

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 903 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		Beagle	Sherry

SUMMARY ANALYSIS

The bill revises state law regarding charter schools. The bill increases the accountability of charter schools by:

- Requiring the Commissioner of Education to annually determine a high-performing charter school's, or high-performing charter school system's, continued eligibility for "high-performing" status. A high-performing charter school or charter school system that fails to meet eligibility criteria will lose its classification as "high-performing."
- Prohibiting a sponsor from renewing a charter school's charter if the school has received two school grades of "F" within the three year period prior to renewal. In addition, the bill requires the sponsor to terminate a charter if the school receives two school grades of "F" in any three-year period.
- Requiring each charter school to maintain a website with information or online links to information regarding any entity who owns, operates, or manages the school and any management fees the school pays to such entity.

The bill also:

- Authorizes Florida College System institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12.
- Requires a sponsor to distribute a charter school's share of federal funds directly to the school, unless otherwise mutually agreed to by the charter school and sponsor.

The bill does not have fiscal impact on state of local governments. See Fiscal Comments.

The bill takes effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter Schools

Charter schools¹ are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”² The charter exempts the school from many regulations applicable to traditional public schools in order to encourage the use of innovative learning methods.³ One of the guiding principles of charter schools is to meet high standards of student achievement and increase parental choice and student learning opportunities.⁴

A charter school may be sponsored by a district school board or, in the case of a charter lab school, by a state university.⁵ Each charter school is administered by a governing board.⁶ State universities, Florida College System (FCS) institutions, municipalities, and private, nonprofit 501(c)(3) status organizations⁷ may operate a charter school.⁸

Florida College System Institution Charter Schools

Present Situation

Florida College System (FCS) institutions are statutorily authorized to, in cooperation with the school board or boards within the institution’s service area, develop charter schools that offer secondary education and allow students to obtain an associate’s degree upon graduation from high school. Students have full access to all college facilities, activities, and services. FCS institution charter schools may not serve students in the primary grades.⁹

Effect of Proposed Changes

Currently, FCS institution charter schools may only serve students in the secondary grades. The bill adds provisions authorizing FCS institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12. This will enable FCS institutions to use these charter schools as teaching labs for prospective teachers enrolled in their teacher preparation programs.

¹ In the 2011-12 school year, there are 525 charter schools were operating in 44 of Florida’s 67 school districts and at two state universities. Charter schools currently serve 178,892 students. Florida Department of Education, *Charter Schools Funding Report*, at 1 (Jan. 1, 2012)(on file with the committee).

² Section 1002.33(7), F.S.

³ Section 1002.33(2) and (16), F.S.

⁴ Section 1002.33(2), F.S.

⁵ Section 1002.33(5)(a), F.S.

⁶ Section 1002.33(9)(h)-(j), F.S.

⁷ 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).

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

⁹ Section 1002.33(5)(b)4., F.S. There are six FCS institution charter schools operating in Florida: Okaloosa-Walton Community College (OWCC): OWCC Collegiate High School in Okaloosa County; St. Petersburg College: St. Petersburg Collegiate Charter School in Pinellas County; Polk Community College (PCC): PCC Collegiate Charter School and PCC Chain of Lakes Collegiate High School in Polk County; Indian River Community College-Chastain Campus: Clark Advanced Learning Center in Martin County; Edison State College: Edison Collegiate High School in Charlotte County. Review of community college websites (January 26, 2012).

High-Performing Charter Schools and Charter School Systems

Present Situation

Legislation enacted in 2011 established criteria for identifying charter schools and charter school systems with a track record of exemplary academic performance and financial stability. 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 opinion¹⁰ on each annual financial audit; and
- Has not received an annual financial audit that reveals a financial emergency condition.¹¹

A high-performing charter school system (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, a private, not-for-profit, s. 501(c)(3) status corporation, or a private for-profit corporation that:

- Includes at least three high-performing charter schools in Florida, as defined in the bill;
- Has at least 50 percent of its charter schools designated as “high-performing” with no charter school receiving a school grade of “D” or “F;” and
- Has not received an annual financial audit that revealed a financial emergency condition for any charter school operated by the entity in Florida.

In order to receive “high-performing” status, a charter school or charter school system must request verification by the Commissioner of Education that the school meets the eligibility requirements.¹²

Among other benefits,¹³ a high-performing charter may, at its option, receive a 15-year charter. The law provides for removal of a charter school’s “high-performing” status if it receives a school grade of “C” in any two years during the term of the 15-year charter.¹⁴ However, because loss of high-performing status is tied to the 15-year charter, it is unclear whether criteria exist for revoking “high-performing” status if such a charter school does not opt to receive a 15-year charter. The law is also silent regarding removal of “high-performing” status if a charter school receives a “qualified opinion” on an annual audit, or an audit revealing a financial emergency condition.

Additionally, the law does not provide a process for annually reviewing a charter school’s, or charter school system’s, continued eligibility for “high-performing” status. Nor does it specify a process for removing the status if a school or system is no longer eligible.¹⁵

Effect of Proposed Changes

The bill requires the commissioner to annually determine a charter school’s, or charter school system’s, continued eligibility for “high-performing” status. A high-performing charter school or charter school system may maintain its “high-performing” status, unless the commissioner determines that the charter

¹⁰An unqualified audit opinion means that the charter school’s financial statements are materially correct. Telephone interview with Florida Auditor General staff (Mar. 24, 2011).

¹¹ Section 1002.331(1), F.S.; ss. 1 and 2, ch. 2011-232, L.O.F. 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. 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). Section 1002.345(1)(a)3., F.S.

¹² Section 1002.332(1), F.S.

¹³ Additional high-performing charter school benefits include expansion of enrollment by 15 percent annually and expansion of grade levels served, and replication of its school model in any district in the state, if specified requirements are met. Section 1002.331, F.S.

¹⁴ Section 1002.331(4), F.S.

¹⁵ See ss. 1002.331 and 1002.332, F.S.

school or system no longer meets eligibility criteria. If a high-performing charter school or system fails to meet eligibility criteria, the commissioner must notify the school or system of its declassification as “high-performing.”

For high-performing charter schools, these provisions replace existing law stating that a high-performing charter school loses “high-performing” status if it receives a school grade of “C” in any two years during the term of the 15-year charter. These changes establish clearer standards for reviewing continued eligibility for “high-performing” status and for declassifying high-performing charter schools and systems that fail to meet eligibility criteria.

Charter School Accountability

Present Situation

Charter schools are subject to the same academic accountability requirements applicable to traditional public schools.¹⁶ Charter school students must participate in statewide assessments.¹⁷ Charter schools receive school grades and are subject to Florida’s system of school improvement and intervention.¹⁸

State law prescribes certain interventions to improve student performance at charter schools graded “D” for two consecutive years or “F.”¹⁹ The sponsor of such a charter school must require the governing board to implement a school improvement plan to improve student performance the following year.²⁰ If poor performance persists, the sponsor must place the school on probation and require it to take one of the following corrective actions:

- Contract with an outside provider to provide educational services at the school;
- Reorganize the school, make necessary staffing changes, and implement a plan that addresses the causes of inadequate progress; or
- Reconstitute the school.

The school must continue with corrective action until student performance improves.²¹ The director and a representative of any charter school that has submitted a school improvement plan or has been put on probation must appear before its sponsor at least once a year to inform the sponsor of the corrective strategies being implemented to improve student performance in accordance with the school improvement plan. At this meeting and in writing, the sponsor must communicate the services that will be provided to help the school address any deficiencies.²² If poor performance persists, the sponsor may terminate the school’s charter.²³

Additionally, charter schools that fail to meet federal accountability requirements, i.e., adequate yearly progress (AYP), for two consecutive years are also required to implement differentiated accountability interventions.²⁴ Under differentiated accountability, such a school is placed in one of six categories based upon the school’s grade, progress towards AYP, and declines in student performance. A school’s categorization determines the type and intensity of the intervention and whether the

¹⁶ Section 1002.33(16)(a)2., F.S.

¹⁷ Section 1008.22(3), F.S. Statewide assessments include the Florida Comprehensive Assessment Test (FCAT) and state standardized end-of-course examinations. Section 1008.22(3)(c), F.S.

¹⁸ Sections 1002.33(7)(a)4. and (16)(a)2., 1008.33, and 1008.34(3), F.S.; 20 U.S.C. s. 6311(2)(B), (C), and (K). A charter school that is classified as an alternative school receives a school improvement rating in lieu of a school grade. Section 1008.341, F.S.

¹⁹ See s. 1002.33(9)(n)-(p), F.S. If a charter school receives a school grade of “D,” the school’s director and a representative of the governing board must appear before the sponsor at least once a year to address any noted deficiencies. At this meeting and in writing, the sponsor must communicate what services will be provided to help the school address these deficiencies. The governing board must work with the sponsor to improve the school’s academic performance. Section 1002.33(9)(n), F.S.

²⁰ Section 1002.33(9)(o), F.S.

²¹ Section 1002.33(9)(o)2., F.S.

²² Section 1002.33(9)(p), F.S.

²³ Section 1002.33(8) and (9)(o)3., F.S.

²⁴ 20 U.S.C. s. 6316(b); s. 1008.33(3)(b) and (4), F.S.; rule 6A-1.099811(3), F.A.C. These schools are classified as “schools in need of improvement” under the federal No Child Left Behind Act of 2001. 20 U.S.C. s. 6316(b).

intervention is directed by the school, school district, or Florida Department of Education (DOE). Schools placed in the lowest performing categories are subject to the most intensive interventions and may be restructured if initial interventions fail to improve student performance at the school.²⁵

In addition to these accountability requirements, a charter school's charter may be terminated or not renewed by the sponsor 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.²⁶

The sponsor must provide a charter school with a formal hearing regarding termination or nonrenewal of its charter, 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).²⁷

Effect of Proposed Changes

Currently, sponsors may terminate or not renew the charters of failing charter schools; however, this authority is discretionary and is not always exercised when school improvement interventions do not improve the performance of failing charter schools. The bill prohibits a sponsor from renewing a charter school's charter if the school has received two grades of "F" within the three year period prior to renewal. In addition, the bill requires the sponsor to terminate a charter school's charter if the school receives two grades of "F" in any three-year period. This provision ensures that, when school improvement interventions do not result in improved student academic performance, failing charter schools are closed by the sponsor.

Public Information Regarding Charter Schools

Present Situation

State law requires dissemination of information to the public regarding charter school performance. DOE must annually provide a statewide analysis and comparison of charter school students and traditional public school students. The comparison is based upon the academic performance of charter school students as measured by the statewide assessment program and information reported in each school's annual progress report.²⁸

Charter schools with less than 30 students do not receive school grades because at least 30 students are required in order to obtain a valid sample size for school grading purposes.²⁹ DOE must report student assessment data to these charter schools, which in turn must report the data to parents of students attending the charter school, parents of children on the charter school's waiting list, the district in which the charter school is located, and the governing board of the charter school.³⁰

²⁵ Section 1008.33(3)(b), (4), and (5)(a), F.S.; rule 6A-1.099811(3), F.A.C.; see Florida Department of Education, *Differentiated Accountability Strategies for Charter Schools*, Form DA-5 (June 2010), http://www.flbsi.org/pdf/Final%202010-2011%20Strategies%20and%20Support%20Document%20for%20Charter%20Schools_June_18.pdf.

²⁶ Section 1002.33(8)(a), F.S.

²⁷ Section 1002.33(8)(b)-(c), F.S.

²⁸ Section 1002.33(23), F.S.

²⁹ See rule 6A-1.09981(4)(a) and (b), F.A.C.

³⁰ Section 1002.33(21)(b), F.S. Student performance data reporting requirements for ungraded and unrated charter schools apply only to schools with at least 10 students who are tested on statewide assessments. *Id.*

The charter school must post both student performance and comparison data on its internet website and also provide notice to the public at large. Reporting of data must comply with federal law governing education records privacy.³¹

Legislation enacted in 2011 required each charter school's governing board to appoint a representative to facilitate parental involvement, assist stakeholders, and resolve disputes. The representative must reside in the school district where the charter school is located and a separate representative must be appointed for each charter school it operates in the district. Each governing board must hold at least two open public meetings in the district per school year. The charter school principal and appointed representative must be physically present at these meetings. A sponsor may not require that governing board members reside in the district if the governing board complies with these requirements.³²

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.³³ The law does not require charter schools to maintain an internet website or post on a website information regarding entities who own, operate, or manage the charter school.

Effect of Proposed Changes

The bill requires each charter school to maintain an internet website that enables the public to obtain information regarding the school, its personnel, and its programs. The website must include information or online links to information regarding any entity who owns, operates, or manages the school, including any nonprofit or for-profit entity; the names of all governing officers and administrative personnel of the entity; and any management fees the school pays to the entity. The information or online links must be prominently displayed and easily accessible to visitors of the website. This change will provide greater transparency regarding for-profit management companies or other entities that manage a charter school's operations. Members of the public will also be able to access information regarding the fees a charter school pays to a management company.

Federal Funding of Charter Schools

Present Situation

A charter school is entitled to receive its proportionate share of funds for federally funded programs or services provided by the school.³⁴ Florida school districts act as the local education agency³⁵ for purposes of receiving federal funds. Thus, funds for federal entitlement programs, such as the Individuals with Disabilities Education Act (IDEA),³⁶ Title II programs for improving teacher quality,³⁷ and Title I programs for disadvantaged students,³⁸ are received by the school district, which must then distribute the proportionate share to eligible charter schools within the district.³⁹ According to the DOE,

³¹ Section 1002.33(21)(b), F.S.; see 20 U.S.C. s. 1232g.

³² Chapter 2011-232, L.O.F.; s. 1002.33(7)(d), F.S.

³³ Florida Department of Education, *Charter Schools – FAQs*,

https://www.floridaschoolchoice.org/information/charter_schools/faqs.asp (last visited Jan. 26, 2012).

³⁴ Section 1002.33(17)(c), F.S. Legislation enacted in 2009 provides for the inclusion of charter schools in DOE and school district requests for federal stimulus funds in the same manner as district public schools. Section 7, ch. 2009-214, L.O.F.; s. 1002.33(17)(d), F.S. Like other sources of federal funds, the charter school and its sponsor must collaborate to ensure compliance with any federal requirements placed on the use of stimulus funds. Email, Florida Department of Education, Legislative Affairs Director (July 30, 2010).

³⁵ The law authorizes systems of charter school that meet certain requirements to act as LEA for federal funding purposes. See s. 1002.33(

³⁶ 20 U.S.C. s. 1411(e).

³⁷ 20 U.S.C. ss. 6601-6641.

³⁸ 20 U.S.C. s. 6303(g).

³⁹ Section 1002.33(17)(c), F.S.

school districts either distribute federal funds to charter schools or provide services associated with the federal education program to charter schools.⁴⁰

Effect of Proposes Changes

The bill requires a sponsor to distribute a charter school's share of federal funds directly to the school, unless otherwise mutually agreed to by the charter school and sponsor. The sponsor is required to distribute the funds within 60 days of receipt. This change enables charter schools to choose to receive their federal funds directly from the sponsor instead of receiving services associated with the federal program from the sponsor. Charter schools that choose to receive the funds directly must expend these funds in accordance with the expenditure requirements of each federal program.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.33, F.S., relating to charter schools; authorizes a charter school operated by a FCS institution to serve students in kindergarten through grade 12 if certain criteria are met; requires a sponsor to terminate or not renew the charter of certain low-performing charter schools; requiring charter schools to maintain an internet website; requiring posting of information regarding any entity who owns, operates, or manages the school on the website; requiring that federal education funding be paid directly to a charter school, unless otherwise mutually agreed to by the charter school and sponsor.

Section 2. Amends s. 1002.331, F.S., relating to high-performing charter schools; requires the commissioner to annually review a high-performing charter school's eligibility for high-performing status; requires declassification of charter schools that fail to maintain eligibility.

Section 3. Amends s. 1002.332, F.S., relating to high-performing charter school systems; requires the commissioner to annually review a high-performing charter school system's eligibility for high-performing status; requires declassification of charter school systems that fail to maintain eligibility.

Section 4. Provides an effective date of July 1, 2012.

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:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

⁴⁰ Florida Department of Education, *Legislative Bill Analysis for HB 903(2012)*.

D. FISCAL COMMENTS:

Charter schools that choose to receive federal funds directly from the sponsor must expend such funds only for purposes authorized by the federal program. Additionally, each federal program has administrative and reporting requirements that must be met. Charter schools that do not have the infrastructure in place to administer federal program requirements may opt to have services provided to the school by the school district.

Charter schools that do not currently have a website might incur costs associated with website design and online hosting.

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

Not applicable.