

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

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BILL: CS/SB 1470

INTRODUCER: Education Committee and Senator Diaz

SUBJECT: Charter Schools

DATE: April 15, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Sikes</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1470 renames the Charter School Appeal Commission to the Charter School Commission (CSC) and authorizes the CSC to review applications from specified entities and maintain duties related to charter application appeals. The bill also:

- Adds the CSC to requirements relating to sponsor review of charter applications.
- Requires the CSC to submit recommendations for approval or denial of specified charter applications to the State Board of Education (state board) for approval.
- Establishes a sponsor and applicant appeals process for CSC recommendations to approve or deny an application, and requires state board action on an appeal.

The bill also establishes penalties for specified charter school personnel or entities if:

- A sponsor chooses not to renew or to terminate a charter, or a charter school closes mid-year or within one year of beginning operations, except for closures due to consolidation.
- Such personnel or entities are convicted of a crime, including, but not limited to, fraud or financial offenses related to the operation of a charter school.

The bill does not have an impact on state expenditures or revenues. However, the CSC may have an increased workload as a result of the bill.

The bill takes effect July 1, 2019.

## II. Present Situation:

Charter schools are public schools that operate under a performance contract, or a “charter” which frees them from many regulations created for traditional public schools while holding them accountable for academic and financial results. The charter contract between the charter school governing board and the sponsor details the school’s mission, program, goals, students served, methods of assessment and ways to measure success.<sup>1</sup>

Under current law, a district school board may sponsor a charter school in the county over which the district school board has jurisdiction.<sup>2</sup> Additionally, a state university may grant a charter to a developmental research (laboratory) school<sup>3</sup> and must be considered to be the school’s sponsor.<sup>4</sup> Such school must be considered a charter lab school.<sup>5</sup>

### Charter School Application Process

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 the laws of this state.<sup>6</sup>

A sponsor receives and reviews all charter school applications<sup>7</sup> and, within 90 calendar days of receipt, must by majority vote approve or deny the application.<sup>8</sup> All charter applicants must prepare and submit an application on a standard application form prepared by the Department of Education, which:<sup>9</sup>

- Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.
- Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.
- Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.
- Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor must deny an application if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.
- Contains an annual financial plan for each year requested by the charter for operation of the school for up to five years. This plan must contain anticipated fund balances based on

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<sup>1</sup> Florida Department of Education, *FAQ, What are charter schools?*, <http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml> (last visited Mar. 22, 2019).

<sup>2</sup> Section 1002.33(5)(a)1., F.S.

<sup>3</sup> Section 1002.32, F.S.

<sup>4</sup> Section 1002.33(5)(a)2., F.S.

<sup>5</sup> *Id.*

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

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

<sup>8</sup> Section 1002.33(6)(b)3.a., F.S.

<sup>9</sup> Section 1002.33(6)(a), F.S.

revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

- 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 must consider in deciding whether to approve or deny the application.
- Contains additional information a sponsor may require, which must be attached as an addendum to the charter school application.
- For the establishment of a virtual charter school, documents that the applicant has contracted with a provider of virtual instruction services in accordance with the law.<sup>10</sup>

A sponsor must receive and consider charter school applications received on or before February 1 of each year for charter schools to be opened 18 months later at the beginning of the school district's school year, or to be opened at a time determined by the applicant.<sup>11</sup>

A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of a final application upon the promise of future payment.<sup>12</sup>

### ***Charter School Appeals***

If a sponsor denies an application submitted by a high-performing charter school or a high-performing charter school system, the sponsor must provide specific written reasons for the denial within 10 calendar days after such denial.<sup>13</sup> An applicant may appeal any denial of that applicant's application or failure to act on an application to the State Board of Education (state board) no later than 30 calendar days after receipt of the sponsor's decision or failure to act and must notify the sponsor of its appeal.<sup>14</sup> Any response of the sponsor must be submitted to the state board within 30 calendar days after notification of the appeal.<sup>15</sup>

Upon receipt of notification from the state board that a charter school applicant is filing an appeal, the Commissioner of Education (commissioner) must convene a meeting of the Charter School Appeal Commission (commission) to study and make recommendations to the state board regarding its pending decision about the appeal.<sup>16</sup> The commission must forward its recommendation to the state board at least seven calendar days before the date on which the appeal is to be heard.<sup>17</sup>

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<sup>10</sup> Section 1002.45(1)(d), F.S.

<sup>11</sup> Section 1002.33(6)(b), F.S. A sponsor may receive and consider applications after February 1, if it chooses. *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Section 1002.33(6)(b)3.c., F.S.

<sup>14</sup> Section 1002.33(6)(c)1, F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 1002.33(6)(c)1., F.S. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. Section 1003.22(6)(e)2., F.S.

<sup>17</sup> *Id.*

The state board must by majority vote accept or reject the decision of the sponsor no later than 90 calendar days after an appeal is filed.<sup>18</sup> The state board's decision is a final action subject to judicial review in the district court of appeal.<sup>19</sup>

### ***Charter School Appeal Commission***

The commission assists the commissioner and the state board with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed, or whose charter contracts have been terminated by their sponsors.<sup>20</sup>

The commissioner appoints the members to the commission sufficient to ensure that no potential conflict of interest exists for any commission appeal decision. Of the members hearing the appeal, one-half must represent currently operating charter schools and one-half must represent sponsors.<sup>21</sup>

### **Nonrenewal or Termination of a Charter**

The sponsor must make student academic achievement for all students the most important factor when determining whether to renew or terminate the charter.<sup>22</sup> The sponsor may also choose not to renew or may terminate the charter if the sponsor finds that one of the grounds set forth below exists by clear and convincing evidence:<sup>23</sup>

- Failure to participate in the state's education accountability system<sup>24</sup> or failure to meet the requirements for student performance stated in the charter.
- Failure to meet generally accepted standards of fiscal management.
- Material violation of law.
- Other good cause shown.

A charter may also be terminated if the:

- Charter school's governing board determines to voluntarily terminate the charter; the charter school governing board must follow closure procedures specified in law.<sup>25</sup>
- Sponsor sets forth in writing the particular facts and circumstances indicating that an immediate and serious danger to the health, safety, or welfare of the charter school's students exists.<sup>26</sup>
- Charter school earns two consecutive grades of "F" after all school grade appeals are final, subject to exceptions established in law.<sup>27</sup>

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

<sup>19</sup> Section 1002.33(6)(d), F.S.

<sup>20</sup> Section 1002.33(6)(e)1., F.S.

<sup>21</sup> Section 1002.33(6)(e)3., F.S.

<sup>22</sup> Section 1002.33(8)(a), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 1008.31, F.S. The K-20 education performance accountability system be established as a single, unified accountability system with multiple components, including, but not limited to, student performance in public schools and school and district grades. *Id.* at (1)(b). School districts and public postsecondary educational institutions shall maintain information systems that will provide the State Board of Education, the Board of Governors of the State University System, and the Legislature with information and reports necessary to address the specifications of the accountability system. Section 1008.31(3)(a), F.S.

<sup>25</sup> Section 1002.33(7)(e), F.S.

<sup>26</sup> Section 1002.33(8)(c), F.S.

<sup>27</sup> Section 1002.33(9)(n)2.e.3., F.S.

- Charter school does not comply with the law requiring background screening for employees and members of the governing board of the charter school.<sup>28</sup>

### III. Effect of Proposed Changes:

#### Charter School Commission

The bill amends s. 1002.33, F.S., to rename the Charter School Appeal Commission (commission) to the Charter School Commission (CSC). The CSC retains the responsibilities established in law related to an applicant's appeal of the sponsor's denial of an application, but adds additional responsibilities. Specifically, the bill requires:

- The CSC to review specified applications and assist the Commissioner of Education (commissioner) with specified appeals.
- The commissioner to appoint the number of members sufficient to ensure no conflict of interest exists for application review, as well as for appeal decisions.
- That for members reviewing a charter application, one-half must represent charter schools and one-half must represent sponsors.

#### Charter School Applications

The bill authorizes the following applicants to submit an application directly to the CSC:

- A high-performing charter school seeking to replicate;<sup>29</sup>
- A high-performing charter school system seeking to replicate;<sup>30</sup> and
- A hope operator;<sup>31</sup>

The bill requires the CSC, in addition to the sponsor, to:

- Recommend denial of an application that does not propose a reading curriculum that is consistent with effective teaching strategies grounded in scientifically based reading research.
- Consider specified information relating to applicants, education service providers, and school closure and financial history in making a final determination on the application.
- Review all charter applications using the evaluation instrument developed by the Department of Education (DOE).
- Receive and consider a charter school application by a specified timeline. The bill also removes outdated dates relating to receipt of applications by the sponsor.
- Not charge a fee for consideration of an application or base its decision on the promise of future payments of any kind.
- Allow an applicant, upon written notification, seven days to make technical corrections to the application.

The bill also establishes requirements for applicants to the CSC, which require the applicant to:

- Submit any additional information that the CSC may require.

<sup>28</sup> Section 1002.33(12)(g)5., F.S.

<sup>29</sup> Section 1002.331, F.S.

<sup>30</sup> Section 1002.332, F.S.

<sup>31</sup> Section 1002.333, F.S.

- Provide to the charter sponsor within three days of submission any application submitted to the CSC.

The bill requires the CSC to submit its recommendation for approval of a charter school application to the state board for approval. Therefore, the CSC does not approve or deny an application, but instead recommends approval or denial to the state board. The bill adds the CSC to charter approval requirements currently assigned to the sponsor. The CSC must:

- By majority vote recommend to approve or deny an application no later than 90 days after submission, unless a delay is agreed to by both parties.
- Articulate in writing to the applicant the specific reasons for any recommendation for denial of an application within 10 days.
- Comply with requirements relating to applications by high-performing charter schools.

In addition, for an application submitted to the CSC, the bill authorizes the sponsor to provide input to the CSC within 30 days after receiving a copy of the final application submitted to the CSC. The CSC must consider such input in reviewing the application.

### **Charter School Appeals**

The bill specifies an appeals process for sponsors and applicants for applications submitted to the CSC. The appeals process includes the following:

- The sponsor may appeal to the state board the CSC recommendation to approve the application no later than 30 days after the CSC's decision.
- The applicant may appeal any recommendation to deny that applicant's application or the failure to act on an application by the CSC to the state board no later than 30 calendar days after receipt of the CSC's decision or failure to act, and the applicant shall notify the CSC of its appeal. The state board must notify the commissioner of an applicant's appeal.

The bill specifies that for appeals by both the sponsor and the applicant, upon receipt of notification from the state board that a charter school sponsor or applicant is filing an appeal of the CSC's recommendation, the commissioner must review the appeal and make recommendations to the state board regarding its pending decision regarding the appeal. The commissioner must report his or her recommendation to the state board at least seven calendar days before the date on which the appeal is considered. The bill also adds the CSC to appeals process requirements relating to a recommendation to deny a charter application by a high-performing charter school.

The bill authorizes the commissioner, in addition to the CSC, to reject an appeal submission for failure to comply with procedural rules, and maintains current law regarding correction of application errors. The bill also maintains the requirement that a corrected application is timely filed within 30 days after receipt of the notice of the specific reasons for commissioner or CSC rejection of the appeal.

The bill requires the state board, by majority vote, to accept or reject the recommendation of the CSC to approve the application no later than 90 calendar days after an appeal is filed in accordance with state board rule. The bill maintains current law that requires the sponsor to

implement the decision of the state board, which is not subject to the Administrative Procedures Act.<sup>32</sup>

Finally, for budget projection purposes, the bill requires the CSC to report to the Department of Education the approval or denial of an application within 10 days after such approval or denial and, if an application is approved, requires the final projected FTE for the charter schools to be reported.

### **Nonrenewal or Termination of a Charter**

The bill establishes penalties for specified individuals or entities that wish to submit a charter application. The bill specifies that:

- If sponsor chooses not to renew or to terminate a charter as authorized in law<sup>33</sup> or if a charter school closes before the end of a school year or within one year after beginning operations, excluding charter schools that close due to consolidation with another charter school, the applicant for the charter, the charter school owner, president, superintendent, principal, the charter school governing board members, and the relatives of such owner, president, superintendent, principal, or governing board member may not submit an application to open a charter school in this state for a period of 5 years after the termination of the charter or closure of the charter school.
- If a charter school applicant, owner, president, superintendent, principal, member of a charter school governing board, a charter management organization, or an education management organization is convicted of a crime, including, but not limited to, fraud or financial offenses related to the operation of a charter school, that the owner, president, or governing board member, including any relatives<sup>34</sup> of such individuals, or the charter management organization or the education management organization, may not submit an application to open a charter school in this state for a period of 10 years after such conviction.

The penalties established in the bill may reduce incidences of charter schools closing mid-year or early in their operations due to errors in enrollment projections or financial mismanagement. In addition, the penalties for crimes related to charter school operations may limit the ability of such individuals or entities to be involved in future charter school applications, operations, or management.

The bill takes effect July 1, 2019.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>32</sup> Chapter 120, F.S.

<sup>33</sup> Section 1002.33(8)(a) and (c), F.S.

<sup>34</sup> The term “relative” father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister. Section 1002.33(24)(a)2.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill does not have an impact on state expenditures or revenues. However, the CSC may have an increased workload as a result of the bill passing.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1002.33 of the Florida Statutes.

**IX. Additional Information:**

- A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Committee Substitute by Education on March 26, 2019:**

The committee substitute:



- Removes the following entities that may directly submit a charter school application to the Charter School Commission named in the bill:
  - A business entity or municipality authorized in law to form a charter school.
  - An applicant or group of applicants, who are authorized in law to submit an application for a charter school, for the purpose of opening a charter school in a school district that received three consecutive district grades lower than a “C.”
- Modifies the provision establishing penalties for individuals and organizations that close a charter school or are convicted of a crime related to charter school operations. Specifically, the committee substitute:
  - Makes a technical change to place the provision under the subsection regarding charter school requirements, rather than under the subsection for causes for nonrenewal or termination.
  - Changes the provision establishing a penalty if a charter school closes within 3 years of beginning operations to specify closure within 1 year of beginning operations; and provides an exception from the penalty for charter schools that close due to consolidation with another charter school.
  - Modifies the individuals to whom the penalties specified in this paragraph apply, to include the charter school superintendent and principal, which aligns with current law regarding charter school personnel.

**B. Amendments:**

None.