.

<sup>7</sup> The internal revenue code defines a 501(c)(3) status organization as a private, nonprofit organization that is organized exclusively for religious, scientific, literary, or educational purposes or for the purpose of promoting amateur sports or for preventing cruelty to animals or children. These organizations are exempt from federal income taxes. 26 U.S.C. s. 501(c)(3).

<sup>8</sup> Section 1002.33(5)(b)4., (12)(i), and (15)(b)-(c), F.S.

<sup>9</sup> Telephone interview with Charter Schools Director, Florida Department of Education (March 17, 2011); Florida Department of Education, *Charter Schools – FAQs*, [https://www.floridaschoolchoice.org/information/charter\\_schools/faqs.asp](https://www.floridaschoolchoice.org/information/charter_schools/faqs.asp) (last visited March 17, 2011).

<sup>10</sup> Section 1002.33(3)(a), F.S.

<sup>11</sup> Section 1002.33(6)(f), F.S. The sponsor may provide applicant training if the training meets or exceeds DOE’s training standards. *Id.*; rule 6A-6.0785, F.A.C. (charter school applicant training standards).

<sup>12</sup> Section 1002.33(6)(f), F.S.

- The reading curriculum and strategies for teaching reading to students who are below, at, or above grade level; and
- An annual financial plan for each year of operation requested (up to five years) that sets forth the school's anticipated funds and assets, a spending plan, and sound fiscal policies for managing the school.<sup>13</sup>

A sponsor must approve or deny a charter school application, based upon good cause, within 60 days of receipt. If denied, the sponsor must provide to the applicant and DOE written notice stating the grounds for denial within ten days of its decision. There is no requirement that a charter school applicant be provided an opportunity to correct technical errors in its application before a decision on approval or denial is made.<sup>14</sup> Application denials may be appealed to the State Board of Education. The Charter School Appeal Commission reviews the appeal and recommends action to the state board.<sup>15</sup> The state board must consider, but is not bound by, the commission's recommendation.<sup>16</sup>

## Charters

Upon approving a charter school application, the sponsor must deliver a charter to the applicant within 60 days, and the applicant and sponsor then have 75 days to negotiate its contents.<sup>17</sup> Among other things, the charter includes:

- The curriculum;
- The grade levels and ages of students served;
- Baseline standards of student academic achievement, goals to be achieved, and the methods for measuring achievement of those goals;
- The financial and administrative management of the school and a description of internal audit controls;
- Asset and liability projections; and
- An agreement that the charter may be cancelled if the school fails to make sufficient progress towards student achievement goals.<sup>18</sup>

The initial term of a charter must be four or five years; however, if approved by the district school board, a charter school operated by a municipality or private nonprofit corporation may be granted an initial charter for a term of up to 15 years.<sup>19</sup> Florida law also provides opportunities for charter schools that demonstrate exemplary academic performance and financial management to be granted a long-term charter renewal. A sponsor:

- 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 financial management; and (c) for which none of the grounds for nonrenewal have been documented.
- Must grant a 15-year charter renewal to a charter school that meets the above criteria, 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.<sup>20</sup>

<sup>13</sup> Section 1002.33(6)(a) and (b), F.S.

<sup>14</sup> Section 1002.33(6)(b)3., F.S.

<sup>15</sup> Section 1002.33(6)(c), F.S.

<sup>16</sup> Section 1002.33(6)(c) and (e)2., F.S.

<sup>17</sup> Section 1002.33(6)(h), F.S.

<sup>18</sup> Sections 1002.33(7)(a), F.S.

<sup>19</sup> Section 1002.33(7)(a)12., F.S.

<sup>20</sup> Section 1002.33(7)(b)1. and 2., F.S. Fifteen-year charters granted in this manner are subject to annual review by the sponsor and may be terminated on grounds currently specified in statute. *Id.*; see *infra* text accompanying note 21 (grounds for termination or nonrenewal of charter).

A sponsor may terminate or not renew a charter for any of the following reasons:

- Failure to participate in the state's education accountability system or meet the requirements for student performance stated in the charter;
- Failure to meet generally accepted standards of financial management;
- A violation of law; or
- Other good cause shown.<sup>21</sup>

A sponsor must provide 90-days' written notice to the charter school prior to termination or non-renewal. The charter school's governing board may request an informal hearing with the sponsor and may appeal an adverse decision to the state board.<sup>22</sup> The Charter School Appeal Commission reviews the appeal and recommends action to the state board.<sup>23</sup> The state board must consider, but is not bound by, the commission's recommendation.<sup>24</sup>

A charter may be terminated immediately if the sponsor determines that good cause has been shown or if the health, safety, or welfare of the students is threatened. An informal hearing is not required, but the sponsor's decision may be appealed to the state board. When a charter is immediately terminated, the sponsor must assume operation of the school.<sup>25</sup>

### Student Enrollment

The student capacity of a charter school is annually determined by the governing board, in conjunction with the sponsor.<sup>26</sup> Prospective students must apply for enrollment in the charter school and, if the number of applications exceeds the school's capacity, a random lottery must be used to determine which students are enrolled.<sup>27</sup> Florida law authorizes all charter schools to give an enrollment preference to the siblings of current charter school students, children of a member of the charter school governing board, or children of charter school employees.<sup>28</sup>

A charter school-in-the-workplace must enroll students based upon a random lottery that involves all children seeking enrollment whose parents are employed by the school's business partner.<sup>29</sup> Similarly, a charter school-in-a-municipality must enroll students based upon a random lottery that involves all children seeking enrollment whose parents are residents of the municipality.<sup>30</sup> Florida law authorizes a charter school-in-the-workplace and a charter school-in-a-municipality to limit enrollment to children of employees and children of residents, respectively. However, the law does not expressly state that a charter school-in-the-workplace or charter school-in-a-municipality may grant an *enrollment preference* to these students.<sup>31</sup>

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<sup>21</sup> Section 1002.33(8)(a), F.S.

<sup>22</sup> Section 1002.33(8)(b) and (c), F.S.

<sup>23</sup> Section 1002.33(6)(c), F.S.

<sup>24</sup> Section 1002.33(6)(c) and (e)2., F.S.

<sup>25</sup> Section 1002.33(8)(d), F.S.

<sup>26</sup> Section 1002.33(10)(h), F.S.

<sup>27</sup> Section 1002.33(10)(b), F.S.

<sup>28</sup> Section 1002.33(10)(d), F.S.

<sup>29</sup> Section 1002.33(15)(b), F.S. Charter schools-in-the-workplace are sponsored by district school boards in partnership with a company or business. The business partner provides the school facility to be used. *Id.* Two charter schools-in-the-workplace operated in Florida during the 2009-10 school year. Email, Florida Department of Education, Legislative Affairs Director (Aug. 19, 2010).

<sup>30</sup> Section 1002.33(15)(c), F.S. Charter schools-in-a-municipality are sponsored by district school boards in partnership with a municipality. *Id.* Eleven charter schools-in-a-municipality operated in Florida during the 2009-10 school year. Email, Florida Department of Education, Legislative Affairs Director (Aug. 19, 2010).

<sup>31</sup> Section 1002.33(10)(d) and (e)3., F.S.

Approximately 38 charter schools participate in the Voluntary Prekindergarten Education (VPK) program.<sup>32</sup> Florida law does not authorize charter schools to grant an enrollment preference to children who complete a VPK program provided by the school during the previous year. Thus, such children must reapply for admission and participate in the random lottery in order to enroll in kindergarten at the charter school.<sup>33</sup>

### Academic and Financial Accountability

Florida law establishes several requirements to hold charter schools accountable both financially and academically.<sup>34</sup> Among other things, charter schools must submit annual financial reports,<sup>35</sup> provide for an annual financial audit,<sup>36</sup> and submit to the sponsor monthly financial statements.<sup>37</sup> A charter school's annual financial audit must include any findings regarding material weaknesses in internal control; significant deficiencies in internal control; violations of law, contract provisions, or grant agreements; or abuse that may have a material effect on the charter school's financial statements.<sup>38</sup> Like traditional public schools, charter school students must take the Florida Comprehensive Assessment Test (FCAT) and statewide standardized end-of-course assessments and charter schools are graded annually.<sup>39</sup>

### Effect of Proposed Changes

The bill establishes high-performing charter school and high-performing charter school system qualifications and benefits to reward these schools and systems for exemplary academic performance and financial management. Additionally, the bill revises charter school application review, appeal, and applicant training requirements; revises due process requirements for charter termination and nonrenewal; authorizes new enrollment preferences; and requires DOE to review various issues related to charter school funding.

### High-Performing Charter Schools

#### *Qualifications*

The bill establishes qualifications enabling charter schools to receive "high-performing charter school" status. A high-performing charter school is a charter school that during each of the three previous years:

- Receives at least two school grades of "A" and no school grade below "B;"
- Has received an unqualified opinion<sup>40</sup> on each annual financial audit; and
- Has not received an annual financial audit that reveals a financial emergency condition.<sup>41</sup>

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<sup>32</sup> Email, Agency for Work Force Innovation, Office of Early Learning (March 9, 2011). These charter schools are listed in the Agency for Workforce Innovation's (AWI) provider database as public school providers. According to AWI, some charter schools may be providing the program as private providers; however, AWI's current data collection practices do not include a data element for distinguishing charter schools from other private providers. *Id.*

<sup>33</sup> See s. 1002.33(10)(b) and (d), F.S.

<sup>34</sup> Sections 218.39, 218.503, 1002.33, and 1002.345, F.S.

<sup>35</sup> Sections 1002.33(9)(g), F.S.

<sup>36</sup> Sections 218.39(1)(e) and (f) and 1002.33(9)(j)1. and 2., F.S.

<sup>37</sup> Sections 1002.33(9)(g), F.S.

<sup>38</sup> Section 10.856(2)(b)2.c., Rules of the Auditor General.

<sup>39</sup> Sections 1002.33(7)(a)4. and (9)(k)1., F.S. All public schools, including charter schools, which have at least 30 students with valid FCAT scores in reading for the current and prior years and at least 30 students with valid FCAT scores in mathematics for the current and prior years are assigned a school grade. Section 1008.34(3)(a)1., F.S.; rule 6A-1.09981(4), F.A.C.

<sup>40</sup> An unqualified audit opinion means that the charter school's financial statements are materially correct. Telephone interview with Florida Auditor General staff (Mar. 24, 2011).

<sup>41</sup> 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.

The Commissioner of Education, upon request by a charter school, must verify that the school meets the qualifications and provide a letter of eligibility to both the school and sponsor. Of the 274 charter schools that received a school grade in the 2009-10 school year, 83 schools received a school grade of “A” and 128 schools received a grade of “A” or “B” for three consecutive years.<sup>42</sup> Of 370 charter school audit reports for FY 2008-09 reviewed by the Florida Auditor General, audit reports for 174 charter schools contained no audit findings, while audit reports for 196 charter schools included a total of 503 findings.<sup>43</sup> Of the 196 charter schools for which audit reports included findings, auditors for 52 charter schools reported the school as meeting one or more of the statutory financial emergency conditions.<sup>44</sup> Fifteen of these schools were in their first year of operation.<sup>45</sup>

### *Benefits*

The bill authorizes high-performing charter schools to take advantage of various benefits. A high performing charter school may:

- Increase the school’s enrollment once per year by up to 25 percent of the maximum enrollment specified in the charter.
- Expand grade levels within kindergarten through grade 12 to add grade levels not already served, provided that any resulting increase in enrollment does not exceed the 25 percent limitation.
- Submit quarterly, rather than monthly, financial statements to its sponsor.
- Receive a 15-year charter.

The 15-year charter is subject to annual review by the sponsor and may be terminated for grounds currently specified in statute.<sup>46</sup> A high-performing charter school may not increase enrollment or expand grade levels following any year in which it receives a school grade of “C.” If it receives a school grade of “C” in any two years during the term of the 15-year charter, the term of the charter must be modified by the sponsor and the charter school loses “high-performing” status. High-performing charter school status may be regained by the school only after meeting the eligibility requirements in a new three-year cycle. Thus, high-performing charter schools must sustain exemplary academic performance or risk losing the benefits of “high-performing” status.

Flexibility to increase enrollment and expand grade levels will enable high-performing charter schools to serve more students. The 15-year charter will assist these schools in making long-term investments to improve facilities and educational programs. Submission of quarterly rather than monthly financial statements recognizes the school’s track record of exemplary financial management and reduces the administrative burden associated with the financial monitoring process.

As an additional benefit, a high-performing charter school may submit an application in any Florida school district to establish and operate a new charter school that substantially replicates its educational program. The application must indicate that the charter school is “high-performing” and include the commissioner’s eligibility letter. The reasons a sponsor may deny the application are limited by the bill and denial may be appealed directly to the state board. Enabling high-performing charter schools to replicate will facilitate the statewide expansion of successful charter school models.

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<sup>42</sup> Email, Florida Department of Education, Office of Independent Education and Parental Choice (March 17, 2011).

<sup>43</sup> Florida Auditor General, *Report on Significant Financial Trends and Findings Identified in Charter School and Charter Technical Career Center 2008-09 Fiscal Year Audit Reports*, No. 2011-027, at 5 (Oct. 2010), available at, [http://www.myflorida.com/audgen/pages/pdf\\_files/2011-027.pdf](http://www.myflorida.com/audgen/pages/pdf_files/2011-027.pdf).

<sup>44</sup> *Id.* at 3. 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; or a fund balance or total net assets deficit. Section 218.503(1), F.S.

<sup>45</sup> *Id.*

<sup>46</sup> See *supra* text accompanying note 21 (grounds for termination or nonrenewal of charter).

The number of new charter schools that a high-performing charter school may establish is limited to one in any given year. A high-performing charter school may not utilize this process to establish an additional charter school unless all schools previously established in this manner achieve high-performing charter school status. Thus, a high-performing charter school must demonstrate that each charter school it establishes is “high-performing” before establishing an additional school. These limitations increase the likelihood that a high-performing charter school will devote the resources necessary to establish and maintain these schools at a high level of academic and financial performance.

## High-Performing Charter School Systems

### *Qualifications*

The bill establishes qualifications for high-performing charter school system status. A high-performing charter school system is a system of charter schools operated by a municipality or other public entity that is authorized by law to operate a charter school or a private, not-for-profit, s. 501(c)(3) status corporation that:

- Includes at least three high-performing charter schools in Florida, as defined in the bill;
- Operates a system of charter schools in which, during each of the previous three years, at least 50 percent of the system’s schools received a school grade of “A” with no charter school graded below “B;” and
- Has not received an annual financial audit that revealed a financial emergency condition for any charter school operated by the entity in Florida.

Upon request by the system, the Commissioner of Education must verify compliance with the eligibility requirements and provide a letter of eligibility to the system. If the system has assumed operation of a public school graded “C” or below, such a school is not considered in determining high-performing charter school system status, provided that the school improves by one letter grade each year until it receives at least a “B.”

### *Benefits*

A high-performing charter school system may submit an application in any Florida school district to establish and operate a new charter school that will replicate one of the system’s existing high-performing charter schools. The application must indicate that the charter school system is “high-performing” and include the commissioner’s eligibility letter. The reasons an application may be denied are limited by the bill and denial may be appealed directly to the state board. Enabling high-performing charter school systems to replicate the system’s high-performing charter schools will facilitate the statewide expansion of successful charter school models.

## Charter School Applications

A charter school application submitted by a high-performing charter school or high-performing charter school system may only be denied if clear and convincing evidence demonstrates:

- Material noncompliance with application requirements related to curricula, student learning goals, reading instruction, and financial management;
- Material noncompliance with law requiring charter schools to be nonsectarian; comply with student enrollment requirements; be accountable to the sponsor; be tuition free; and meet state and local health, safety, and civil rights requirements;
- That the proposed charter school does not substantially replicate one of the applicant’s high-performing charter schools;
- That the applicant misrepresented important facts or concealed information during the application process; or
- The proposed charter school’s educational program, financial management practices, or method

of doing business do not comply with the charter school statute.

The bill defines “material noncompliance” as a failure to follow requirements or a violation of prohibitions applicable to charter school applications which is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance.

If an application submitted by a high-performing charter school or high-performing charter school system is denied, the sponsor must provide the applicant and DOE with a letter of denial stating its reasoning with supporting documentation. If the applicant appeals, review by the Charter School Appeals Commission is bypassed, and the appeal goes directly to the state board. The state board must independently review whether the sponsor based its decision upon the denial criteria established by the bill. The heightened standards for application review and appeals will increase the likelihood that applications proposing high-performing charter school models will not be denied for nonmaterial reasons.

If the sponsor fails to act on an application submitted by a high-performing charter school or high-performing charter school system within 60 days of submission, the application is deemed approved. The applicant and sponsor must then enter into charter negotiations.

For all charter school applications, the bill requires a sponsor to allow the applicant at least 7 days to correct technical deficiencies, such as typographical errors or missing signatures, if such deficiencies are identified as cause to deny the application. This will decrease the likelihood that charter school applications will be denied based upon technical matters.

Currently, charter school applicants are required to attend training before submitting an application to establish a new charter school. If the applicant is a management company or nonprofit organization, the charter school principal and chief financial officer must participate in the training. The bill requires the principal and chief financial officer to attend this training before the opening of the school, rather than before the application is filed. This change is made because charter school principals and chief financial officers are typically not hired until after the charter school application has been filed and approved.

#### Charter Termination or Nonrenewal

Currently, a charter school’s governing board may request an informal hearing by the sponsor when the sponsor moves to terminate or not renew its charter. The sponsor’s decision may be appealed to the state board. The bill eliminates the informal hearing process and requires the sponsor to provide a formal hearing, if requested by a charter school’s governing board. The sponsor may choose to provide either a direct hearing or a hearing before an administrative law judge. A final order on termination or nonrenewal is appealable to the District Court of Appeals (DCA). These new due process procedures will better protect a charter school’s contract rights under the charter and reduce the likelihood of arbitrary charter terminations.

Florida law currently authorizes a sponsor to immediately terminate a charter based upon good cause or if continued operation of the school threatens student health, safety, or welfare. Written notice of termination must be provided to the charter school’s governing board and principal and to DOE. No hearing is required for immediate terminations, but the sponsor’s decision may be appealed to the state board. The bill eliminates the “good cause” standard for immediate termination and instead requires a sponsor to state in the written notice specific facts indicating a danger to student health, safety, and welfare. The bill requires a sponsor to provide a formal hearing, if requested by the charter school’s governing board. The hearing may occur after termination and is appealable to the DCA. Thus, a sponsor must state specific reasons for immediately terminating a charter and the validity of the termination will be vetted during a formal hearing.

As in current law, the sponsor must assume operation of a school following an immediate termination, unless continued operation of the charter school would materially threaten student health, safety, or welfare. The bill authorizes attorney’s fees and costs to the charter school if the sponsor fails to assume

operation of the school and the charter school prevails on appeal. This change increases the likelihood that the sponsor will assume operation of the school while the appeal is pending, thereby reducing the disruption imposed upon students at the school.

### Enrollment Preferences

The bill authorizes a charter school-in-the-workplace to give an enrollment preference to children whose parents are employees of the school's business partner and children whose parents are residents of the municipality in which the school is located. Likewise, the bill authorizes a charter school-in-a-municipality to give an enrollment preference to children whose parents are residents of the municipality in which the school is located. Currently, a charter school-in-the-workplace may limit enrollment exclusively to children of employees and a charter school-in-a-municipality may limit enrollment exclusively to children of residents. The bill enables these charter schools to give a preference to these children, while still allowing other children to enroll in the school.

Additionally, the bill authorizes charter schools to give an enrollment preference to children who complete a VPK program provided by the charter school or the school's governing board during the previous year. Currently, such children must reapply for admission and participate in the random lottery in order to enroll in kindergarten at the charter school. The enrollment preference will enable these children to articulate directly into kindergarten at the charter school without reapplying and participating in the random lottery.

### Charter School Funding Study

The bill directs DOE to:

- Identify school districts that distribute to charter schools funds generated by millage for capital improvements and the use of such funds by charter schools.
- 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.
- Examine the distribution of federal education funding to eligible students who are enrolled in charter schools.

DOE must report its findings to the Governor and Legislature by January 1, 2012.

### 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 these 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:** Creating s. 1002.331, F.S.; establishing high-performing charter school status; providing eligibility criteria; requiring the Commissioner of Education to verify eligibility; requiring written notice of eligibility; providing benefits; establishing accountability requirements.

**Section 2:** Creating s. 1002.332, F.S.; establishing high-performing charter school system status; providing eligibility criteria; requiring the Commissioner of Education to verify eligibility; requiring written notice of eligibility; providing benefits.

**Section 3:** Amending s. 1002.33, F.S., relating to charter schools; revising application requirements; revising appeal procedures; revising the required elements of a charter; revising due process

procedures for charter terminations or nonrenewal; revising financial reporting requirements; authorizing enrollment preferences; correcting a cross reference.

**Section 4:** Requiring DOE to examine funding issues and report findings to the Governor and Legislature.

**Section 5:** Providing an effective date of July 1, 2011.

## 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:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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

On March 28, 2011, the K-20 Innovation Subcommittee adopted one amendment and reported the Proposed Committee Bill favorably. The amendment removes bill provisions granting Academically High-Performing School Districts that meet certain criteria final authority to approve or deny charter school applications.