

1 A bill to be entitled
 2 An act relating to capital outlay funding; amending s.
 3 1002.33, F.S.; conforming provisions to changes made
 4 by the act; amending s. 1011.71, F.S.; providing that
 5 charter schools are eligible for school districts
 6 discretionary millage for specified purposes; revising
 7 the approved uses of the discretionary millage;
 8 authorizing the acquisition of enterprise resource
 9 software through specified means; amending s. 1013.62,
 10 F.S.; providing that charter school capital outlay
 11 funds shall consist of specified funds; revising
 12 charter school eligibility criteria for capital outlay
 13 funds; providing a definition; revising the
 14 calculation methodology for state funds appropriated
 15 for charter school capital outlay; providing the
 16 calculation methodology for the distribution of
 17 specified revenue to eligible charter schools;
 18 revising the authorized uses of charter school capital
 19 outlay funds; amending s. 1013.64, F.S.; revising the
 20 calculation of capital outlay membership for
 21 allocations to school districts from the Public
 22 Education Capital Outlay and Debt Service Trust Fund;
 23 providing for the expenditure of funds; providing
 24 effective dates.
 25

26 Be It Enacted by the Legislature of the State of Florida:

27

28 Section 1. Subsection (19) and paragraph (a) of subsection
29 (20) of section 1002.33, Florida Statutes, are amended to read:

30 1002.33 Charter schools.—

31 (19) CAPITAL OUTLAY FUNDING.—Charter schools are eligible
32 for capital outlay funds pursuant to ss. 1011.71(2) and ~~§~~
33 1013.62. Capital outlay funds authorized in ss. 1011.71(2) and
34 1013.62 which have been shared with a charter school-in-the-
35 workplace prior to July 1, 2010, are deemed to have met the
36 authorized expenditure requirements for such funds.

37 (20) SERVICES.—

38 (a)1. A sponsor shall provide certain administrative and
39 educational services to charter schools. These services shall
40 include contract management services; full-time equivalent and
41 data reporting services; exceptional student education
42 administration services; services related to eligibility and
43 reporting duties required to ensure that school lunch services
44 under the National School ~~federal~~ Lunch Program, consistent with
45 the needs of the charter school, are provided by the school
46 district at the request of the charter school, that any funds
47 due to the charter school under the National School ~~federal~~
48 Lunch Program be paid to the charter school as soon as the
49 charter school begins serving food under the National School
50 ~~federal~~ Lunch Program, and that the charter school is paid at

51 | the same time and in the same manner under the National School
 52 | ~~federal~~ Lunch Program as other public schools serviced by the
 53 | sponsor or the school district; test administration services,
 54 | including payment of the costs of state-required or district-
 55 | required student assessments; processing of teacher certificate
 56 | data services; and information services, including equal access
 57 | to student information systems that are used by public schools
 58 | in the district in which the charter school is located. Student
 59 | performance data for each student in a charter school,
 60 | including, but not limited to, FCAT scores, standardized test
 61 | scores, previous public school student report cards, and student
 62 | performance measures, shall be provided by the sponsor to a
 63 | charter school in the same manner provided to other public
 64 | schools in the district.

65 | 2. A total administrative fee for the provision of such
 66 | services shall be calculated based upon up to 5 percent of the
 67 | available funds defined in paragraph (17)(b) for all students,
 68 | except that when 75 percent or more of the students enrolled in
 69 | the charter school are exceptional students as defined in s.
 70 | 1003.01(3), the 5 percent of those available funds shall be
 71 | calculated based on unweighted full-time equivalent students.
 72 | However, a sponsor may only withhold up to a 5-percent
 73 | administrative fee for enrollment for up to and including 250
 74 | students. For charter schools with a population of 251 or more
 75 | students, the difference between the total administrative fee

76 calculation and the amount of the administrative fee withheld
 77 may only be used for capital outlay purposes specified in s.
 78 1013.62(4) ~~1013.62(3)~~.

79 3. For high-performing charter schools, as defined in s.
 80 1002.331, a sponsor may withhold a total administrative fee of
 81 up to 2 percent for enrollment up to and including 250 students
 82 per school.

83 4. In addition, a sponsor may withhold only up to a 5-
 84 percent administrative fee for enrollment for up to and
 85 including 500 students within a system of charter schools which
 86 meets all of the following:

87 a. Includes both conversion charter schools and
 88 nonconversion charter schools;

89 b. Has all schools located in the same county;

90 c. Has a total enrollment exceeding the total enrollment
 91 of at least one school district in the state;

92 d. Has the same governing board; and

93 e. Does not contract with a for-profit service provider
 94 for management of school operations.

95 5. The difference between the total administrative fee
 96 calculation and the amount of the administrative fee withheld
 97 pursuant to subparagraph 4. may be used for instructional and
 98 administrative purposes as well as for capital outlay purposes
 99 specified in s. 1013.62(4) ~~1013.62(3)~~.

100 6. For a high-performing charter school system that also

101 meets the requirements in subparagraph 4., a sponsor may
 102 withhold a 2-percent administrative fee for enrollments up to
 103 and including 500 students per system.

104 7. Sponsors shall not charge charter schools any
 105 additional fees or surcharges for administrative and educational
 106 services in addition to the maximum 5-percent administrative fee
 107 withheld pursuant to this paragraph.

108 8. The sponsor of a virtual charter school may withhold a
 109 fee of up to 5 percent. The funds shall be used to cover the
 110 cost of services provided under subparagraph 1. and
 111 implementation of the school district's digital classrooms plan
 112 pursuant to s. 1011.62.

113 Section 2. Subsection (2) of section 1011.71, Florida
 114 Statutes, is amended to read:

115 1011.71 District school tax.—

116 (2) In addition to the maximum millage levy as provided in
 117 subsection (1), each school board may levy not more than 1.5
 118 mills against the taxable value for school purposes for ~~district~~
 119 ~~schools, including~~ charter schools pursuant to s. 1013.62(3) and
 120 for district schools ~~at the discretion of the school board,~~ to
 121 fund:

122 (a) New construction and remodeling projects, as set forth
 123 in s. 1013.64(3)(b) and (6)(b) and included in the district's
 124 educational plant survey pursuant to s. 1013.31, without regard
 125 to prioritization, sites and site improvement or expansion to

126 new sites, existing sites, auxiliary facilities, athletic
 127 facilities, or ancillary facilities.

128 (b) Maintenance, renovation, and repair of existing school
 129 plants or of leased facilities to correct deficiencies pursuant
 130 to s. 1013.15(2).

131 (c) The purchase, lease-purchase, or lease of school
 132 buses.

133 (d) The purchase, lease-purchase, or lease of computer and
 134 device ~~new and replacement equipment; computer hardware and~~
 135 operating system software, including electronic hardware and
 136 ~~other hardware devices~~ necessary for gaining access to or
 137 enhancing the use of electronic and digital instructional
 138 content and resources ~~or to facilitate the access to and the use~~
 139 ~~of a school district's digital classrooms plan pursuant to s.~~
 140 ~~1011.62, excluding software other than the operating system~~
 141 ~~necessary to operate the hardware or device; and enterprise~~
 142 resource software applications that are classified as capital
 143 assets in accordance with definitions of the Governmental
 144 Accounting Standards Board, have a useful life of at least 5
 145 years, and are used to support districtwide administration or
 146 state-mandated reporting requirements. Enterprise resource
 147 software may be acquired by annual license fees, maintenance
 148 fees, or lease agreements.

149 (e) Payments for educational facilities and sites due
 150 under a lease-purchase agreement entered into by a district

151 school board pursuant to s. 1003.02(1)(f) or s. 1013.15(2), not
 152 exceeding, in the aggregate, an amount equal to three-fourths of
 153 the proceeds from the millage levied by a district school board
 154 pursuant to this subsection. The three-fourths limit is waived
 155 for lease-purchase agreements entered into before June 30, 2009,
 156 by a district school board pursuant to this paragraph.

157 (f) Payment of loans approved pursuant to ss. 1011.14 and
 158 1011.15.

159 (g) Payment of costs directly related to complying with
 160 state and federal environmental statutes, rules, and regulations
 161 governing school facilities.

162 (h) Payment of costs of leasing relocatable educational
 163 facilities, of renting or leasing educational facilities and
 164 sites pursuant to s. 1013.15(2), or of renting or leasing
 165 buildings or space within existing buildings pursuant to s.
 166 1013.15(4).

167 (i) Payment of the cost of school buses when a school
 168 district contracts with a private entity to provide student
 169 transportation services if the district meets the requirements
 170 of this paragraph.

171 1. The district's contract must require that the private
 172 entity purchase, lease-purchase, or lease, and operate and
 173 maintain, one or more school buses of a specific type and size
 174 that meet the requirements of s. 1006.25.

175 2. Each such school bus must be used for the daily

176 transportation of public school students in the manner required
 177 by the school district.

178 3. Annual payment for each such school bus may not exceed
 179 10 percent of the purchase price of the state pool bid.

180 4. The proposed expenditure of the funds for this purpose
 181 must have been included in the district school board's notice of
 182 proposed tax for school capital outlay as provided in s.
 183 200.065(10).

184 (j) Payment of the cost of the opening day collection for
 185 the library media center of a new school.

186 Section 3. Section 1013.62, Florida Statutes, is amended
 187 to read:

188 1013.62 Charter schools capital outlay funding.-

189 (1) Charter school capital outlay funding shall consist of
 190 revenue resulting from the discretionary millage authorized in
 191 s. 1011.71(2) and state funds when such funds are appropriated
 192 in the General Appropriations Act ~~In each year in which funds~~
 193 ~~are appropriated for charter school capital outlay purposes, the~~
 194 ~~Commissioner of Education shall allocate the funds among~~
 195 ~~eligible charter schools as specified in this section.~~

196 (a) To be eligible to receive capital outlay funds ~~for a~~
 197 ~~funding allocation~~, a charter school must:

198 1. Use facilities that are:

199 a. Owned by a school district, political subdivision of
 200 the state, municipality, Florida College System institution, or

201 state university;

202 b. Owned by an organization, qualified as an exempt
 203 organization under s. 501(c)(3) of the Internal Revenue Code,
 204 whose articles of incorporation specify that upon the
 205 organization's dissolution the subject property will be
 206 transferred to a school district, political subdivision of the
 207 state, municipality, Florida College System institution, or
 208 state university; or

209 c. Owned by and leased, at a fair market value in the
 210 school district in which the charter school is located, from a
 211 person or entity that is not an affiliated party of the charter
 212 school. For purposes of this sub-subparagraph, the term
 213 "affiliated party of the charter school" means the applicant for
 214 the charter school pursuant to s. 1002.33; the governing board
 215 of the charter school or a member of the governing board; the
 216 charter school owner; the charter school principal; an employee
 217 of the charter school; an independent contractor of the charter
 218 school or the governing board of the charter school; a relative,
 219 as defined in s. 1002.33(24)(a)2., of a charter school governing
 220 board member, a charter school owner, a charter school
 221 principal, a charter school employee, or an independent
 222 contractor of a charter school or charter school governing
 223 board; a subsidiary corporation, a service corporation, an
 224 affiliated corporation, a parent corporation, a limited
 225 liability company, a limited partnership, a trust, a

226 partnership, or a related party, individually or through one or
 227 more entities that share common ownership or control, that
 228 directly or indirectly manages, administers, controls, or
 229 oversees the operation of the charter school; or any person or
 230 entity, individually or through one or more entities that share
 231 common ownership, that directly or indirectly manages,
 232 administers, controls, or oversees the operation of any of the
 233 foregoing.

234 2. Have been in operation for 2 or more years.

235 3. Have earned no more than two consecutive school grades
 236 lower than "B" unless the school serves a student population at
 237 least 50 percent of which is eligible for free or reduced-price
 238 school lunch under the National School Lunch Program or, for
 239 schools operating programs under the Community Eligibility
 240 Provision of the Health, Hunger-Free Kids Act of 2010, an
 241 equivalent percentage of the student population eligible for
 242 free and reduced-price meals as determined by applying the
 243 multiplier authorized under the National School Lunch Act, 42
 244 U.S.C. s. 1759a(a) (1) (F) (vii), to the number of students
 245 reported for direct certification.

246 ~~1.a. Have been in operation for 2 or more years;~~

247 ~~b. Be governed by a governing board established in the~~
 248 ~~state for 3 or more years which operates both charter schools~~
 249 ~~and conversion charter schools within the state;~~

250 ~~e. Be an expanded feeder chain of a charter school within~~

251 ~~the same school district that is currently receiving charter~~
 252 ~~school capital outlay funds;~~

253 ~~d. Have been accredited by the Commission on Schools of~~
 254 ~~the Southern Association of Colleges and Schools; or~~

255 ~~e. Serve students in facilities that are provided by a~~
 256 ~~business partner for a charter school in the workplace pursuant~~
 257 ~~to s. 1002.33(15)(b).~~

258 4.2. Have an annual audit that does not reveal any of the
 259 financial emergency conditions provided in s. 218.503(1) for the
 260 most recent fiscal year for which such audit results are
 261 available.

262 ~~3. Have satisfactory student achievement based on state~~
 263 ~~accountability standards applicable to the charter school.~~

264 5.4. Have received final approval from its sponsor
 265 pursuant to s. 1002.33 for operation during that fiscal year.

266 ~~6.5.~~ Serve students in facilities that are not provided by
 267 the charter school's sponsor.

268 (b) A charter school is not eligible to receive capital
 269 outlay funds ~~for a funding allocation~~ if it was created by the
 270 conversion of a public school and operates in facilities
 271 provided by the charter school's sponsor for a nominal fee, or
 272 at no charge, or if it is directly or indirectly operated by the
 273 school district.

274 ~~(2)(e)~~ The department shall use the following calculation
 275 methodology to allocate state funds appropriated in the General

276 Appropriations Act to eligible charter schools ~~The funding~~
 277 ~~allocation for eligible charter schools shall be calculated as~~
 278 ~~follows:~~

279 (a)1. Eligible charter schools shall be grouped into
 280 categories based on their student populations according to the
 281 following criteria:

282 1.a. Seventy-five percent or greater who are eligible for
 283 free or reduced-price school meals under the National School
 284 Lunch Program or, for schools operating programs under the
 285 Community Eligibility Provision of the Healthy, Hunger-Free Kids
 286 Act of 2010, an equivalent percentage of the student population
 287 eligible for free and reduced-price meals as determined by
 288 applying the multiplier authorized under the National School
 289 Lunch Act, 42 U.S.C. s. 1759a(a) (1) (F) (vii), to the number of
 290 students reported for direct certification ~~lunch.~~

291 2.b. Twenty-five percent or greater with disabilities as
 292 defined in state board rule and consistent with the requirements
 293 of the Individuals with Disabilities Education Act.

294 (b)2. If an eligible charter school does not meet the
 295 criteria for either category under paragraph (a) ~~subparagraph~~
 296 ~~1.~~, its FTE shall be provided as the base amount of funding and
 297 shall be assigned a weight of 1.0. An eligible charter school
 298 that meets the criteria under subparagraph (a)1. or subparagraph
 299 (a)2. sub-subparagraph 1.a. or sub-subparagraph 1.b. shall be
 300 provided an additional 25 percent above the base funding amount,

301 and the total FTE shall be multiplied by a weight of 1.25. An
 302 eligible charter school that meets the criteria under both
 303 subparagraphs (a)1. and (a)2. ~~sub-subparagraphs 1.a. and b.~~
 304 shall be provided an additional 50 percent above the base
 305 funding amount, and the FTE for that school shall be multiplied
 306 by a weight of 1.5.

307 (c)3. The state appropriation for charter school capital
 308 outlay shall be divided by the total weighted FTE for all
 309 eligible charter schools to determine the base charter school
 310 per weighted FTE allocation amount. The per weighted FTE
 311 allocation amount shall be multiplied by the weighted FTE to
 312 determine each charter school's capital outlay allocation.

313 (d)2)-(a) The department shall calculate the eligible
 314 charter school funding allocations. Funds shall be allocated
 315 using full-time equivalent membership from the second and third
 316 enrollment surveys and free and reduced-price school meals under
 317 the National School Lunch Program data. The department shall
 318 recalculate the allocations periodically based on the receipt of
 319 revised information, on a schedule established by the
 320 Commissioner of Education.

321 (e)-(b) The department shall distribute capital outlay
 322 funds monthly, beginning in the first quarter of the fiscal
 323 year, based on one-twelfth of the amount the department
 324 reasonably expects the charter school to receive during that
 325 fiscal year. The commissioner shall adjust subsequent

326 distributions as necessary to reflect each charter school's
 327 recalculated allocation.

328 (3) If the school board levies the discretionary millage
 329 authorized in s. 1011.71(2), the department shall use the
 330 following calculation methodology to determine the amount of
 331 revenue that a school district must distribute to each eligible
 332 charter school:

333 (a) Reduce the total discretionary millage revenue by the
 334 school district's annual debt service obligation incurred as of
 335 March 1, 2017.

336 (b) Divide the school district's adjusted discretionary
 337 millage revenue by the district's total capital outlay full-time
 338 equivalent membership and the total number of unweighted full-
 339 time equivalent students of each eligible charter school to
 340 determine a capital outlay allocation per full-time equivalent
 341 student.

342 (c) Multiply the capital outlay allocation per full-time
 343 equivalent student by the total number of full-time equivalent
 344 students of each eligible charter school to determine the
 345 capital outlay allocation for each charter school.

346 (d) If applicable, reduce the capital outlay allocation
 347 identified in paragraph (c) by the total amount of state funds
 348 allocated to each eligible charter school in subsection (2) to
 349 determine the maximum calculated capital outlay allocation.

350 (e) School districts shall distribute capital outlay funds

351 to charter schools no later than February 1 of each year,
 352 beginning on February 1, 2018, for the 2017-2018 fiscal year.

353 (4)-(3) A charter school's governing body may use charter
 354 school capital outlay funds for the following purposes:

355 (a) Purchase of real property.

356 (b) Construction of school facilities.

357 (c) Purchase, lease-purchase, or lease of permanent or
 358 relocatable school facilities.

359 (d) Purchase of vehicles to transport students to and from
 360 the charter school.

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

364 ~~(f) Effective July 1, 2008, purchase, lease-purchase, or~~
 365 ~~lease of new and replacement equipment, and enterprise resource~~
 366 ~~software applications that are classified as capital assets in~~
 367 ~~accordance with definitions of the Governmental Accounting~~
 368 ~~Standards Board, have a useful life of at least 5 years, and are~~
 369 ~~used to support schoolwide administration or state-mandated~~
 370 ~~reporting requirements.~~

371 (f)-(g) Payment of the cost of premiums for property and
 372 casualty insurance necessary to insure the school facilities.

373 (g)-(h) Purchase, lease-purchase, or lease of driver's
 374 education vehicles; motor vehicles used for the maintenance or
 375 operation of plants and equipment; security vehicles; or

376 vehicles used in storing or distributing materials and
 377 equipment.

378 (h) Purchase, lease-purchase, or lease of computer and
 379 device hardware and operating system software necessary for
 380 gaining access to or enhancing the use of electronic and digital
 381 instructional content and resources; and enterprise resource
 382 software applications that are classified as capital assets in
 383 accordance with definitions of the Governmental Accounting
 384 Standards Board, have a useful life of at least 5 years, and are
 385 used to support schoolwide administration or state-mandated
 386 reporting requirements. Enterprise resource software may be
 387 acquired by annual license fees, maintenance fees, or lease
 388 agreement.

389 (i) Payment of the cost of the opening day collection for
 390 the library media center of a new school.

391
 392 Conversion charter schools may use capital outlay funds received
 393 through the reduction in the administrative fee provided in s.
 394 1002.33(20) for renovation, repair, and maintenance of school
 395 facilities that are owned by the sponsor.

396 (5)-(4) If a charter school is nonrenewed or terminated,
 397 any unencumbered funds and all equipment and property purchased
 398 with district public funds shall revert to the ownership of the
 399 district school board, as provided for in s. 1002.33(8)(e) and
 400 (f). In the case of a charter lab school, any unencumbered funds

401 and all equipment and property purchased with university public
 402 funds shall revert to the ownership of the state university that
 403 issued the charter. The reversion of such equipment, property,
 404 and furnishings shall focus on recoverable assets, but not on
 405 intangible or irrecoverable costs such as rental or leasing
 406 fees, normal maintenance, and limited renovations. The reversion
 407 of all property secured with public funds is subject to the
 408 complete satisfaction of all lawful liens or encumbrances. If
 409 there are additional local issues such as the shared use of
 410 facilities or partial ownership of facilities or property, these
 411 issues shall be agreed to in the charter contract prior to the
 412 expenditure of funds.

413 (6)~~(5)~~ The Commissioner of Education shall specify
 414 procedures for submitting and approving requests for funding
 415 under this section and procedures for documenting expenditures.

416 (7)~~(6)~~ The annual legislative budget request of the
 417 Department of Education shall include a request for capital
 418 outlay funding for charter schools. The request shall be based
 419 on the projected number of students to be served in charter
 420 schools who meet the eligibility requirements of this section.

421 Section 4. Effective upon this act becoming a law,
 422 paragraphs (a), (b), and (c) of subsection (3) of section
 423 1013.64, Florida Statutes, are amended to read:

424 1013.64 Funds for comprehensive educational plant needs;
 425 construction cost maximums for school district capital

426 projects.—Allocations from the Public Education Capital Outlay
 427 and Debt Service Trust Fund to the various boards for capital
 428 outlay projects shall be determined as follows:

429 (3) (a) Each district school board shall receive an amount
 430 from the Public Education Capital Outlay and Debt Service Trust
 431 Fund to be calculated by computing the capital outlay membership
 432 as determined by the department. Such membership must include,
 433 but is not limited to, prekindergarten through grade 12+

434 1. K-12 students whose instruction is funded by the
 435 Florida Education Finance Program and prekindergarten
 436 ~~exceptional students~~ for whom the school district provides the
 437 educational facility, ~~except hospital- and homebound part-time~~
 438 ~~students; and~~

439 ~~2. Students who are career education students, and adult~~
 440 ~~disabled students and who are enrolled in school district career~~
 441 ~~centers.~~

442 (b) The capital outlay full-time equivalent membership
 443 shall be determined ~~for prekindergarten exceptional education~~
 444 ~~students, kindergarten through the 12th grade, and for career~~
 445 ~~centers~~ by counting the reported unweighted full-time equivalent
 446 student membership for the second and third surveys with each
 447 survey limited to 0.5 full-time equivalent student membership
 448 per student and comparing the results on a school-by-school
 449 basis with the Florida Inventory of School Houses. Funds
 450 accruing to a district school board from the provisions of this

451 section shall be expended on needed projects as shown by survey
452 or surveys under the rules of the State Board of Education. ~~If~~
453 ~~the prior academic year's third survey count is higher than the~~
454 ~~current year's second survey count when comparing the results on~~
455 ~~a school-by-school basis with the Florida Inventory of School~~
456 ~~Houses, the prior year's third survey count shall be used on a~~
457 ~~school-by-school basis for determining the current capital~~
458 ~~outlay membership. The Florida Inventory of School Houses shall~~
459 ~~be updated with the current capital outlay membership count as~~
460 ~~soon as practicable after verification of the capital outlay~~
461 ~~membership.~~

462 (c) The capital outlay full-time equivalent membership by
463 grade level organization shall be used in making calculations.
464 The capital outlay full-time equivalent membership by grade
465 level organization for the 4th prior year must be used to
466 compute the base-year allocation. The capital outlay full-time
467 equivalent membership by grade-level organization for the prior
468 year must be used to compute the growth over the highest of the
469 3 years preceding the prior year. From the total amount
470 appropriated by the Legislature pursuant to this subsection, 40
471 percent shall be allocated among the base capital outlay full-
472 time equivalent membership and 60 percent among the growth
473 capital outlay full-time equivalent membership. The allocation
474 within each of these groups shall be prorated to the districts
475 based upon each district's percentage of base and growth capital

476 outlay full-time equivalent membership. The most recent 4-year
477 capital outlay full-time equivalent membership data shall be
478 used in each subsequent year's calculation for the allocation of
479 funds pursuant to this subsection. If a change, correction, or
480 recomputation of data during any year results in a reduction or
481 increase of the calculated amount previously allocated to a
482 district, the allocation to that district shall be adjusted
483 accordingly. If such recomputation results in an increase or
484 decrease of the calculated amount, such additional or reduced
485 amounts shall be added to or reduced from the district's future
486 appropriations. However, no change, correction, or recomputation
487 of data shall be made subsequent to 2 years following the
488 initial annual allocation.

489 Section 5. Except as otherwise expressly provided in this
490 act and except for this section, which shall take effect upon
491 this act becoming a law, this act shall take effect July 1,
492 2017.