

STORAGE NAME: h0539s1a.ed
DATE: April 16, 1997

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 539
RELATING TO: Charter Schools/Requirements
SPONSOR(S): Committee on Education Innovation and Representative Ziebarth
STATUTE(S) AFFECTED: Section 228.056, Florida Statutes
COMPANION BILL(S): SB 1578 (Compare)
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) EDUCATION INNOVATION YEAS 7 NAYS 0
(2) EDUCATION APPROPRIATIONS YEAS 12 NAYS 2
(3)
(4)
(5)

I. SUMMARY:

CS/HB 539 clarifies some key aspects of the application and appeals process, charter approval, reporting, FEFP funding distribution, and the use of facilities and property in Florida's charter school law.

CS/HB 539 clarifies that if a school board wishes to designate a school as a school within a school, then the school is eligible to convert to a charter school.

Although CS/HB 539 establishes a specific date for district school boards to accept applications for a charter school which wishes to open for the following school year, provisions are also made which guarantee districts funding for charter school students. School boards will be required to provide specific written reasons based on good cause for denying charter application within 10 days of denial. The district school board will also have the flexibility to waive, with good cause, the requirement that the charter school initial startup be consistent with the district public school calendar.

Applicants for charter schools will be required to notify the district school board in writing when they appeal the denial of their charter application to the State Board of Education. Within 30 days after receiving the notice of appeal, the response of the district school board is submitted to the state board. The bill expands the time allowed for the state board to make a decision on the appeal from 30 days to 60 days from the time they receive the appeal. The 60 day time frame will allow districts time to submit their response to the appeal and give the Governor and Cabinet, who comprise the state board, more time to coordinate their workload and schedule.

The State Board of Education is authorized to have rules for the appeals procedure. If an appellant must comply with the procedural rules or the appeal may be rejected, and the appellant corrects the deficiencies. He or she has 15 days to correct the appeals application.

The bill specifies that sponsors will not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. If the sponsor and applicant cannot agree on the terms of the contract, or charter, within 6 months the applicant may appeal to the state board through the same procedures and time lines as an appeal of the school board's denial of an application.

Additional latitude is given to charter schools by allowing them to give enrollment preference to a child of an employee of the charter school, and target students at risk of dropping out of school, including exceptional students.

More specific detail is added to two of the criteria which a charter must address. The first is that the school's code of student conduct must be included in the admissions and dismissal procedures. The second is the addition of another option for achieving the racial/ ethnic balance. Rather than having to be reflective of the community it serves, the bill will allow the option of achieving the racial/ethnic balance of the charter school within the racial/ethnic range of other public schools in the same school district.

Additionally, CS/HB 539 makes reporting requirements more consistent with other public school reporting requirements; specifies for the efficient disbursement of state and federal funds to charter schools by specifying a schedule by which districts will transmit these funds; and allows a district school board to provide their surplus or unused facilities or property for a charter school to use without charge.

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II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 228.056, F.S., Florida's charter school law, took effect July 1, 1996, to authorize the creation of charter schools as a part of the state's public school system. A charter school is a public school operated by a group of interested citizens under a charter or contract, with the district school board. A charter school may be established by either creating a new school or converting an existing public school to charter status. The statute is divided into the following main topics: purpose, proposal, sponsor, number of schools, eligible students, legal entity, requirements, charter, causes for nonrenewal or termination, exemption from statutes, employees of charter schools, revenue, immunity, length of school year, facilities, initial costs, information, general authority, and review.

Purpose

The statutory purpose of charter schools is to:

- Improve student learning
- Increase learning opportunities for all students, especially low achieving students
- Encourage the use of different and innovative learning methods
- Increase choice of learning opportunities
- Establish a new form of accountability for schools
- Require measurement of learning outcomes; create measurement tools
- Make the school the unit for improvement
- Create new professional opportunities

The idea of charter schools is to have freedom to operate the school free from many of the regulations and restrictions that hamper many public schools. They must, of course, meet the basic standards for academic rigor and a commitment to the basic core subjects. And they must follow the law and state standards on such things as health, safety and civil rights. The sponsors may not be for-profit organizations. Their teachers must hold valid teaching certificates.

Proposal

An individual, teachers, parents, a group of individuals, or a legal entity may apply for a charter for a newly created school. A proposal to convert an existing school to a charter school may be submitted by the principal, teachers, parents, and/or the school advisory council of the existing public school. Any proposal for converting an existing public school to a charter school must have the support of at least 50 percent of teachers employed at the school and 50 percent of the parents whose children attend the school. There is no statutory time line for submitting applications. Private schools, parochial schools, and home education programs are not eligible for charter status.

Sponsor

The sponsorship and appeal provisions of Florida's charter school law were structured to comply with the governance structure established by Article IX, Section 4 of the State Constitution, which provides that district school boards are to operate, control, and supervise all free public schools within the school district. Article IX, Section 2 designates the Governor and Cabinet as the State Board of Education and specifies that they have supervision of the public education system as is provided by law.

To establish a newly created charter school or convert an existing school, applicants must apply to the district school board for sponsorship. The district school board must, by a majority vote, approve or deny the application no later than 60 days after the application is filed. Other potential sponsors are the state universities with developmental research schools. The university may be granted a charter after they consult with the district school board.

In the statute, there are no established date or time guidelines for the applicants to submit or the districts to accept applications. Application time lines established by districts during this first year varied considerably with some districts requiring applications as early as October, November, or December for the following school year. Private schools, parochial schools, and home education programs are not eligible for charter status.

If approved, the district board and the charter school applicants negotiate a contract or charter. Each charter school's initial start-up date must be consistent with the district's school calendar. Upon written request of an applicant, the Department of Education is to provide technical assistance to the applicant. The Commissioner of Education established an Office of Charter Schools within the department and identified a cadre of experts to provide technical assistance and information to the public, charter school applicants, sponsors, and charter schools. The Commissioner also requested and received a \$1 million Public Charter Schools Grant from the U.S. Department of Education. At least 95 percent of these federal dollars must be distributed to approved charter schools. The remainder of the grant may be used for state level administrative purposes.

If a district school board accepts an application, this does not constitute granting the charter. The district can accept the application and subsequently delay action on granting the charter since the statute does not allow an appeal to the state board until after the application is denied. While the applicant is waiting for or negotiating the charter, no appeal can be made. If an applicant is denied, no statutory requirements exist for the district board to give the applicant the reason for the denial at the time of the denial.

When and if an applicant does appeal, there are no statutory requirements for the applicant to notify the district board that they are filing an appeal with the State Board of Education, which consists of the Governor and the Cabinet. The state board must hear the appeal within 30 days of the district school board's decision. The 30 day response time allowed for the state school board can be difficult to meet due to the schedule and workload of the Governor and the Cabinet.

The State Board of Education must accept or reject the district school board's decision and remand the application to the district school board with its written recommendation that the district board approve or deny the application as is consistent with the state board's decision. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, Chapter 120. The process for appealing the decision of the university is the same as for appealing the district board's decision. The district school board must act upon the state board's recommendation within 30 days after it is received.

It may fail to act in accordance with the state board's recommendation only for good cause. Good cause exists only when, viewing facts in the light most favorable to the applicant, the district board determines, by competent substantial evidence, that the action recommended by the state board would be contrary to law or contrary to the best interests of the pupils or the community.

The constitutional question arises as to whether the state school board can overturn the district's decision on a matter which is solely within the district board's control pursuant to the constitution. However, the ability of the district board to reject the state board's recommendation upon good cause weakens such an argument. The district board must set forth in writing the specific reasons constituting good cause. The district board's action on the state board's recommendation is a final action subject to judicial review. The same appeals process applies when a sponsor decides to terminate or not renew a charter.

The first appeals to the state board were made during the week of March 23, 1997. The board recommended that Brevard County's board reconsider its refusal to charter the Cocoa Academy for Aerospace Technology but supported the Seminole County board's denial of a charter to a group in Winter Springs who wanted to start a night high school on the campus of the public Winter Springs High School for students at risk of dropping out.

The terms and conditions for operation of the charter school must be set forth in a written contract, the charter, which must be signed by the governing body of the charter school and the sponsor. The sponsor is to monitor the charter school's progress toward its goals and its revenues and expenditures. The sponsor may refuse to renew the charter when it expires or may terminate the charter during its term. There are no statutory provisions that prevent the sponsor from imposing unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals, that encourage the contract between the applicant and the sponsor to be signed within a reasonable period of time, and that allow the applicant to appeal if the application is accepted by the district board but the charter is delayed.

Number of Schools

The number of new and converted charter schools which may be established each year is based on the student population and is limited as follows:

Student Population in District	Newly Created Charter Schools Allowed/District	Existing Schools Allowed to Convert/District
100,000	7	7
50,000 to 99,999	5	5
less than 50,000	3	3

A district school board can request from the State Board of Education to allow more charter schools in its district. The conversion of a developmental research school to a charter school does not count toward district caps. Based on 1996-1997 student enrollment projections, the existing caps would have permitted 478 charter schools for the school year.

The charter school statute was effective July 1, 1996, and six newly created charter schools were operational for the 1996-1997 school year. Eighteen more proposals for new charters have been approved to start the 1997-1998 school year. At least three public schools have attempted to convert into charter schools but approval was not granted by the district boards. The six existing charter schools are:

- ▶ C.K. Steele/LeRoy Collins Community Charter Middle School in Tallahassee, Leon County with 80 students for grades 6 through 8. Focus is on business, citizenship, work ethic and workplace skills. Strong focus is on responsibility, respect and self-discipline. Students wear uniforms: dresses, ties, white shirts, khaki shorts.
- ▶ The A.P.P.L.E. School in Lakeland, Polk County with 96 students for grades kindergarten through five. Focus is on educational techniques and curriculum recommended for children with Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity Disorder (ADHD).
- ▶ Liberty City Charter School in Miami, Dade County with 60 students in grades kindergarten through two. Focus is specifically designed for "at-risk" students. The educational program goal is to improve the academic performance of elementary school students from economically disadvantaged families in Liberty City.
- ▶ Okaloosa Academy in Fort Walton and Crestview, Okaloosa County with 72 students and grades 6 through 8 and 9 through 12. Focus is on "at-risk" students identified as being disruptive in public school. This school operates as a year-round school, offering programs intended to reduce the students' behavioral problems and to hold students accountable for successful academic performance.
- ▶ Pensacola Instructional Academy in Pensacola, Escambia County, with 96 students for kindergarten through five. Focus is on students with a GPA of 2.0 or lower and/or behavioral problems that can include absenteeism or truancy. These students have been identified and recommended by the public school administration for removal from the traditional system in the students' best interest. This is an alternative school, yet with a degree of academic accountability under charter status greater than most public schools.
- ▶ Seaside Neighborhood School in Seaside, Walton County, with 36 students for grades 6 through 8. Focus is on providing a small local neighborhood school in the Seaside community. Instruction involves one-on-one attention for every student, individualized learning plans, and mastery learning.

Statewide, 54 percent of the students in charter schools are African-American, 45 percent are Caucasian, and 1 percent are from other races. Other statistical information from the Department states that 53 percent of the students are on free or reduced lunch programs; 9 percent receive exceptional education services; and 91 percent previously attended other public schools.

Eligible Students

The statute requires charter schools to be open to any student residing in the school district in which the charter school is located, with preferences given to students who would have attended public school and their siblings of charter school students. If the applicants exceed the number of available spaces, selection is made randomly. Handicapped students and those served in English for Speakers of Other Languages programs have equal opportunity for selection to enroll. Charter schools may limit enrollment only to target:

1. Students in specific age groups or grade levels
2. Students considered at risk of academic failure, which includes those with test scores in the lower quartile of the reading and mathematics sections of norm-referenced tests; a grade point average of 2.0 or below for grades 9 through 12; and/or a writing score on Florida Writes of 2.0 or below

Charter schools are not allowed to limit enrollment to students who are at risk of academic failure because they are at risk of dropping out of school or have exceptional education needs. A student may withdraw from a charter school at any time and enroll in another public school, as determined by school board policy.

Legal Entity

A charter school must be a nonprofit organization. It may be either a public or private employer. As a public employer, the charter school may participate in the Florida Retirement System upon application and approval. If it does participate, the employees are compulsory members of the Florida Retirement System. As either a private or a public employer, the charter school may contract for services with a partnership or cooperative. Individuals, groups of individuals, partnerships or cooperatives, teachers who are part of a partnership or cooperatives that contract their services to the charter school or subcontracts with the charter school are not public employees.

Requirements

A charter school must be nonsectarian, be accountable to its sponsor for performance, and is subject to auditing requirements. It can only charge fees which would normally be charged by other public schools and must meet health, safety, and civil rights requirements. It must not discriminate. An organization may only hold one elementary, one middle, and one high school charter contract in a school district and may only hold up to 15 charters statewide.

Charter

A charter is signed by the governing body of the charter school and the sponsor after all major issues have been considered and included in the charter and a public hearing has been held. Criteria which must be addressed and upon which approval is based are:

1. School's mission, students to be served, and ages and grades
2. Focus of curriculum, instructional methods, and distinctive instructional techniques
3. Achievement standards, outcomes, and measurement method
4. Student assessment methods for strengths, needs, goals, and performance
5. Graduation requirements for secondary charter schools
6. Conflict resolution methods
7. Admissions procedures and dismissal procedures
8. Ways a racial/ethnic balance reflective of the community will be achieved
9. Financial and administrative management of school
10. Manner in which school will be insured
11. Term of charter, not to exceed 3 years

12. Facilities and location
13. Qualifications for teachers
14. Governance structure and whether public or private employer
15. Timetable for implementation
16. Alternative plan for conversion school students and teachers

The charter may be modified during the term of the contract upon recommendation and approval of the sponsor and the school's governing body. A charter may be renewed for up to 3 years or modified at any time if both parties agree.

Although the charter school is required to provide an annual progress report not only to the sponsor, but to the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representative, the sponsor must, upon receipt of the report, provide an analysis and comparison of student performance to the same entities. No statutory time frame is given for the charter school's annual report. However, it must contain information regarding progress toward the goals set in the charter, information required in the public school's annual report, financial records, and salary and benefits of employees.

These reports should be helpful in evaluating charter schools and other public schools. Each sponsor's report must compare the overall performance of charter school students with comparable students in the district's other public schools.

Causes for Nonrenewal or Termination

The sponsor may choose at the end of the charter term not to renew the charter for any of the following reasons.

1. Failure to meet student performance requirements
2. Failure to meet fiscal management standards
3. Violation of law
4. Other good cause

The sponsor must notify the charter school in writing 90 days prior to renewal or termination and state in writing the reason for the action. The charter school can request a hearing within 14 days of receiving the notice and the sponsor must conduct the informal hearing within 30 days after receiving the request. After the hearing, the charter school has 14 days to appeal to the state board. The appeals process is identical to procedures for appealing the denial of an initial application.

A charter may be terminated immediately for good cause or if health, safety, or welfare of students is threatened. The school district operates the school under these circumstances.

In the case of nonrenewal or termination, unencumbered funds and property revert to the district school board and the school board is responsible for all debts of the charter school except for those between the charter school and a third party unless it was previously agreed upon between the charter school and the district. Students will be enrolled in another public school.

Exemption From Statutes

Charter schools are exempt from all statutes of the Florida School Code except those relating to civil rights; student health, safety, and welfare; and the public records, public meetings and public inspection laws; state education goals; annual school report; educator certification; fingerprinting and background checks; high school graduation requirements; student transportation; school building codes; and counts of student enrollment for FEFP and categorical funding.

Employees of Charter Schools

A charter school selects its own employees, who have the option of collective bargaining either as a separate unit or as part of the district unit. The teachers can choose to be part of or owners in a professional group, partnership, or cooperative that subcontracts to operate the instructional program. In this case, they will not be public employees. School district employees may take leave to accept employment in a charter school while retaining district seniority and benefit programs if the charter school and the district school board agree. Certification, licensing, and fingerprinting requirements are the same as those for a public school for teachers, instructional personnel, and aides. Teacher qualifications are required to be disclosed to parents.

Each charter school currently in Florida reported to the Department of Education that it operates as a private employer, not a public employer. However, the charter of the Steele/Collins Community Charter Middle School specifies that the school's governing board is a public employer for purposes of salary and benefits.

Revenue

Public school students may transfer from the school they attend to another public school called a charter school with the school tax dollars to follow the student. Students enrolled in a charter school are to be funded as if they were enrolled in basic or weighted special programs in the district's other public schools. The chartered developmental research schools are the same as for other developmental research schools. Each charter school must report its student enrollment to the district school board, which must include each charter school's enrollment in the district's report of student enrollment.

The agreement for funding students in charter schools must be as follows:

$$\begin{array}{ccccc} \boxed{\begin{array}{c} \text{Gross State} \\ \text{and Local} \\ \text{FEFP Funds} \end{array}} & + & \boxed{\begin{array}{c} \text{Discretionary} \\ \text{Lottery Funds} \end{array}} & + & \boxed{\begin{array}{c} \text{School District's} \\ \text{Current} \\ \text{Discretionary} \\ \text{Millage Levy} \end{array}} & = & \boxed{\begin{array}{c} \text{School} \\ \text{District's} \\ \text{Operating} \\ \text{Funds} \end{array}} \\ \\ \boxed{\begin{array}{c} \text{School} \\ \text{District's} \\ \text{Operating} \\ \text{Funds} \end{array}} & \div & \boxed{\begin{array}{c} \text{Total Funded} \\ \text{Weighted} \\ \text{FTEs in} \\ \text{School District} \end{array}} & \times & \boxed{\begin{array}{c} \text{Total Funded} \\ \text{Weighted FTEs in} \\ \text{the Charter School} \end{array}} & = & \end{array}$$

State, local and federal funds flow through the district school board to the charter school as specified in the charter. If the charter school and students are eligible for categorical funds, the charter school will receive their proportionate share. Charter school funding will be recalculated during the year to reflect state FEFP revisions and actual weighted FTEs reported by the charter school.

Transportation must be provided by the charter school and the charter school will receive their proportionate share of funding. It may be provided through the school district, with a private company, or with parents. If the district school board is providing programs or services to students funded by federal funds, any eligible charter school student must be provided federal funds for the same level of service provided to students in the district's schools through federal funds.

According to information from the Department of Education, although some charter schools have offered to pay for district services such as transportation and textbook inventory, the charter school has been unable to access these services which, in some cases, could be logically provided by the district.

The district school board may charge the actual cost of administering the contract or up to 5 percent of the charter school's funds which are available through the funding formula, whichever is less, for recovery of administrative costs. Any administrative fee charged by a school district relating to a charter school is limited to no more than 5 percent of the charter school's revenue generated and passed through the school district.

Districts are statutorily directed to make every effort to ensure timely and efficient reimbursement to charter schools. Payment must be issued no later than 30 working days after receipt of an invoice or the district must pay interest. Currently, some district school boards do not distribute funds to charter schools until after

the first student enrollment survey. Further payment delays are possible since charter schools must submit an invoice to the district school board to receive payment.

Immunity

For purposes of tort liability, the governing body and employees of a charter school shall be governed by the waiver of sovereign immunity statute in s. 768.28, F.S. The essence of the doctrine is that the state, its agencies and subdivisions, and their employees and agents are immune from suit. The waiver limits the financial liability of these public entities to \$100,000 for a claim or judgment by any one person and to a total of \$200,000 for any number of claims arising from the same incident. The extension of sovereign immunity is subject to judicial interpretation and has not been tested for charter schools. Because it has not been tested, each charter is required to address insurance coverage, including liability coverage.

Length of School Year

A charter school will have the minimum number of instructional days as required of public school. They may provide additional days if they so choose.

Facilities

Each school's charter must identify the facilities to be used and their location. The facilities must comply with the state school building code and fire safety codes.

Four of Florida's current charter schools utilize non-traditional facilities, including a former restaurant, a community center, a former youth ranch, and converted office space. One is housed in a former private school; another leases space in a private college. Two are housed in modular classrooms, or "portables," common to many public school sites.

Initial Costs

Charters may be approved by sponsors before the space, equipment, or personnel is secured if the applicant needs approval to raise working capital.

Information

The Department of Education is responsible for providing information to the public about forming and operating and enrolling in charter schools, including a standard application format which may be used by the chartering entities. Additionally, the department may provide assistance to charter school applicants upon written request.

According to information from the Department of Education, approximately 80 percent of districts use the application that DOE has developed. However, some districts have changed the application by adding additional requirements. Districts are not required to use the state developed application. A few districts have stated that they cannot accept applications since they do not have a school board policy in place.

General Authority

A charter school is prohibited from levying taxes or issuing bonds secured by tax revenues.

Review

Charter school operation will be reviewed by the Legislature during the 2000 Regular Session.

Nationwide, there are currently several large scale studies of charter schools taking place. The U.S. Department of Education awarded a \$2.6 million contract for a large-scale study. The National Education Association (NEA) is spending \$1.5 million over the next five years to help the national union's affiliates start charter schools and to pay independent researchers to study their progress. The Hudson Institute recently published first-year findings of a two-year nationwide study of charter schools.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 539 clarifies some key aspects of the application and appeals process, charter approval, student eligibility, reporting, FEFP funding distribution, and the use of facilities and property in Florida's charter school law.

Proposal

CS/HB 539 clarifies that if a school board wishes to designate a school as a school within a school, then the school is eligible to convert to a charter school.

Application

CS/HB 539 requires district school boards to accept applications at least through February 1 for a charter school which wishes to open for the following school year. The district board may receive applications later than this date if it so chooses. School districts will be held harmless for charter school FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE forecast deadline. This will guarantee funding to the district for charter school students.

School boards are required to provide specific written reasons based on good cause for denying charter application within 10 calendar days after denial. The district school board will also have the flexibility to waive, with good cause, the requirement that the charter school initial startup be consistent with the district public school calendar.

Appeals

Applicants for charter schools will be required to notify the district school board in writing when they appeal the denial of their charter application to the State Board of Education. Within 30 days after receiving the notice of appeal, the district school board may submit a response to the state board.

The bill expands the time allowed for the state board to make a decision on the appeal. The state board will have 60 days, rather than 30 days, from the time they receive the appeal. The 60 day time frame will allow districts time to submit their response to the appeal and give the Governor and Cabinet, who comprise the State Board of Education, more time to coordinate their workload and schedule. If the applicant's appeal does not follow the procedural rules governing the appeals process, the State Board of Education may reject the appeal through a written description of the submission errors. The appellant will then have 15 days to correct the deficiencies and resubmit the appeal, and, if the initial filing was timely (within the 30 days), the resubmittal will be considered timely.

Charter Approval

The bill specifies that sponsors will not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The charter school applicant and the sponsor will have 6 months to negotiate and sign a contract. If the sponsor and applicant cannot agree on the terms of the contract, or charter, within the 6 months, the applicant may appeal to the state board through the same procedures and timelines as an appeal of the school board's denial of an application.

More specific detail is added to two of the criteria which a charter must address. The first is that the school's code of student conduct must be included in the admissions and dismissal procedures. The second is the addition of another option for achieving the racial/ ethnic balance. Rather than having to be reflective of the community it serves, the bill will allow the option of achieving the racial/ethnic balance of the charter school within the racial/ethnic range of other public schools in the same school district.

Eligible Students

Enrollment preference may be given by the charter school to the child of an employee of the charter school as well as the sibling of a student already enrolled in the charter school.

The bill expands the target populations for enrollment to include students considered at risk of dropping out of school, including exceptional education students.

Reporting

CS/HB 539 makes reporting requirements more consistent with other public school reporting requirements. The charter school will submit their annual progress report to the district school board, as the sponsor, which will verify and transmit the report to the Commissioner of Education at the same time as other annual public school accountability reports. After the Commissioner of Education receives the annual progress report from the charter school, the Department of Education, rather than the district school board, will be required to analyze and compare the overall performance of charter schools and provide the findings to the State Board of Education, the Commissioner of Education, and the legislature.

Employees of Charter Schools

A charter school may contract with the district school board for district personnel. If employees choose to take leave and work in a charter school, the leave must be approved by the district school board.

Disbursement of Funds

CS/HB 539 clearly specifies how charter school funds are to be transferred in a timely and efficient disbursement. The district may distribute funds to the charter school for up to 3 months based on projected FTE numbers for the charter school. For the remainder of the fiscal year, FTE surveys must be used to adjust the amount of funds distributed monthly to the charter school.

A schedule is set requiring the district to transmit the charter school's portion of federal or state funds to the charter school within 10 days after receiving the district allocation.

Use of Property

A district school board may provide their surplus or unused facilities or property for a charter school to use on the same basis as it would be made available to other public schools in the district. This includes property marked for disposal. The district may not charge a rental or leasing fee to the parents and teachers who are organizing the conversion of an existing school to a charter school for using the existing facility or any of the normal property inventory. However, the charter organizers must agree to maintain the facilities and property in the same manner as previously maintained under district school board standards.

If other goods and services are made available to the charter school, they will be provided at a rate no greater than the district's actual cost.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

CS/HB 539 does not give the Commissioner of Education nor the Department of Education specific rulemaking authority. However, it does give the State Board of Education the authority to make rules to facilitate the appeals procedure.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Some school districts already have charter school procedural policies in place that identify some of the issues addressed in CS/HB 539. Districts with policies which conflict with those in CS/HB 539 will have the responsibility of readdressing their policies.

The district school board will have the additional responsibility of articulating in writing the specific reasons for the denial of a charter application. If the applicant appeals to the State Board of Education, they must submit a response to the State Board within 30 days after notification of the appeal. However, the sponsor no longer has to provide an analysis and

comparison of the charter school students after receiving the charter school's annual progress report. They now forward the report to the Commissioner of Education.

The Department of Education analyzes and compares the overall performance of charter school students after receiving the individual charter schools' annual progress reports, which are forwarded to them by the districts.

Charter school applicants will be required to notify the district school board if they are appealing the district decision denying their application to the State Board of Education. The charter for the charter school will be required to include the school's code of student conduct

The method of disbursement of funds between the district and the charter school is changed and requires a new method and time line for transmitting funds. The charter school no longer has to submit an invoice to be reimbursed. The district board may distribute funds for up to 3 months on projected FTE, and then adjust monthly distributions based on FTE surveys. The district board must send the charter schools's portion of federal or state funds within 10 days of receiving the district allocation.

- (3) any entitlement to a government service or benefit?

Not applicable.

- b. If an agency or program is eliminated or reduced:

Not applicable.

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

- (2) what is the cost of such responsibility at the new level/agency?

- (3) how is the new agency accountable to the people governed?

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

CS/HB 539 makes it more efficient for charter schools to create and operate successful charter schools, thus creating more options for diversity of student and parental choice in Florida's educational system.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

Although charter schools provide innovative and diverse learning environments for students, CS/HB 539 does not impact the student's or families' choice, decision making, or participation in the charter school. The bill simply more specifically details some parts of the process of creating and operating a charter school.

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION RESEARCH:

Section 1 Amends s. 228.056, F.S., relating to charter schools, through the following changes:

Clarifies that if a school board wishes to designate a school as a school within a school, then the school is eligible to convert to a charter school.

Requires that school boards receive charter school applications through at least February 1 prior to beginning of next school year. School districts will be held harmless for charter school applications after the FTE forecast deadline. Requires the district school board to give, in writing and within 10 days, the specific reasons based on good cause for the denial. Allows district school board, for good cause, to waive requirement for school to start at beginning of public school calendar.

Requires applicant who appeals denial to State Board of Education to notify the district school board of the appeal. Requires that any response of the district school board be submitted to the state board within 30 days after notification.

Expands the number of days from 30 to 60 that the state board has to make accept or reject the district's decision. Allows the state board to make rules regarding the appeals process. Allows the state board to reject an appeal for not following the procedural rules. Requires state board to describe the submission errors if they reject for this reason. Allows appellant 15 days to resubmit.

Prohibits sponsor from imposing unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. Allows the applicant and sponsor 6 months to agree on a contract for the school's charter. Permits applicant to appeal to State Board of Education if contract is not signed after 6 months. Removes language stating that contract constitutes school's charter.

Includes two new criteria for charter to address and upon which approval will be based: the school's code of student conduct, and; allows the consideration of the way the school will achieve a racial/ethnic balance to be based within the racial/ethnic range of other public schools in the district rather than just reflective of the community.

Requires that the charter school's annual progress reports to the sponsor be sent, after verification, to the Commissioner of Education rather than the State Board of Education, the President of the Senate, and the Speaker of the House of Representatives. Requires that the report be sent at the same time as other annual school accountability reports.

Requires the Department of Education, rather than the sponsor, send an analysis and comparison of the overall performance of charter school students to the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives. Conforms list of tests which will be used to compare charter school students to public school students to s. 229.57(3), F.S.

Allows the school board to apply to the Commissioner on behalf of the charter school for any exemptions to statutes that apply to charter schools.

Allows charter schools to contract with school board for personnel. Clarifies that leave taken to accept employment in a charter school must be approved by the school board and that the school board is not prohibited from approving alternative leave arrangements consistent with chapter 231.

Allows district school board to distribute 3 months' funding on projected FTE of charter school and, for the remainder of the fiscal year, adjust the amount of funds monthly based on FTE surveys. Eliminates requirement that charter school submit invoice to district for reimbursement. Requires that school district transmit charter school's payment within 10 days after the district receives a distribution of state or federal funds. Requires that interest be paid by the district to the charter school if warrant for payment is not issued within 30 working days after funding is received.

Allows that district school board surplus or unused facilities or property may be provided to charter school for their use on the same basis as they would be made available to other public schools in the district. Requires charter school to get written permission from district before selling or disposing of property which was received from the district. Prevents district school board from charging for existing facility or inventory when an existing public school is converting to a charter school. Requires charter organizers to maintain facility in a manner similar to district school board standards.

Clarifies that district will not make a profit from any other goods or services which are made available to the charter school through the contract with the district.

Section 2 Provides for an effective date upon becoming law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Charter schools could have more timely access to operating funds if district school boards provide funding for three months based on projected enrollment rather than delaying payments until after the first student enrollment survey.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. **FISCAL COMMENTS:**

The following provisions of this bill are fiscal in nature:

- ▶ School districts will be held harmless for charter school FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE forecast deadline.
- ▶ The Commissioner of Education is authorized to waive provisions of Chapters 236 and 237, F.S., upon request of the charter school sponsor, except for provisions relating to funding allocations and funding equity.
- ▶ School boards are authorized to advance the first three months of funding to a charter school.
- ▶ School boards are required to distribute funds to the charter school no later than 10 working days after the school board's receipt of state or federal funds.
- ▶ The district may provide the charter school with surplus property as it would to other public schools within the district. The charter school may not dispose of such property through sale without written permission from the district. In addition, goods and services provided to the charter school shall be provided at district cost.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to expend funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 539 was introduced on March 6, 1997, and referred to the House Committee on Education Innovation. On April 1, 1997, it was unanimously voted out as a committee substitute. The differences between the original bill and the committee substitute are as follows:

- Allows a school board which wishes to designate a school as a school within a school, then the school is eligible to convert to a charter school.
- Stipulates that the district school board has ten days to put the written reasons .
- Stipulates that the board may send to the state board a response to an appeal.
- Authorizes the state board to require certain procedural rules for appeals.
- Authorizes the state board to reject an appeal submission for failure to comply with procedural rules governing the appeals process; however, the rejection must describe the submission errors and the appellant has 15 days to resubmit the appeal
- Allows charter school applicant and sponsor 6 months to agree on contract before it is deemed denied; thereby allowing applicant access to appeals process.
- Allows a charter school to give enrollment preference to the child of an employee of the charter school.
- Allows a charter school to target students at risk of dropping out of school, including exceptional education students.
- Conforms assessment tool language to that used in s. 229.57(3), F.S.
- Allows the school board to apply to the Commissioner on behalf of the charter school for any exemptions to statutes that apply to charter schools and allows the Commissioner to grant the waiver.
- Allows charter school to contract for personnel services from the school district.
- Provides that if school board has approved the leave taken by an employee to work in a charter school, the employee may retain seniority in the district.
- Provides that the district may distribute funds to a charter for up to 3 months based on the projected FTE and that, thereafter, FTE surveys must be used to adjust monthly distributions for the remainder of the fiscal year.
- Revises the distribution of funds so that payment must be issued no later than 10 days, rather than 30, after district school board receives a distribution of state or federal funds.
- Leaves current statutory language allowing interest to be paid by district if warrant is not paid for 30 days.
- Provides that facilities or surplus property or property marked for disposal, if provided for a charter school, will be provided on the same basis as they would be made available to other public schools in the district.

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- Stipulates that charter school may not sell or dispose of any property that is provided by the district.
- Stipulates that if other goods and services are made available, they will be provided to charter schools at a rate no greater than the district's actual cost.
- Removes the provision allowing the State Board of Education to adopt rules necessary to facilitate the implementation of this act.

On April 15, 1997, the Committee on Education Appropriations voted favorably on HB 539 with the following two amendments:

- One amendment holds school districts harmless for FTE students not included in the FTE projection if a charter school's application is approved after the FTE projection deadline.
- The second amendment exempts from the waiver process provisions of chapter 236 and 237, F.S., which relate to funding allocations and funding equity.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Legislative Research Director:

Ouida J. Ashworth

Peter C. Doherty

AS REVISED BY THE COMMITTEE ON EDUCATION APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Mark Armstrong

John Newman